

117TH CONGRESS
2D SESSION

H. R. 8499

To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Transportation, the Chair of the Council on Environmental Quality, and the Federal Energy Regulatory Commission from considering, in taking any action, the social cost of carbon, the social cost of methane, the social cost of nitrous oxide, or the social cost of any other greenhouse gas, unless compliant with Office of Management and Budget guidance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2022

Mr. HUDSON (for himself, Mr. MCKINLEY, Mr. DUNCAN, Mr. CARTER of Georgia, Mr. STEUBE, Mr. DONALDS, and Mr. MULLIN) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Natural Resources, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, the Secretary of Transportation, the Chair of the Council on Environmental Quality, and the Federal Energy Regulatory Commission from considering, in taking any action, the social cost of carbon, the social cost of methane, the social cost of nitrous oxide, or the social cost of any other greenhouse gas, unless com-

pliant with Office of Management and Budget guidance,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency and
5 Honesty in Energy Regulations Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) as a tool to justify Federal actions by the
9 Secretary of Energy, the Administrator of the Envi-
10 ronmental Protection Agency, the Secretary of the
11 Interior, the Secretary of Transportation, the Chair
12 of the Council on Environmental Quality, and the
13 Chair of the Federal Energy Regulatory Commission
14 to address greenhouse gas emissions, including the
15 regulation or prohibition of the exploration, mining,
16 production, and use of coal and other fossil fuels as
17 energy sources, the social cost of greenhouse gases,
18 specifically the social cost of carbon, the social cost
19 of methane, and the social cost of nitrous oxide, rep-
20 resents the hypothetical cost of 1 incremental ton of
21 carbon dioxide, methane, or nitrous oxide emissions
22 in a given year;

1 (2) the document of the Office of Management
2 and Budget entitled “Circular A–4” and dated Sep-
3 tember 17, 2003—

4 (A) guides Federal agencies on the devel-
5 opment of regulatory impact analysis required
6 under Executive Order 12866 (5 U.S.C. 601
7 note; relating to regulatory planning and re-
8 view) and other authorities; and

9 (B) instructs Federal agencies to include
10 discount rates of 3 and 7 percent and evaluate
11 the costs and benefits of the regulatory action
12 that accrue to citizens and residents of the
13 United States;

14 (3) first developed in 2009 by an interagency
15 working group that included the Department of En-
16 ergy, the Environmental Protection Agency, the De-
17 partment of Transportation, and the Council on En-
18 vironmental Quality, the estimates for the social cost
19 of carbon and the subsequently developed social cost
20 of methane and social cost of nitrous oxide fail to
21 comply with the 3- and 7-percent discount rates pre-
22 scribed by the document of the Office of Manage-
23 ment and Budget entitled “Circular A–4” and dated
24 September 17, 2003;

1 (4) while the document of the Office of Man-
2 agement and Budget entitled “Circular A–4” and
3 dated September 17, 2003, specifies that, in car-
4 rying out an evaluation of the global effects of a
5 rule, regulation, or action, the evaluation shall be re-
6 ported separately from domestic costs and benefits
7 of that rule, regulation, or action, the social cost of
8 carbon, the social cost of methane, and the social
9 cost of nitrous oxide instead calculates the global
10 benefits in lieu of, not in addition to, the domestic
11 costs of a rule, regulation, or action;

12 (5) the use of the estimates of the social cost
13 of greenhouse gases, including the estimates for the
14 social cost of carbon, the social cost of methane, and
15 the social cost of nitrous oxide, in the rulemakings
16 and other actions of the Department of Energy, the
17 Environmental Protection Agency, the Department
18 of the Interior, the Department of Transportation,
19 and the Council on Environmental Quality was with-
20 out—

21 (A) an adequate opportunity for public no-
22 tice and comment; and

23 (B) rigorous scientific peer review;

24 (6) by Executive order, the interagency working
25 group described in paragraph (3) was disbanded in

1 March 2017, and the related estimates were with-
2 drawn;

3 (7) the Environmental Protection Agency devel-
4 oped new estimates in line with the document de-
5 scribed in paragraph (4) in EPA-452/R-18-006,
6 dated August 2018, and entitled “Regulatory Im-
7 pact Analysis for the Proposed Emissions Guidelines
8 for Greenhouse Gas Emissions from Existing Elec-
9 tric Utility Generating Units; Revisions to Emission
10 Guideline Implementing Regulations; Revisions to
11 New Source Review Program”;

12 (8) Executive Order 13990 (86 Fed. Reg. 7037;
13 relating to protecting public health and the environ-
14 ment and restoring science to tackle the climate cri-
15 sis), issued on January 20, 2021—

16 (A) reconvened the interagency working
17 group described in paragraph (3);

18 (B) directed the head of each Federal
19 agency to include an interim figure for the so-
20 cial cost of carbon, the social cost of methane,
21 and the social cost of nitrous oxide in any con-
22 sideration of the effect of greenhouse gas emis-
23 sions in any regulations and other relevant
24 agency actions; and

1 (C) directed the reconvened interagency
2 working group to review and update the meth-
3 odology and estimates for the social cost of car-
4 bon, the social cost of methane, and the social
5 cost of nitrous oxide;

6 (9)(A) the use of the interim social cost of
7 greenhouse gas figures was challenged in court and
8 a preliminary injunction was granted by the United
9 States District Court for the Western District of
10 Louisiana on February 11, 2022; and

11 (B) the Fifth Circuit Court of Appeals stayed
12 the preliminary injunction on March 16, 2022;

13 (10) the Environmental Protection Agency re-
14 lied on the interagency working group interim esti-
15 mate of the social cost of methane, without appro-
16 priate peer review or opportunity for public notice
17 and comment, in attempting to justify the costs and
18 benefits of the proposed rule entitled “Standards of
19 Performance for New, Reconstructed, and Modified
20 Sources and Emissions Guidelines for Existing
21 Sources: Oil and Natural Gas Sector Climate Re-
22 view” (86 Fed. Reg. 63110 (November 15, 2021));

23 (11) prior to the 2017 disbandment of the
24 interagency working group described in paragraph
25 (3), the Department of the Interior used the social

1 cost of methane estimate to justify the costs and
2 benefits of the final rule entitled “Waste Prevention,
3 Production Subject to Royalties, and Resource Con-
4 servation” (81 Fed. Reg. 83008 (November 18,
5 2016));

6 (12) court filings note that various agencies
7 have 38 pending regulatory actions that rely on the
8 interim social cost of greenhouse gases figures; and

9 (13) continued use of the social cost of green-
10 house gases, including the social cost of carbon, the
11 social cost of methane, and the social cost of nitrous
12 oxide by the Department of Energy, the Environ-
13 mental Protection Agency, the Department of the
14 Interior, the Department of Transportation, the
15 Council on Environmental Quality, and the Federal
16 Energy Regulatory Commission ignores sound
17 science.

18 **SEC. 3. DEFINITIONS.**

19 In this Act:

20 (1) ADMINISTRATOR.—The term “Adminis-
21 trator” means the Administrator of the Environ-
22 mental Protection Agency.

23 (2) SOCIAL COST OF CARBON.—The term “so-
24 cial cost of carbon” means—

1 (A) the estimate of the social cost of car-
2 bon described in—

3 (i) the document entitled “Technical
4 Support Document: Social Cost of Carbon
5 for Regulatory Impact Analysis Under Ex-
6 ecutive Order 12866”, published by the
7 Interagency Working Group on Social Cost
8 of Carbon, United States Government, in
9 February 2010;

10 (ii) the document entitled “Technical
11 Support Document: Social Cost of Carbon,
12 Methane, and Nitrous Oxide Interim Esti-
13 mates under Executive Order 13990”,
14 published by the Interagency Working
15 Group on Social Cost of Greenhouse
16 Gases, United States Government, in Feb-
17 ruary 2021;

18 (iii) the document entitled “Technical
19 Support Document: Technical Update of
20 the Social Cost of Carbon for Regulatory
21 Impact Analysis Under Executive Order
22 12866”, published by the Interagency
23 Working Group on Social Cost of Carbon,
24 United States Government, in May 2013
25 and revised in November 2013 and July

2015, and published and revised by the Interagency Working Group on the Social Cost of Greenhouse Gases, United States Government, in August 2016; or

(iv) any successor or substantially related document; and

(B) any other estimate of the monetized damages associated with an incremental increase in carbon dioxide emissions in a given year.

(3) SOCIAL COST OF GREENHOUSE GAS.—The term “social cost of greenhouse gas” means—

(A) the estimate of the social cost of any greenhouse gas that is described in any successor document to—

(i) the document entitled “Technical Support Document: Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866”, published by the Interagency Working Group on Social Cost of Carbon, United States Government, in February 2010;

(ii) the document entitled “Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory

1 Impact Analysis Under Executive Order
2 12866”, published by the Interagency
3 Working Group on Social Cost of Carbon,
4 United States Government, in May 2013
5 and revised in November 2013 and July
6 2015, and published and revised by the
7 Interagency Working Group on the Social
8 Cost of Greenhouse Gases, United States
9 Government, in August 2016;

10 (iii) the document entitled “Adden-
11 dum to Technical Support Document on
12 Social Cost of Carbon for Regulatory Im-
13 pact Analysis under Executive Order
14 12866: Application of the Methodology to
15 Estimate the Social Cost of Methane and
16 the Social Cost of Nitrous Oxide”, pub-
17 lished by the Interagency Working Group
18 on Social Cost of Greenhouse Gases,
19 United States Government, in August
20 2016;

21 (iv) the document entitled “Technical
22 Support Document: Social Cost of Carbon,
23 Methane, and Nitrous Oxide Interim Esti-
24 mates under Executive Order 13990”,
25 published by the Interagency Working

1 Group on Social Cost of Greenhouse
2 Gases, United States Government, in Feb-
3 ruary 2021; or

4 (v) any successor or substantially re-
5 lated document; and

6 (B) any other estimate of the monetized
7 damages associated with an incremental in-
8 crease in greenhouse gas emissions in a given
9 year.

10 (4) SOCIAL COST OF METHANE.—The term “so-
11 cial cost of methane” means—

12 (A) the estimate of the social cost of meth-
13 ane described in—

14 (i) the proposed rule entitled “Oil and
15 Natural Gas Sector: Emission Standards
16 for New and Modified Sources” (80 Fed.
17 Reg. 56593 (September 18, 2015));

18 (ii) the final rule entitled “Oil and
19 Natural Gas Sector: Emission Standards
20 for New, Reconstructed, and Modified
21 Sources” (81 Fed. Reg. 35824 (June 3,
22 2016));

23 (iii) the regulatory impact analysis en-
24 titled “Regulatory Impact Analysis of the
25 Final Oil and Natural Gas Sector: Emis-

1 sion Standards for New, Reconstructed,
2 and Modified Sources”, prepared by the
3 Environmental Protection Agency, Office
4 of Air and Radiation, in May 2016 and
5 identified by docket ID number EPA–HQ–
6 OAR–2010–0505–7630;

7 (iv) the document entitled “Addendum
8 to Technical Support Document on Social
9 Cost of Carbon for Regulatory Impact
10 Analysis under Executive Order 12866:
11 Application of the Methodology to Esti-
12 mate the Social Cost of Methane and the
13 Social Cost of Nitrous Oxide”, published
14 by the Interagency Working Group on So-
15 cial Cost of Greenhouse Gases, United
16 States Government, in August 2016;

17 (v) the document entitled “Technical
18 Support Document: Social Cost of Carbon,
19 Methane, and Nitrous Oxide Interim Esti-
20 mates under Executive Order 13990”,
21 published by the Interagency Working
22 Group on Social Cost of Greenhouse
23 Gases, United States Government, in Feb-
24 ruary 2021; or

1 (vi) any successor or substantially re-
2 lated document; and

3 (B) any other estimate of the monetized
4 damages associated with an incremental in-
5 crease in methane emissions in a given year.

6 (5) SOCIAL COST OF NITROUS OXIDE.—The
7 term “social cost of nitrous oxide” means—

8 (A) the estimate of the social cost of ni-
9 trous oxide described in—

10 (i) the document entitled “Addendum
11 to Technical Support Document on Social
12 Cost of Carbon for Regulatory Impact
13 Analysis under Executive Order 12866:
14 Application of the Methodology to Esti-
15 mate the Social Cost of Methane and the
16 Social Cost of Nitrous Oxide”, published
17 by the Interagency Working Group on So-
18 cial Cost of Greenhouse Gases, United
19 States Government, in August 2016;

20 (ii) the document entitled “Technical
21 Support Document: Social Cost of Carbon,
22 Methane, and Nitrous Oxide Interim Esti-
23 mates under Executive Order 13990”,
24 published by the Interagency Working
25 Group on Social Cost of Greenhouse

1 Gases, United States Government, in Feb-
2 ruary 2021; or

3 (iii) any other successor or substan-
4 tially related document; and

5 (B) any other estimate of the monetized
6 damages associated with an incremental in-
7 crease in nitrous oxide emissions in a given
8 year.

9 **SEC. 4. PROHIBITION ON CONSIDERING THE SOCIAL COST**
10 **OF GREENHOUSE GAS, INCLUDING THE SO-**
11 **CIAL COST OF CARBON, THE SOCIAL COST OF**
12 **METHANE, AND THE SOCIAL COST OF NI-**
13 **TROUS OXIDE.**

14 The Secretary of Energy, under any authority, the
15 Administrator, under the Clean Air Act (42 U.S.C. 7401
16 et seq.), the Secretary of the Interior, under any authority,
17 the Secretary of Transportation, under any authority, the
18 Chair of the Council on Environmental Quality, under the
19 National Environmental Policy Act of 1969 (42 U.S.C.
20 4321 et seq.), and the Chair of the Federal Energy Regu-
21 latory Commission may not consider the social cost of car-
22 bon, social cost of methane, social cost of nitrous oxide,
23 or social cost of greenhouse gas—

24 (1) as part of any cost-benefit analysis required
25 under—

1 (A) any law;

2 (B) Executive Order 12866 (5 U.S.C. 601
3 note; relating to regulatory planning and re-
4 view); or

5 (C) Executive Order 13563 (5 U.S.C. 601
6 note; relating to improving regulation and regu-
7 latory review);

8 (2) in any rulemaking;

9 (3) in the issuance of any guidance;

10 (4) in taking any other agency action; or

11 (5) as a justification for any rulemaking, guid-
12 ance document, or agency action.

13 **SEC. 5. REPORT OF THE ADMINISTRATOR.**

14 Not later than 120 days after the date of enactment
15 of this Act, the Administrator, in coordination and con-
16 sultation with the Secretary of Energy, the Secretary of
17 the Interior, the Secretary of Transportation, the Chair
18 of the Council on Environmental Quality, and the Chair
19 of the Federal Energy Regulatory Commission shall sub-
20 mit to the Committees on Environment and Public Works
21 and Energy and Natural Resources of the Senate and the
22 Committees on Energy and Commerce and Natural Re-
23 sources of the House of Representatives a report describ-
24 ing the number of proposed and final rulemakings, guid-
25 ance documents, and agency actions that, since January

1 2009, have used the social cost of carbon, the social cost
2 of greenhouse gases, the social cost of methane, or the
3 social cost of nitrous oxide, including the use of the social
4 cost of carbon, the social cost of greenhouse gases, the
5 social cost of methane, or the social cost of nitrous oxide
6 as part of any cost-benefit analysis required under Execu-
7 tive Order 12866 (5 U.S.C. 601 note; relating to regu-
8 latory planning and review) or other relevant authority.

○