

# Committee on Natural Resources

Rob Bishop Chairman  
Mark-Up Memorandum

November 27, 2017

To: All Natural Resources Committee Members

From: Majority Committee Staff—Chris Esparza (x5-9297)  
Subcommittee on Energy and Mineral Resources

Mark-Up: **H.R. 3117 (Rep. Evan Jenkins, WV–03)**, To prohibit the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and the Chair of the Council on Environmental Quality from considering the social cost of carbon, the social cost of methane, or the social cost of nitrous oxide, in taking any action, and for other purposes.  
**November 29-30, 2017; 1324 Longworth HOB**

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**H.R. 3117 (Rep. Evan Jenkins)**, *“Transparency and Honesty in Energy Regulations Act of 2017”*

## Summary of the Bill

The bill prohibits the use of ambiguous metrics, specifically the social cost of carbon, social cost of methane, and social cost of nitrous oxide, as a justificatory tool in environmental rulemaking. The bill further ensures that any new metrics established to address greenhouse gas emissions are compliant with previous Office of Management and Budget guidance outlining how the metrics should be calculated.

## Cosponsors

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## Background

The Social Cost of Carbon Dioxide (SC-CO<sub>2</sub>) allows agencies to compare the “benefits” of emission reductions with the costs of mitigation.<sup>1</sup> The SC-CO<sub>2</sub> has been used by the Environmental Protection Agency (EPA) and other agencies for regulatory actions that are subject to Executive Order 12866.<sup>2</sup> That Order directs agencies “to assess both the costs and benefits of the intended regulation...”<sup>3</sup> Prior to 2009, multiple Federal agencies, including the EPA, began developing their own analyses of the SC-CO<sub>2</sub> as part of the rulemaking process due

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<sup>1</sup> Jane A. Leggett, *Social Costs of Carbon/Greenhouse Gas: Issues for Congress* (2017), <http://www.crs.gov/Reports/IF10625?source=search&guid=6e7f5979caa44d48bbd4928a85c5509b&index=0>.

<sup>2</sup> *id.*

<sup>3</sup> Exec. Order No. 12866, 58 FR 51735; October 4, (1993), [https://www.reginfo.gov/public/jsp/Utilities/EO\\_12866.pdf](https://www.reginfo.gov/public/jsp/Utilities/EO_12866.pdf).

to a November 2007 Ninth Circuit decision directing the Department of Transportation to consider the SC-CO2 in a rulemaking process.<sup>4</sup> The Ninth Circuit premised this decision on an assumption that “the value of carbon emissions reduction is certainly not zero.”<sup>5</sup>

In 2009, an interagency working group was convened by the Council of Economic Advisers and the Office of Management and Budget to determine how best to monetize the net effects (both positive and negative) of CO2 emissions and sought to harmonize a range of different SC-CO2 values across multiple Federal agencies.<sup>6</sup> The purpose of this process was to ensure that agencies were using the best available information and to promote consistency in the way agencies quantify the “benefits” of reducing CO2 emissions.<sup>7</sup> The interagency group was comprised of scientific and economic experts from the White House and federal agencies, including: Council on Environmental Quality, National Economic Council, Office of Energy and Climate Change, and Office of Science and Technology Policy, EPA, and the Departments of Agriculture, Commerce, Energy, Transportation, and Treasury.<sup>8</sup> The interagency group identified a variety of assumptions, which the EPA then used to estimate the SC-CO2.<sup>9</sup> The EPA relied on three integrated assessment models, which combined climate processes, economic growth, and interactions.<sup>10</sup>

This metric, named the social cost of carbon (SCC), was used to validate many Obama administration environmental regulations that target direct and indirect carbon dioxide emissions from various sources. However, the SCC did not follow the specific, longstanding guidelines set forth by the Office of Management and Budget in developing and calculating the SCC figures.<sup>11</sup> As a result, the estimates were significantly higher than they would have been had OMB’s guidance been followed. This in turn led to highly questionable – and often misleading – claims regarding the purported economic benefits that new regulations would provide.

Since its first use, the SCC has been re-calculated multiple times to inflate the supposed cost of small increases of CO2 in the atmosphere – and thus, the purported monetary benefits derived from reducing those emissions.<sup>12</sup> For example, the SCC metric was used to claim that EPA’s Clean Power Plan (CPP) would “lead to climate and health benefits worth an estimated

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<sup>4</sup> Linda Tsang, Courts Evaluate How Federal Agencies Put a Price on Carbon (2016), <http://www.crs.gov/LegalSidebar/details/1684>.

<sup>5</sup> Legett, *supra*, note 1.

<sup>6</sup> Exec. Office of the Pres. Council on Environmental Quality, Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in the National Environmental Policy Act Reviews (2016). [https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/nepa\\_final\\_ghg\\_guidance.pdf](https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/nepa_final_ghg_guidance.pdf).

<sup>7</sup> *id.*

<sup>8</sup> *id.*

<sup>9</sup> *id.*

<sup>10</sup> *id.*

<sup>11</sup> See *id.*; Office of Management and Budget, Circular A-4 (2003), [https://obamawhitehouse.archives.gov/omb/circulars\\_a004\\_a-4/](https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/).

<sup>12</sup> U.S. Environmental Protection Agency, The Social Cost of Carbon - Estimating the Benefits of Reducing Greenhouse Gas Emissions, Climate Change (2017), [https://19january2017snapshot.epa.gov/climatechange/social-cost-carbon\\_.html](https://19january2017snapshot.epa.gov/climatechange/social-cost-carbon_.html).

\$55 billion to \$93 billion per year in 2030.”<sup>13</sup> However, the assumptions and parameters used to calculate SCC overwhelmingly skewed the estimates in favor of cutting carbon emissions.

### *Domestic Costs vs. Global Benefits*

During applications of SCC used to calculate the costs and benefits of U.S. climate regulations, the monetary benefits presented were global, not domestic.<sup>14</sup> That is, in these cost/benefit calculations, domestic costs were compared with worldwide benefits. Even if the estimated benefits are correct – a problematic premise in and of itself for many reasons – such a juxtaposition is misleading, far overstating the true benefits to the United States relative to the costs that the American economy will incur.

Further, the implicit argument made in weighing global benefits versus domestic costs is that any domestic regulation may be justifiable regardless of cost to our economy, if the benefits reaped by citizens of other nations around the globe outweigh the costs to the United States. For precisely this reason, OMB’s Circular A-4 – designed to ensure sound regulatory analysis by federal agencies – explicitly states: “Your analysis should focus on benefits and costs that accrue to citizens and residents of the United States.”<sup>15</sup> Previous SCC calculations ignore this directive.

### *Discount Rates*

Prior SCC calculations used favorable discount rates to make the case for greater benefits. Discount rates are used to estimate the value of actions taken today on the economy of the future. Because of inflation and other factors, one dollar’s worth of benefit today is worth less than that same dollar’s worth of benefit 10, 20, or 50 years from now. The higher the discount rate, the lower the projected benefit’s value in the future.

OMB’s Circular A-4 explicitly states that “a real discount rate of 7 percent should be used as a base-case for regulatory analysis.”<sup>16</sup> Previous calculations of the SCC, however, ignored this directive and instead opted to use the lower discount rates of 2.5, 3, and 5 percent.<sup>17</sup> The reason is simple: using a 7 percent discount rate, as directed by OMB, would lead to far smaller – or even negative – values for the SCC, greatly diminishing the calculated “benefits” of reducing carbon dioxide emissions.

### *Additional Concerns*

There are other problems inherent to historical applications of SCC as well, including the use of climate modeling that likely overstates the sensitivity of the earth’s climate to increased carbon dioxide emissions; the use of “co-benefits” of reductions of criteria pollutants such as

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<sup>13</sup> U.S. Environmental Protection Agency, FACT SHEET: Clean Power Plan Benefits - WHY WE NEED A CLEANER, MORE EFFICIENT POWER SECTOR, Clean Power Plan (2015), <https://archive.epa.gov/epa/cleanpowerplan/fact-sheet-clean-power-plan-benefits.html>.

<sup>14</sup> See Exec. Office of the Pres. Council on Environmental Quality, *supra*, note 6.

<sup>15</sup> Office of Management and Budget, Circular A-4 (2003), [https://obamawhitehouse.archives.gov/omb/circulars\\_a004\\_a-4/](https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/).

<sup>16</sup> Office of Management and Budget, *supra*, note 15.

<sup>17</sup> U.S. Environmental Protection Agency, *supra* note 12.

ozone and particulate matter in climate policies; the projection of benefits over timelines that are decades longer than any other time horizons used in federal cost/benefit estimates; and failure to account for the economic benefits resulting from the use of the energy leading to the governed CO2 emissions.<sup>18</sup>

The House Natural Resources Subcommittee on Energy and Mineral Resources held a legislative hearing on H.R. 3117 on July 27, 2017.

### **Major Provisions**

#### **Section 4. Prohibitions on Considering the Social Cost of Greenhouse Gas, Including the Social Cost of Carbon, the Social Cost of Methane, and the Social Cost of Nitrous Oxide.**

This section prohibits the Secretary of Energy, the Environmental Protection Agency Administrator, the Secretary of the Interior, and the Chair of the Council on Environmental Quality from considering the Social Cost of Greenhouse Gas for any agency action or guidance.

Exceptions to the prohibition on consideration of the Social Cost of Greenhouse Gas include if a federal law is enacted authorizing consideration or a new metric is calculated which incorporates requirements from the Office of Management and Budget issued in Circular A-4 dated September 17, 2003.

### **Administration Position**

The administration position is unknown at this time.

### **Anticipated Amendments**

An amendment is expected to be filed to clarify the extent of a review when the listed greenhouse gasses are being examined.

### **Cost**

A Congressional Budget Office cost estimate has not yet been completed for this bill.

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<sup>18</sup> See Exec. Office of the Pres. Council on Environmental Quality, *supra* note 6.