

106TH CONGRESS
1ST SESSION

H. R. 2221

To prohibit the use of Federal funds to implement the Kyoto Protocol to the United Nations Framework Convention on Climate Change until the Senate gives its advice and consent to ratification of the Kyoto Protocol, and to clarify the authority of Federal agencies with respect to the regulation of emissions of carbon dioxide.

IN THE HOUSE OF REPRESENTATIVES

JUNE 15, 1999

Mr. MCINTOSH introduced the following bill; which was referred to the
Committee on Commerce

A BILL

To prohibit the use of Federal funds to implement the Kyoto Protocol to the United Nations Framework Convention on Climate Change until the Senate gives its advice and consent to ratification of the Kyoto Protocol, and to clarify the authority of Federal agencies with respect to the regulation of emissions of carbon dioxide.

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 “Small Business, Fam-
5 ily Farms, and Constitutional Protection Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—The Congress finds the following:

3 (1) The provision of the Departments of Vet-
4 erans Affairs and Housing and Urban Development,
5 and Independent Agencies Appropriations Act, 1999,
6 that prohibits the use of Federal funds to implement
7 the Kyoto Protocol to the United Nations Frame-
8 work Convention on Climate Change prior to its
9 ratification should be extended and strengthened.

10 (2) The Environmental Protection Agency
11 claims that it has authority under the Clean Air Act
12 to regulate carbon dioxide as a “pollutant”, although
13 the Administrator of the Environmental Protection
14 Agency has not yet proposed to regulate carbon di-
15 oxide under the Act.

16 (3) When the Congress enacted and amended
17 the Clean Air Act, it did not delegate to the Envi-
18 ronmental Protection Agency authority to regulate
19 carbon dioxide. Such regulation would constitute a
20 usurpation of legislative power.

21 (4) Furthermore, regulation of carbon dioxide
22 would necessarily have the effect of implementing
23 the Kyoto Protocol.

24 (5) Since a speech by the President on October
25 22, 1997, the Administration has called for enact-
26 ment of a program commonly known as “credit for

1 early action” or “early action crediting” as part of
2 its global climate change policy.

3 (6) Early action crediting is fundamentally a
4 strategy to prematurely implement the nonratified
5 Kyoto Protocol and to build a pro-Kyoto business
6 constituency.

7 (7) Early action crediting would reward some
8 big businesses for taking steps to comply with the
9 Kyoto Protocol prior to its ratification.

10 (8) Early action crediting would also encourage
11 participating big businesses to support ratification,
12 because participants would acquire costly paper as-
13 sets that could be used as emission credits under a
14 future regulatory system and that could be mone-
15 tized if the Kyoto Protocol were ratified.

16 (9) Early action crediting is not a truly vol-
17 untary program, because it would penalize non-par-
18 ticipants by reducing the supply of emission credits
19 available to them in the first Kyoto Protocol compli-
20 ance period.

21 (10) Early action crediting would increase com-
22 pliance costs under the Kyoto Protocol for small
23 businesses and family farms, which generally lack
24 the technical expertise and discretionary capital re-
25 quired for participation in emissions reduction

1 projects and lack the legal sophistication necessary
2 to negotiate early action agreements with Federal
3 agencies.

4 (11) Early action crediting would lose even the
5 pretense of being voluntary if it were administered
6 by the Environmental Protection Agency or any
7 other agency wielding powers of regulatory coercion.

8 (12) Companies already may voluntarily record
9 and report their actions to reduce greenhouse gases
10 under section 1605 of the Energy Policy Act of
11 1992 (42 U.S.C. 13385). That section is adminis-
12 tered by the Energy Information Administration, an
13 agency with no regulatory authority or agenda.

14 (13) Early action crediting is not needed to
15 protect early big business emissions reducers from
16 any extra costs under the Kyoto Protocol, because,
17 as a practical political matter, the Kyoto Protocol
18 will not be ratified and implementing legislation will
19 not be adopted without the active support of the pol-
20 icy makers and big businesses advocating early ac-
21 tion crediting.

22 (14) The most effective way for members of the
23 Congress to protect United States competitiveness,
24 small businesses, and family farms from the regu-
25 latory excesses of a possible future climate treaty is

1 to declare their unequivocal and unqualified opposi-
2 tion to the Kyoto Protocol.

3 (b) PURPOSES.—The purposes of this Act are the fol-
4 lowing:

5 (1) To safeguard the Senate’s constitutional
6 role in treaty making.

7 (2) To prevent implementation of the Kyoto
8 Protocol prior to its ratification.

9 (3) To protect small businesses and family
10 farms from incurring additional costs under a future
11 climate change treaty or domestic program to regu-
12 late greenhouse gas emissions.

13 **SEC. 3. PROHIBITION ON FEDERAL ACTIONS TO IMPLE-**
14 **MENT THE KYOTO PROTOCOL.**

15 (a) IN GENERAL.—Federal funds may not be used
16 to propose or issue rules, regulations, decrees, or orders
17 or used to propose or issue rules, regulations, decrees, or
18 orders or for programs designed to implement, or in prep-
19 aration for implementing, the Kyoto Protocol to the
20 United Nations Framework Convention on Climate
21 Change before the date on which the Senate gives its ad-
22 vice and consent to ratification of the Kyoto Protocol.

23 (b) NO FEDERAL AUTHORITY TO REGULATE CAR-
24 BON DIOXIDE EMISSIONS.—Notwithstanding any other
25 provision of law, no Federal Agency has authority to pro-

1 mulgate regulations to limit emissions of carbon dioxide
2 unless a law is enacted after the date of enactment of this
3 Act that specifically grants such authority.

4 (c) RESTRICTION ON USE OF FUNDS FOR REGU-
5 LATORY CREDITS.—Notwithstanding any other provision
6 of law, Federal funds may not be used to advocate, de-
7 velop, or implement a program providing regulatory cred-
8 its for early voluntary greenhouse gas emission reductions,
9 before the date on which the Senate gives its advice and
10 consent to ratification of the Kyoto Protocol.

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