

112TH CONGRESS
1ST SESSION

H. R. 910

To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address climate change, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2011

Mr. UPTON (for himself, Mr. PETERSON, Mr. RAHALL, Mr. WHITFIELD, Mr. BOREN, Mr. BARTON of Texas, Mrs. McMORRIS RODGERS, Mr. WALDEN, Mr. SULLIVAN, and Mr. MCKINLEY) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Clean Air Act to prohibit the Administrator of the Environmental Protection Agency from promulgating any regulation concerning, taking action relating to, or taking into consideration the emission of a greenhouse gas to address climate change, 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 “Energy Tax Prevention
5 Act of 2011”.

1 **SEC. 2. NO REGULATION OF EMISSIONS OF GREENHOUSE**
2 **GASES.**

3 Title III of the Clean Air Act (42 U.S.C. 7601 et
4 seq.) is amended by adding at the end the following:

5 **“SEC. 330. NO REGULATION OF EMISSIONS OF GREEN-**
6 **HOUSE GASES.**

7 “(a) DEFINITION.—In this section, the term ‘green-
8 house gas’ means any of the following:

9 “(1) Water vapor.

10 “(2) Carbon dioxide.

11 “(3) Methane.

12 “(4) Nitrous oxide.

13 “(5) Sulfur hexafluoride.

14 “(6) Hydrofluorocarbons.

15 “(7) Perfluorocarbons.

16 “(8) Any other substance subject to, or pro-
17 posed to be subject to, regulation, action, or consid-
18 eration under this Act to address climate change.

19 “(b) LIMITATION ON AGENCY ACTION.—

20 “(1) LIMITATION.—

21 “(A) IN GENERAL.—The Administrator
22 may not, under this Act, promulgate any regu-
23 lation concerning, take action relating to, or
24 take into consideration the emission of a green-
25 house gas to address climate change.

1 “(B) AIR POLLUTANT DEFINITION.—The
2 definition of the term ‘air pollutant’ in section
3 302(g) does not include a greenhouse gas. Not-
4 withstanding the previous sentence, such defini-
5 tion may include a greenhouse gas for purposes
6 of addressing concerns other than climate
7 change.

8 “(2) EXCEPTIONS.—Paragraph (1) does not
9 prohibit the following:

10 “(A) Notwithstanding paragraph (4)(B),
11 implementation and enforcement of the rule en-
12 titled ‘Light-Duty Vehicle Greenhouse Gas
13 Emission Standards and Corporate Average
14 Fuel Economy Standards’ (as published at 75
15 Fed. Reg. 25324 (May 7, 2010) and without
16 further revision) and finalization, implementa-
17 tion, enforcement, and revision of the proposed
18 rule entitled ‘Greenhouse Gas Emissions Stand-
19 ards and Fuel Efficiency Standards for
20 Medium- and Heavy-Duty Engines and Vehi-
21 cles’ published at 75 Fed. Reg. 74152 (Novem-
22 ber 30, 2010).

23 “(B) Implementation and enforcement of
24 section 211(o).

1 “(C) Statutorily authorized Federal re-
2 search, development, and demonstration pro-
3 grams addressing climate change.

4 “(D) Implementation and enforcement of
5 title VI to the extent such implementation or
6 enforcement only involves one or more class I
7 substances or class II substances (as such
8 terms are defined in section 601).

9 “(E) Implementation and enforcement of
10 section 821 (42 U.S.C. 7651k note) of Public
11 Law 101–549 (commonly referred to as the
12 ‘Clean Air Act Amendments of 1990’).

13 “(3) INAPPLICABILITY OF PROVISIONS.—Noth-
14 ing listed in paragraph (2) shall cause a greenhouse
15 gas to be subject to part C of title I (relating to pre-
16 vention of significant deterioration of air quality) or
17 considered an air pollutant for purposes of title V
18 (relating to permits).

19 “(4) CERTAIN PRIOR AGENCY ACTIONS.—The
20 following rules and actions (including any supple-
21 ment or revision to such rules and actions) are re-
22 pealed and shall have no legal effect:

23 “(A) ‘Mandatory Reporting of Greenhouse
24 Gases’, published at 74 Fed. Reg. 56260 (Octo-
25 ber 30, 2009).

1 “(B) ‘Endangerment and Cause or Con-
2 tribute Findings for Greenhouse Gases Under
3 Section 202(a) of the Clean Air Act’, published
4 at 74 Fed. Reg. 66496 (December 15, 2009).

5 “(C) ‘Reconsideration of Interpretation of
6 Regulations That Determine Pollutants Covered
7 by Clean Air Act Permitting Programs’, pub-
8 lished at 75 Fed. Reg. 17004 (April 2, 2010)
9 and the memorandum from Stephen L. John-
10 son, Environmental Protection Agency (EPA)
11 Administrator, to EPA Regional Administra-
12 tors, concerning ‘EPA’s Interpretation of Regu-
13 lations that Determine Pollutants Covered by
14 Federal Prevention of Significant Deterioration
15 (PSD) Permit Program’ (December 18, 2008).

16 “(D) ‘Prevention of Significant Deteriora-
17 tion and Title V Greenhouse Gas Tailoring
18 Rule’, published at 75 Fed. Reg. 31514 (June
19 3, 2010).

20 “(E) ‘Action To Ensure Authority To
21 Issue Permits Under the Prevention of Signifi-
22 cant Deterioration Program to Sources of
23 Greenhouse Gas Emissions: Finding of Sub-
24 stantial Inadequacy and SIP Call’, published at
25 75 Fed. Reg. 77698 (December 13, 2010).

1 “(F) ‘Action To Ensure Authority To
2 Issue Permits Under the Prevention of Signifi-
3 cant Deterioration Program to Sources of
4 Greenhouse Gas Emissions: Finding of Failure
5 To Submit State Implementation Plan Revi-
6 sions Required for Greenhouse Gases’, pub-
7 lished at 75 Fed. Reg. 81874 (December 29,
8 2010).

9 “(G) ‘Action to Ensure Authority To Issue
10 Permits Under the Prevention of Significant
11 Deterioration Program to Sources of Green-
12 house Gas Emissions: Federal Implementation
13 Plan’, published at 75 Fed. Reg. 82246 (De-
14 cember 30, 2010).

15 “(H) ‘Action to Ensure Authority to Im-
16 plement Title V Permitting Programs Under
17 the Greenhouse Gas Tailoring Rule’, published
18 at 75 Fed. Reg. 82254 (December 30, 2010).

19 “(I) ‘Determinations Concerning Need for
20 Error Correction, Partial Approval and Partial
21 Disapproval, and Federal Implementation Plan
22 Regarding Texas Prevention of Significant De-
23 terioration Program’, published at 75 Fed. Reg.
24 82430 (December 30, 2010).

1 “(J) ‘Limitation of Approval of Prevention
2 of Significant Deterioration Provisions Con-
3 cerning Greenhouse Gas Emitting-Sources in
4 State Implementation Plans’, published at 75
5 Fed. Reg. 82536 (December 30, 2010).

6 “(K) ‘Determinations Concerning Need for
7 Error Correction, Partial Approval and Partial
8 Disapproval, and Federal Implementation Plan
9 Regarding Texas Prevention of Significant De-
10 terioration Program; Proposed Rule’, published
11 at 75 Fed. Reg. 82365 (December 30, 2010).

12 “(L) Except for actions listed in paragraph
13 (2), any other Federal action under this Act oc-
14 ccurring before the date of enactment of this
15 section that applies a stationary source permit-
16 ting requirement or an emissions standard for
17 a greenhouse gas to address climate change.

18 “(5) STATE ACTION.—

19 “(A) NO LIMITATION.—This section does
20 not limit or otherwise affect the authority of a
21 State to adopt, amend, enforce, or repeal State
22 laws and regulations pertaining to the emission
23 of a greenhouse gas.

24 “(B) EXCEPTION.—

1 “(i) RULE.—Notwithstanding sub-
2 paragraph (A), any provision described in
3 clause (ii)—

4 “(I) is not federally enforceable;

5 “(II) is not deemed to be a part
6 of Federal law; and

7 “(III) is deemed to be stricken
8 from the plan described in clause
9 (ii)(I) or the program or permit de-
10 scribed in clause (ii)(II), as applicable.

11 “(ii) PROVISION DEFINED.—For pur-
12 poses of clause (i), the term ‘provision’
13 means any provision that—

14 “(I) is contained in a State im-
15 plementation plan under section 110
16 and authorizes or requires a limitation
17 on, or imposes a permit requirement
18 for, the emission of a greenhouse gas
19 to address climate change; or

20 “(II) is part of an operating per-
21 mit program under title V, or a per-
22 mit issued pursuant to title V, and
23 authorizes or requires a limitation on
24 the emission of a greenhouse gas to
25 address climate change.

1 “(C) ACTION BY ADMINISTRATOR.—The
2 Administrator may not approve or make feder-
3 ally enforceable any provision described in sub-
4 paragraph (B)(ii).”.

5 **SEC. 3. PRESERVING ONE NATIONAL STANDARD FOR AUTO-**
6 **MOBILES.**

7 Section 209(b) of the Clean Air Act (42 U.S.C. 7543)
8 is amended by adding at the end the following:

9 “(4) With respect to standards for emissions of
10 greenhouse gases (as defined in section 330) for model
11 year 2017 or any subsequent model year new motor vehi-
12 cles and new motor vehicle engines—

13 “(A) the Administrator may not waive applica-
14 tion of subsection (a); and

15 “(B) no waiver granted prior to the date of en-
16 actment of this paragraph may be construed to
17 waive the application of subsection (a).”.

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