

111TH CONGRESS
2D SESSION

S. 3230

To prohibit the use of the National Environmental Policy Act of 1969 to document, predict, or mitigate the climate effects of specific Federal actions.

IN THE SENATE OF THE UNITED STATES

APRIL 20, 2010

Mr. INHOFE (for himself, Mr. BARRASSO, Mr. VITTER, Mr. ENZI, Mr. RISCH, Mr. BENNETT, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To prohibit the use of the National Environmental Policy Act of 1969 to document, predict, or mitigate the climate effects of specific Federal actions.

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 “NEPA Certainty Act”.

5 **SEC. 2. FINDINGS AND DECLARATION.**

6 (a) FINDINGS.—Congress finds that—

7 (1) using the National Environmental Policy
8 Act of 1969 (42 U.S.C. 4321 et seq.) as a climate
9 change mitigation tool would be costly and result in

1 fewer jobs and slower economic growth, since use of
2 that Act for that purpose could cause delays in en-
3 ergy, transportation, and other construction-related
4 projects;

5 (2) assuming that the anthropogenic contribu-
6 tion to climate change is significant and may lead to
7 serious environmental harm, using the National En-
8 vironmental Policy Act of 1969 (42 U.S.C. 4321 et
9 seq.) as a mitigation tool would prove environ-
10 mentally ineffective in addressing climate change;

11 (3) the purpose of the National Environmental
12 Policy Act of 1969 (42 U.S.C. 4321 et seq.) is to
13 ensure that a Federal agency will carefully consider
14 detailed information concerning significant environ-
15 mental impacts and make the relevant information
16 available to the public;

17 (4) isolating the specific causes of various cli-
18 matic changes is exceedingly difficult, if not impos-
19 sible, to achieve; and

20 (5) in February 2010, the Council on Environ-
21 mental Quality stated that—

22 (A) “it is not currently useful for the
23 NEPA analysis to attempt to link specific cli-
24 matological changes, or the environmental im-
25 pacts thereof, to the particular project or emis-

1 sions, as such direct linkage is difficult to iso-
 2 late and to understand.”;

3 (B) “From a quantitative perspective,
 4 there are no dominating sources and fewer
 5 sources that would even be close to dominating
 6 total [greenhouse gas] emissions.”; and

7 (C) “agencies should recognize the sci-
 8 entific limits of their ability to accurately pre-
 9 dict climate change effects, especially of a
 10 short-term nature”.

11 (b) DECLARATION.—Congress declares that the Na-
 12 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
 13 et seq.) should not be used to document, predict, or miti-
 14 gate the climate effects of specific Federal actions.

15 **SEC. 3. USE OF NATIONAL ENVIRONMENTAL POLICY ACT**
 16 **OF 1969 FOR CLIMATE CHANGE EFFECTS.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
 18 sion of law, compliance with the National Environmental
 19 Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not in-
 20 clude consideration of—

21 (1) the greenhouse gas emissions, or any cli-
 22 mate change effects of those emissions, of a pro-
 23 posed action and alternative actions; or

24 (2) the relationship of climate change effects to
 25 a proposed action or alternatives, including the rela-

1 tionship to proposal design, environmental impacts,
2 mitigation, and adaptation measures.

3 (b) SAVINGS CLAUSE.—Nothing in this section pre-
4 empts or interferes with—

5 (1) any authority to consider the climate
6 change effects of proposed legislation or regulations
7 specifically addressing greenhouse gas emissions; or

8 (2) any requirement to consider the potential
9 effects of climate change on proposals for agency ac-
10 tion during planning or design processes under pro-
11 visions of law other than the National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

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