

[DISCUSSION DRAFT]112TH CONGRESS
1ST SESSION**H. R.** _____

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 due to concerns regarding possible climate change, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M____. _____ introduced the following bill; which was referred to the
Committee on _____

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 due to concerns regarding possible 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 due to concerns regarding
19 possible climate change.

20 “(b) LIMITATION ON AGENCY ACTION.—

21 “(1) LIMITATION.—

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

1 house gas due to concerns regarding possible
2 climate change.

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

10 “(2) EXCEPTIONS.—Paragraph (1) does not
11 prohibit the following:

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

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

4 “(C) A regulation, action, or consideration
5 under title VI, except to the extent to which the
6 regulation, action, or consideration is based on
7 the potential or actual effect of a greenhouse
8 gas on climate change.

9 “(3) INAPPLICABILITY OF PROVISIONS.—Noth-
10 ing listed in paragraph (2) shall cause a greenhouse
11 gas to be considered subject to part C of title I (re-
12 lating to prevention of significant deterioration of air
13 quality) or considered an air pollutant for purposes
14 of title V (relating to permits).

15 “(4) CERTAIN PRIOR AGENCY ACTIONS.—The
16 following rules and actions are repealed and shall
17 have no legal effect:

18 “(A) ‘Endangerment and Cause or Con-
19 tribute Findings for Greenhouse Gases Under
20 Section 202(a) of the Clean Air Act’, published
21 at 74 Fed. Reg. 66496 (December 15, 2009).

22 “(B) ‘Reconsideration of Interpretation of
23 Regulations That Determine Pollutants Covered
24 by Clean Air Act Permitting Programs’, pub-
25 lished at 75 Fed. Reg. 17004 (April 2, 2010)

1 and the memorandum from Stephen L. John-
2 son, Environmental Protection Agency (EPA)
3 Administrator, to EPA Regional Administra-
4 tors, concerning ‘EPA’s Interpretation of Regu-
5 lations that Determine Pollutants Covered by
6 Federal Prevention of Significant Deterioration
7 (PSD) Permit Program’ (December 18, 2008).

8 “(C) ‘Prevention of Significant Deteriora-
9 tion and Title V Greenhouse Gas Tailoring
10 Rule’, published at 75 Fed. Reg. 31514 (June
11 3, 2010).

12 “(D) ‘Action To Ensure Authority To
13 Issue Permits Under the Prevention of Signifi-
14 cant Deterioration Program to Sources of
15 Greenhouse Gas Emissions: Finding of Sub-
16 stantial Inadequacy and SIP Call’, published at
17 75 Fed. Reg. 77698 (December 13, 2010).

18 “(E) ‘Action To Ensure Authority To
19 Issue Permits Under the Prevention of Signifi-
20 cant Deterioration Program to Sources of
21 Greenhouse Gas Emissions: Finding of Failure
22 To Submit State Implementation Plan Revi-
23 sions Required for Greenhouse Gases’, pub-
24 lished at 75 Fed. Reg. 81874 (December 29,
25 2010).

1 “(F) ‘Action to Ensure Authority To Issue
2 Permits Under the Prevention of Significant
3 Deterioration Program to Sources of Green-
4 house Gas Emissions: Federal Implementation
5 Plan’, published at 75 Fed. Reg. 82246 (De-
6 cember 30, 2010).

7 “(G) ‘Action to Ensure Authority to Imple-
8 ment Title V Permitting Programs Under the
9 Greenhouse Gas Tailoring Rule’, published at
10 75 Fed. Reg. 82254 (December 30, 2010).

11 “(H) ‘Determinations Concerning Need for
12 Error Correction, Partial Approval and Partial
13 Disapproval, and Federal Implementation Plan
14 Regarding Texas Prevention of Significant De-
15 terioration Program’, published at 75 Fed. Reg.
16 82430 (December 30, 2010).

17 “(I) ‘Limitation of Approval of Prevention
18 of Significant Deterioration Provisions Con-
19 cerning Greenhouse Gas Emitting-Sources in
20 State Implementation Plans’, published at 75
21 Fed. Reg. 82536 (December 30, 2010).

22 “(J) ‘Determinations Concerning Need for
23 Error Correction, Partial Approval and Partial
24 Disapproval, and Federal Implementation Plan
25 Regarding Texas Prevention of Significant De-

1 terioration Program; Proposed Rule’, published
2 at 75 Fed. Reg. 82,365 (December 30, 2010).

3 “(K) Any other Federal action under this
4 Act occurring before the date of enactment of
5 this section that applies a stationary source per-
6 mitting requirement or an emissions standard
7 for a greenhouse gas due to concerns regarding
8 possible climate change.

9 “(5) STATE ACTION.—

10 “(A) NO LIMITATION.—This section does
11 not limit or otherwise affect the authority of a
12 State to adopt, amend, enforce, or repeal State
13 laws and regulations pertaining to the emission
14 of a greenhouse gas.

15 “(B) EXCEPTION.—

16 “(i) RULE.—Notwithstanding sub-
17 paragraph (A), any provision described in
18 clause (ii)—

19 “(I) is not federally enforceable;
20 and

21 “(II) is not deemed to be a part
22 of Federal law.

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

1 “(I) is contained in a State im-
2 plementation plan under section 110
3 and authorizes or requires a limitation
4 on, or imposes a permit requirement
5 for, the emission of a greenhouse gas
6 due to concerns regarding possible cli-
7 mate change; or

8 “(II) is part of an operating per-
9 mit program under title V, or a per-
10 mit issued pursuant to title V, and
11 authorizes or requires a limitation on
12 the emission of a greenhouse gas due
13 to concerns regarding possible climate
14 change.

15 “(C) ACTION BY ADMINISTRATOR.—The
16 Administrator may not approve or make feder-
17 ally enforceable any provision described in sub-
18 paragraph (B)(ii).”.

19 **SEC. 3. REGULATION OF AUTOMOBILES.**

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

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

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

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