

112TH CONGRESS
1ST SESSION

H. R. 910

IN THE SENATE OF THE UNITED STATES

APRIL 8, 2011

Received; read twice and referred to the Committee on Environment and
Public Works

AN ACT

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”.

6 **SEC. 2. NO REGULATION OF EMISSIONS OF GREENHOUSE**
7 **GASES.**

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

10 **“SEC. 330. NO REGULATION OF EMISSIONS OF GREEN-**
11 **HOUSE GASES.**

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

14 “(1) Water vapor.

15 “(2) Carbon dioxide.

16 “(3) Methane.

17 “(4) Nitrous oxide.

18 “(5) Sulfur hexafluoride.

19 “(6) Hydrofluorocarbons.

20 “(7) Perfluorocarbons.

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

24 “(b) LIMITATION ON AGENCY ACTION.—

25 “(1) LIMITATION.—

1 “(A) IN GENERAL.—The Administrator
2 may not, under this Act, promulgate any regu-
3 lation concerning, take action relating to, or
4 take into consideration the emission of a green-
5 house gas to address climate change.

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

13 “(2) EXCEPTIONS.—Paragraph (1) does not
14 prohibit the following:

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

1 cles’ published at 75 Fed. Reg. 74152 (Novem-
2 ber 30, 2010).

3 “(B) Implementation and enforcement of
4 section 211(o).

5 “(C) Statutorily authorized Federal re-
6 search, development, demonstration programs
7 and voluntary programs addressing climate
8 change.

9 “(D) Implementation and enforcement of
10 title VI to the extent such implementation or
11 enforcement only involves one or more class I
12 substances or class II substances (as such
13 terms are defined in section 601).

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

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

24 “(4) CERTAIN PRIOR AGENCY ACTIONS.—The
25 following rules and actions (including any supple-

1 ment or revision to such rules and actions) are re-
2 pealed and shall have no legal effect:

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

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

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

21 “(D) ‘Prevention of Significant Deteriora-
22 tion and Title V Greenhouse Gas Tailoring
23 Rule’, published at 75 Fed. Reg. 31514 (June
24 3, 2010).

1 “(E) ‘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 Sub-
5 stantial Inadequacy and SIP Call’, published at
6 75 Fed. Reg. 77698 (December 13, 2010).

7 “(F) ‘Action To Ensure Authority To
8 Issue Permits Under the Prevention of Signifi-
9 cant Deterioration Program to Sources of
10 Greenhouse Gas Emissions: Finding of Failure
11 To Submit State Implementation Plan Revi-
12 sions Required for Greenhouse Gases’, pub-
13 lished at 75 Fed. Reg. 81874 (December 29,
14 2010).

15 “(G) ‘Action to Ensure Authority To Issue
16 Permits Under the Prevention of Significant
17 Deterioration Program to Sources of Green-
18 house Gas Emissions: Federal Implementation
19 Plan’, published at 75 Fed. Reg. 82246 (De-
20 cember 30, 2010).

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

1 “(I) ‘Determinations Concerning Need for
2 Error Correction, Partial Approval and Partial
3 Disapproval, and Federal Implementation Plan
4 Regarding Texas Prevention of Significant De-
5 terioration Program’, published at 75 Fed. Reg.
6 82430 (December 30, 2010).

7 “(J) ‘Limitation of Approval of Prevention
8 of Significant Deterioration Provisions Con-
9 cerning Greenhouse Gas Emitting-Sources in
10 State Implementation Plans’, published at 75
11 Fed. Reg. 82536 (December 30, 2010).

12 “(K) ‘Determinations Concerning Need for
13 Error Correction, Partial Approval and Partial
14 Disapproval, and Federal Implementation Plan
15 Regarding Texas Prevention of Significant De-
16 terioration Program; Proposed Rule’, published
17 at 75 Fed. Reg. 82365 (December 30, 2010).

18 “(L) Except for actions listed in paragraph
19 (2), any other Federal action under this Act oc-
20 ccurring before the date of enactment of this
21 section that applies a stationary source permit-
22 ting requirement or an emissions standard for
23 a greenhouse gas to address climate change.

24 “(5) STATE ACTION.—

1 “(A) NO LIMITATION.—This section does
2 not limit or otherwise affect the authority of a
3 State to adopt, amend, enforce, or repeal State
4 laws and regulations pertaining to the emission
5 of a greenhouse gas.

6 “(B) EXCEPTION.—

7 “(i) RULE.—Notwithstanding sub-
8 paragraph (A), any provision described in
9 clause (ii)—

10 “(I) is not federally enforceable;

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

13 “(III) is deemed to be stricken
14 from the plan described in clause
15 (ii)(I) or the program or permit de-
16 scribed in clause (ii)(II), as applicable.

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

20 “(I) is contained in a State im-
21 plementation plan under section 110
22 and authorizes or requires a limitation
23 on, or imposes a permit requirement
24 for, the emission of a greenhouse gas
25 to address climate change; or

1 “(II) is part of an operating per-
2 mit program under title V, or a per-
3 mit issued pursuant to title V, and
4 authorizes or requires a limitation on
5 the emission of a greenhouse gas to
6 address climate change.

7 “(C) ACTION BY ADMINISTRATOR.—The
8 Administrator may not approve or make feder-
9 ally enforceable any provision described in sub-
10 paragraph (B)(ii).”.

11 **SEC. 3. PRESERVING ONE NATIONAL STANDARD FOR AUTO-**
12 **MOBILES.**

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

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

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

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

24 **SEC. 4. SENSE OF CONGRESS.**

25 It is the sense of the Congress that—

1 (1) there is established scientific concern over
2 warming of the climate system based upon evidence
3 from observations of increases in global average air
4 and ocean temperatures, widespread melting of snow
5 and ice, and rising global average sea level;

6 (2) addressing climate change is an inter-
7 national issue, involving complex scientific and eco-
8 nomic considerations;

9 (3) the United States has a role to play in re-
10 solving global climate change matters on an inter-
11 national basis; and

12 (4) Congress should fulfill that role by devel-
13 oping policies that do not adversely affect the Amer-
14 ican economy, energy supplies, and employment.

Passed the House of Representatives April 7, 2011.

Attest:

KAREN L. HAAS,

Clerk.