

[DISCUSSION DRAFT]

112TH CONGRESS
1ST SESSION

H. R. _____

To provide that emissions of greenhouse gases are not subject to regulation, action, or consideration under the Clean Air Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

To provide that emissions of greenhouse gases are not subject to regulation, action, or consideration under the Clean Air Act, 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.—Subject to paragraph (3),
22 nothing in this Act authorizes or requires any regu-
23 lation concerning, action relating to, or consideration
24 of the emission of a greenhouse gas due to concerns
25 regarding possible climate change.

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

7 “(3) EXCEPTIONS.—The limitation under para-
8 graph (1) does not prohibit the following:

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

22 “(B) A regulation, action, or consideration
23 under title VI, except to the extent to which the
24 regulation, action, or consideration is based on

1 the potential or actual effect of a greenhouse
2 gas on climate change.

3 “(C) Implementation and enforcement of
4 the rule entitled ‘Mandatory Reporting of
5 Greenhouse Gases’ (published at 74 Fed. Reg.
6 56260 (October 30, 2009)) as subsequently
7 supplemented or revised.

8 “(D) The conduct or support of research,
9 and the dissemination of information, on green-
10 house gases or climate change.

11 “(4) CERTAIN PRIOR AGENCY ACTIONS.—The
12 following rules and actions are repealed and shall
13 have no legal effect:

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

18 “(B) ‘Reconsideration of Interpretation of
19 Regulations That Determine Pollutants Covered
20 by Clean Air Act Permitting Programs’, pub-
21 lished at 75 Fed. Reg. 17004 (April 2, 2010)
22 and the memorandum from Stephen L. John-
23 son, Environmental Protection Agency (EPA)
24 Administrator, to EPA Regional Administra-
25 tors, concerning ‘EPA’s Interpretation of Regu-

1 lations that Determine Pollutants Covered by
2 Federal Prevention of Significant Deterioration
3 (PSD) Permit Program’ (December 18, 2008).

4 “(C) ‘Prevention of Significant Deteriora-
5 tion and Title V Greenhouse Gas Tailoring
6 Rule’, published at 75 Fed. Reg. 31514 (June
7 3, 2010).

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

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

22 “(F) ‘Action to Ensure Authority To Issue
23 Permits Under the Prevention of Significant
24 Deterioration Program to Sources of Green-
25 house Gas Emissions: Federal Implementation

1 Plan’, published at 75 Fed. Reg. 82246 (De-
2 cember 30, 2010).

3 “(G) ‘Action to Ensure Authority to Imple-
4 ment Title V Permitting Programs Under the
5 Greenhouse Gas Tailoring Rule’, published at
6 75 Fed. Reg. 82254 (December 30, 2010).

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

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

18 “(J) ‘Determinations Concerning Need for
19 Error Correction, Partial Approval and Partial
20 Disapproval, and Federal Implementation Plan
21 Regarding Texas Prevention of Significant De-
22 terioration Program; Proposed Rule’, published
23 at 75 Fed. Reg. 82,365 (December 30, 2010).

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 and enforce State laws and regu-
4 lations pertaining to the emission of a green-
5 house gas. To the extent that, based on any
6 regulation or action repealed by paragraph (4),
7 a State adopted a State law or regulation desig-
8 nating a greenhouse gas as a pollutant subject
9 to regulation or as a regulated pollutant, or au-
10 thorizing or requiring limitations on the emis-
11 sion of such greenhouse gas under State law,
12 such State shall be free to change that law or
13 regulation.

14 “(B) EXCEPTION.—

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

18 “(I) is not federally enforceable;

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

21 “(III) is deemed to be stricken
22 from the plan described in clause
23 (ii)(I) or the program or permit de-
24 scribed in clause (ii)(II), as applicable.

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

4 “(I) is contained in a State im-
5 plementation plan under section 110
6 and authorizes or requires a limitation
7 on, or a permit for, the emission of a
8 greenhouse gas; or

9 “(II) is part of an operating per-
10 mit program under title V, or a per-
11 mit issued pursuant to title V, and
12 treats a greenhouse gas as an air pol-
13 lutant.

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

18 “(6) LITIGATION.—Except with respect to the
19 inapplicability of the limitation in paragraph (1),
20 and subject to paragraph (2), the listing of a rule,
21 action, consideration, or activity in paragraph (3)
22 shall not be construed to affect any administrative
23 or judicial review (including any review pending as
24 of the date of the enactment of this section) of such
25 rule, action, consideration, or activity.”.

1 **SEC. 3. REGULATION OF AUTOMOBILES.**

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

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

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

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