

112TH CONGRESS
1ST SESSION

S. 482

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 SENATE OF THE UNITED STATES

MARCH 3, 2011

Mr. INHOFE (for himself, Mr. ALEXANDER, Ms. AYOTTE, Mr. BARRASSO, Mr. BLUNT, Mr. BOOZMAN, Mr. BURR, Mr. CHAMBLISS, Mr. COATS, Mr. COBURN, Mr. COCHRAN, Mr. CORKER, Mr. CORNYN, Mr. CRAPO, Mr. DEMINT, Mr. ENSIGN, Mr. ENZI, Mr. GRAHAM, Mr. GRASSLEY, Mr. HATCH, Mr. HOEVEN, Mrs. HUTCHISON, Mr. ISAKSON, Mr. JOHANNES, Mr. JOHNSON of Wisconsin, Mr. KYL, Mr. LEE, Mr. LUGAR, Mr. McCONNELL, Mr. MORAN, Ms. MURKOWSKI, Mr. PAUL, Mr. PORTMAN, Mr. RISCH, Mr. ROBERTS, Mr. RUBIO, Mr. SESSIONS, Mr. SHELBY, Mr. THUNE, Mr. TOOMEY, Mr. VITTER, Mr. WICKER, Mr. MCCAIN, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Energy Tax Prevention
3 Act of 2011”.

4 **SEC. 2. NO REGULATION OF EMISSIONS OF GREENHOUSE**
5 **GASES.**

6 (a) IN GENERAL.—Title III of the Clean Air Act (42
7 U.S.C. 7601 et seq.) is amended by adding at the end
8 the following:

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

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

13 “(1) Water vapor.

14 “(2) Carbon dioxide.

15 “(3) Methane.

16 “(4) Nitrous oxide.

17 “(5) Sulfur hexafluoride.

18 “(6) Hydrofluorocarbons.

19 “(7) Perfluorocarbons.

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

23 “(b) LIMITATION ON AGENCY ACTION.—

24 “(1) LIMITATION.—

25 “(A) IN GENERAL.—The Administrator
26 may not, under this Act, promulgate any regu-

1 lation concerning, take action relating to, or
2 take into consideration the emission of a green-
3 house gas to address climate change.

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

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

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

1 “(B) Implementation and enforcement of
2 section 211(o).

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

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

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

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

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

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

4 “(B) ‘Endangerment and Cause or Con-
5 tribute Findings for Greenhouse Gases under
6 section 202(a) of the Clean Air Act’ published
7 at 74 Fed. Reg. 66496 (Dec. 15, 2009).

8 “(C) ‘Reconsideration of the Interpretation
9 of Regulations That Determine Pollutants Cov-
10 ered by Clean Air Act Permitting Programs’
11 published at 75 Fed. Reg. 17004 (April 2,
12 2010) and the memorandum from Stephen L.
13 Johnson, Environmental Protection Agency
14 (EPA) Administrator, to EPA Regional Admin-
15 istrators, concerning ‘EPA’s Interpretation of
16 Regulations that Determine Pollutants Covered
17 by Federal Prevention of Significant Deteriora-
18 tion (PSD) Permit Program’ (Dec. 18, 2008).

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

23 “(E) ‘Action To Ensure Authority To
24 Issue Permits Under the Prevention of Signifi-
25 cant Deterioration Program to Sources of

1 Greenhouse Gas Emissions: Finding of Sub-
2 stantial Inadequacy and SIP Call’, published at
3 75 Fed. Reg. 77698 (December 13, 2010).

4 “(F) ‘Action To Ensure Authority To
5 Issue Permits Under the Prevention of Signifi-
6 cant Deterioration Program to Sources of
7 Greenhouse Gas Emissions: Finding of Failure
8 to Submit State Implementation Plan Revisions
9 Required for Greenhouse Gases’, published at
10 75 Fed. Reg. 81874 (December 29, 2010).

11 “(G) ‘Action To Ensure Authority To
12 Issue Permits Under the Prevention of Signifi-
13 cant Deterioration Program to Sources of
14 Greenhouse Gas Emissions: Federal Implemen-
15 tation Plan’, published at 75 Fed. Reg. 82246
16 (December 30, 2010).

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

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

1 terioration Program’, published at 75 Fed. Reg.
2 82430 (December 30, 2010).

3 “(J) ‘Limitation of Approval of Prevention
4 of Significant Deterioration Provisions Con-
5 cerning Greenhouse Gas Emitting-Sources in
6 State Implementation Plans; Final Rule’, pub-
7 lished at 75 Fed. Reg. 82536 (December 30,
8 2010).

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

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

21 “(5) STATE ACTION.—

22 “(A) NO LIMITATION.—This section does
23 not limit or otherwise affect the authority of a
24 State to adopt, amend, enforce, or repeal State

1 laws and regulations pertaining to the emission
2 of a greenhouse gas.

3 “(B) EXCEPTION.—

4 “(i) RULE.—Notwithstanding sub-
5 paragraph (A), any provision described in
6 clause (ii)—

7 “(I) is not federally enforceable;

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

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

14 “(ii) PROVISIONS DEFINED.—For pur-
15 poses of clause (i), the term ‘provision’
16 means any provision that—

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

23 “(II) is part of an operating per-
24 mit program under title V, or a per-
25 mit issued pursuant to title V, and

1 authorizes or requires a limitation on
2 the emission of a greenhouse gas to
3 address climate change.

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

8 **SEC. 3. PRESERVING ONE NATIONAL STANDARD FOR AUTO-**
9 **MOBILES.**

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

12 “(4) With respect to standards for emissions of
13 greenhouse gases (as defined in section 330) for
14 model year 2017 or any subsequent model year for
15 new motor vehicles and new motor vehicle engines—

16 “(A) the Administrator may not waive ap-
17 plication of subsection (a); and

18 “(B) no waiver granted prior to the date of
19 enactment of this paragraph may be considered
20 to waive the application of subsection (a).”.

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