

**[DISCUSSION DRAFT]**112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> 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.

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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).”.