

Purpose: To preempt regulation of, action relating to, or consideration of greenhouse gases under Federal, State, and common law on enactment of a Federal policy to mitigate climate change.

(no.) _____

(title)

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT INTENDED TO BE PROPOSED BY _____

Viz:

On page ___, between lines ___ and ___, insert the following:

SEC. __. OTHER LAWS.

(a) Definition of Greenhouse Gas.—In this section, the term “greenhouse gas” means any of the following:

(1) Carbon dioxide.

(2) Methane.

(3) Nitrous oxide.

(4) Sulfur hexafluoride.

(5) Any hydrofluorocarbon from a chemical manufacturing process at an industrial stationary source.

(6) Any perfluorocarbon that is an anthropogenic gas, 1 metric ton of which makes the same or greater contribution to climate change over 100 years as 1 metric ton of carbon dioxide.

(7) Nitrogen trifluoride.

(8) Any other substance subject to regulation, action, or consideration due to the contribution of the substance to climate change.

(b) Regulation, Action, and Consideration for Effects Other Than Climate Change.—

(1) IN GENERAL.—The President, the head of a Federal department or agency, the Governor of a State, the head of a territory of the United States or a unit of local government, or any other government or independent entity may not promulgate regulations concerning, take action relating to, or take into consideration the control of emissions of a greenhouse gas unless the regulations, action, or consideration are—

(A) determined by the President, Governor, or head, as applicable, after notice and opportunity for comment, to be necessary to protect the public health from imminent and substantial harm caused by direct human exposure to the relevant greenhouse gas in a concentration that is substantially greater than current and projected future average concentrations of that greenhouse gas in the global atmosphere; and

(B) based solely on effects other than effects relating to atmospheric concentrations of greenhouse gases, including climate change.

(2) EXCEPTION.—The limitation under paragraph (1) does not prohibit regulation of, action relating to, or taking into consideration a greenhouse gas, other than for the potential or actual effect of the greenhouse gas on climate change, to the extent that the greenhouse gas is subject to regulation, action, or consideration under title VI of the Clean Air Act (42 U.S.C. 7671 et seq.).

(3) EXCLUSIVE AUTHORITY.—Except as provided in paragraph (2), the Secretary of Transportation shall have exclusive authority to regulate the emissions of any greenhouse gas from an automobile, in accordance with chapter 329 of title 49, United States Code.

(4) JUDICIAL REVIEW.—

(A) IN GENERAL.—In addition to any other remedies available, any person affected by a regulation, action, or consideration concerning the control of emissions of a greenhouse gas that fails to meet the criteria described in paragraph (1) may challenge the regulation, action, or consideration.

(B) JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over any review of any Federal, State, or other regulation, action, or consideration challenged under subparagraph (A).

(c) Actions at Law.—No cause of action, whether based on common law or civil tort (including nuisance) or any other legal or equitable theory, may be brought or maintained, and no liability, money damages, or injunctive relief arising from such an action may be imposed, for—

(1) any potential or actual contribution of a greenhouse gas to climate change; or

(2) any direct or indirect effect of potential or actual atmospheric concentrations of a greenhouse gas.

(d) Preemption.—Except as provided in subsection (b), this [Act] shall provide the sole and exclusive authority for regulation of, action relating to, or consideration of any greenhouse gas pursuant to Federal, State, or other law, including common law, directly or indirectly, whether by rule, permit, market-based mechanism, consultation requirement, imposition of liability, or other means.