

#33 REVISED
Ron Kind

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 910
OFFERED BY MR. KIND OF WISCONSIN *and Mr. Owens*

Strike all after the enacting clause and insert the following:

1 SECTION 1. PROHIBITIONS AGAINST REGULATION OF
2 GREENHOUSE GASES.

3 The Clean Air Act (42 U.S.C. 7401 and following)
4 is amended by adding the following new section after sec-
5 tion 329:

6 "SEC. 330. PROHIBITIONS AGAINST REGULATION OF
7 GREENHOUSE GASES.

8 "(a) NEW SOURCE REVIEW.—

9 "(1) GENERAL RULE.—

10 "(A) EXCLUDING GREENHOUSE GAS EMIS-
11 SIONS FROM PERMITTING APPLICABILITY DE-
12 TERMINATIONS.—

13 "(i) For purposes of determining
14 whether a stationary source is a 'major
15 emitting facility' pursuant to section
16 169(1), such determination shall not be
17 based on emissions of any air pollutant
18 subject to regulation solely on the basis of

1 such pollutant's contribution to global cli-
2 mate change.

3 “(ii) For purposes of determining
4 whether a stationary source has under-
5 taken ‘construction’ pursuant to section
6 165(a), such determination shall not be
7 based on an increase in the amount of any
8 air pollutant subject to regulation solely on
9 the basis of such pollutant's contribution
10 to global climate change, nor be based on
11 resulting emissions of such an air pollutant
12 not previously emitted.

13 “(B) EXCLUDING SMALL GREENHOUSE
14 GAS SOURCES FROM PERMITTING REQUIRE-
15 MENTS.—No requirement of sections 160
16 through 169 shall apply with respect to any
17 greenhouse gas unless such gas is subject to
18 regulation under this Act for reasons inde-
19 pendent of its effects on global climate change
20 or the gas is emitted by a source that is—

21 “(i) a new major emitting facility that
22 will emit, or have the potential to emit,
23 greenhouse gases in an amount of at least
24 75,000 tons carbon dioxide equivalent per
25 year; or

1 “(ii) an existing major emitting facil-
2 ity that undertakes construction which in-
3 creases the amount of greenhouse gases, or
4 which results in emission of greenhouse
5 gases not previously emitted, on a mass
6 basis and by at least 75,000 tons carbon
7 dioxide equivalent per year.

8 “(2) SPECIAL RULE.—Notwithstanding para-
9 graph (1), as of July 1, 2011, for purposes of sec-
10 tion 160 through 169, the term ‘major emitting fa-
11 cility’ shall include a stationary source—

12 “(A) that is—

13 “(i) a new stationary source that will
14 emit, or have the potential to emit, green-
15 house gases of at least 100,000 tons car-
16 bon dioxide equivalent per year (or such
17 other quantity between 50,000 and
18 100,000 set by the Administrator by regu-
19 lation effective no earlier than July 1,
20 2013); or

21 “(ii) an existing stationary source that
22 emits greenhouse gases of at least 100,000
23 tons carbon dioxide equivalent per year (or
24 such other quantity between 50,000 and
25 100,000 set by the Administrator by regu-

1 lation effective no earlier than July 1,
2 2013) and that undertakes a physical
3 change or change in the method of oper-
4 ation that will result in an emissions in-
5 crease of greenhouse gases of at least
6 75,000 tons carbon dioxide equivalent per
7 year (or such other quantity between
8 50,000 and 75,000 set by the Adminis-
9 trator by regulation effective no earlier
10 than July 1, 2013); and

11 “(B) that has greenhouse gas emissions
12 equal to or exceeding 250 tons per year mass
13 emissions or, in the case of any of the types of
14 stationary sources identified in section 169(1),
15 100 tons per year mass emissions.

16 “(3) NONPROFIT INSTITUTIONS.—For purposes
17 of section 169(1), no provision in this subsection
18 shall include within the term ‘major emitting facility’
19 any new or modified facility which is a nonprofit
20 health or educational institution which has been ex-
21 empted by the state in which it is located.

22 “(b) TITLE V OPERATING PERMITS.—

23 “(1) GENERAL RULE.—Notwithstanding any
24 provision of this title or title V, no stationary source
25 shall be required to apply for, or operate pursuant

1 to, a permit under title V, solely due to its status
2 as a major source of greenhouse gases that are sub-
3 ject to regulation under this Act solely on the basis
4 of their effect on global climate change.

5 “(2) SPECIAL RULE.—As of July 1, 2011, the
6 provisions of paragraph (1) of this subsection shall
7 not apply to any stationary source that emits or has
8 the potential to emit at least 100,000 tons per year
9 carbon dioxide equivalent (or such other quantity be-
10 tween 50,000 and 100,000 set by the Administrator
11 by regulation effective no earlier than July 1, 2013).

12 “(c) DEFINITION OF GREENHOUSE GAS.—For pur-
13 poses of this section, the term ‘greenhouse gas’ means the
14 following:

15 “(1) Carbon dioxide.

16 “(2) Methane

17 “(3) Nitrous oxide.

18 “(4) Sulfur hexafluoride.

19 “(5) Hydrofluorocarbons.

20 “(6) Perfluorocarbons.

21 “(7) Nitrogen trifluoride.

22 “(8) Any other anthropogenic gas if the Admin-
23 istrator determines that one ton of such gas has the

- 1 same or greater effect on global climate change as
- 2 does one ton of carbon dioxide.”.

