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 HOUSE OF REPRESENTATIVES

MARCH 3, 2011

Mr. Upton (for himself, Mr. Peterson, Mr. Rahall, Mr. Whitfield, Mr. Boren, Mr. Barton of Texas, Mrs. McMorris Rodgers, Mr. Walden, Mr. Sullivan, and Mr. McKinley) introduced the following bill; which was referred to the Committee on Energy and Commerce

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Energy Tax Prevention Act of 2011”.
SEC. 2. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

Title III of the Clean Air Act (42 U.S.C. 7601 et seq.) is amended by adding at the end the following:

“SEC. 330. NO REGULATION OF EMISSIONS OF GREENHOUSE GASES.

“(a) DEFINITION.—In this section, the term ‘greenhouse gas’ means any of the following:

“(1) Water vapor.
“(2) Carbon dioxide.
“(3) Methane.
“(4) Nitrous oxide.
“(5) Sulfur hexafluoride.
“(6) Hydrofluorocarbons.
“(7) Perfluorocarbons.
“(8) Any other substance subject to, or proposed to be subject to, regulation, action, or consideration under this Act to address climate change.

“(b) LIMITATION ON AGENCY ACTION.—

“(1) LIMITATION.—

“(A) IN GENERAL.—The Administrator may not, under this Act, promulgate any regulation concerning, take action relating to, or take into consideration the emission of a greenhouse gas to address climate change.
“(B) AIR POLLUTANT DEFINITION.—The definition of the term ‘air pollutant’ in section 302(g) does not include a greenhouse gas. Notwithstanding the previous sentence, such definition may include a greenhouse gas for purposes of addressing concerns other than climate change.

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


“(B) Implementation and enforcement of section 211(o).
“(C) Statutorily authorized Federal research, development, and demonstration programs addressing climate change.

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

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

“(3) INAPPLICABILITY OF PROVISIONS.—Nothing listed in paragraph (2) shall cause a greenhouse gas to be subject to part C of title I (relating to prevention of significant deterioration of air quality) or considered an air pollutant for purposes of title V (relating to permits).

“(4) CERTAIN PRIOR AGENCY ACTIONS.—The following rules and actions (including any supplement or revision to such rules and actions) are repealed and shall have no legal effect:


“(L) Except for actions listed in paragraph (2), any other Federal action under this Act occurring before the date of enactment of this section that applies a stationary source permitting requirement or an emissions standard for a greenhouse gas to address climate change.

“(5) STATE ACTION.—

“(A) NO LIMITATION.—This section does not limit or otherwise affect the authority of a State to adopt, amend, enforce, or repeal State laws and regulations pertaining to the emission of a greenhouse gas.

“(B) EXCEPTION.—
“(i) RULE.—Notwithstanding sub-
paragraph (A), any provision described in
clause (ii)—

“(I) is not federally enforceable;

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

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

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

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

“(II) is part of an operating per-
mit program under title V, or a per-
mit issued pursuant to title V, and
authorizes or requires a limitation on
the emission of a greenhouse gas to
address climate change.
“(C) Action by Administrator.—The Administrator may not approve or make federally enforceable any provision described in subparagraph (B)(ii).”.

SEC. 3. PRESERVING ONE NATIONAL STANDARD FOR AUTOMOBILES.

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

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

“(A) the Administrator may not waive application of subsection (a); and

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