



# Statement of the American Farm Bureau Federation

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**TO THE  
SUBCOMMITTEE ON ENERGY AND POWER  
HOUSE COMMITTEE ON ENERGY AND COMMERCE  
REGARDING: REGULATION OF GREENHOUSE GASES**

**February 9, 2011**

Presented by Philip Nelson  
President, Illinois Farm Bureau  
Member, Board of Directors, American Farm Bureau Federation

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**SUMMARY OF TESTIMONY OF PHILIP NELSON**  
**AMERICAN FARM BUREAU FEDERATION**

The American Farm Bureau Federation supports the *Energy Tax Prevention Act of 2011*. It is a targeted approach that only affects regulation of greenhouse gases from stationary sources like farms and ranches, and does not affect previously enacted or proposed rules regarding mobile sources.

Farmers and ranchers are adversely affected economically by EPA regulation of greenhouse gases in two major ways:

1. Costs incurred by utilities, refiners and manufacturers to comply with greenhouse gas regulations will be passed along to their customers, including farmers and ranchers, resulting in higher costs of production. Farmers and ranchers generally cannot pass those costs on to their consumers.
2. Many farmers and ranchers will be required to obtain Title V operating permits and New Source Review construction permits under thresholds required by the Clean Air Act. The Department of Agriculture estimates that approximately 90 percent of the livestock industry is above the Clean Air Act thresholds required to be permitted.

EPA efforts to “tailor” or phase in these regulatory requirements will not alleviate these costs. Large emitters will still pass their costs down to consumers. The rule does not exempt agriculture from the permitting requirements—it only delays permitting for farmers.

These costly rules result in little environmental benefit. Since greenhouse gases are distributed globally, unilateral regulations by one country will have little or no impact unless the other countries also reduce emissions.

*The Energy Tax Prevention Act* would prevent EPA from further regulating greenhouse gases, preferring that Congress determine climate policy—a point of view expressed by the president and the administrator of the EPA.

Good morning. My name is Philip Nelson, and I operate a family grain (corn/soybeans) and livestock (hogs/cattle) farm in LaSalle County, Illinois. I am President of the Illinois Farm Bureau and a member of the Board of Directors of the American Farm Bureau Federation. I am appearing today on behalf of the American Farm Bureau Federation.

I am pleased to testify in support of the *Energy Tax Prevention Act of 2011*. It is one of several bills from both sides of the aisle in both the House and Senate that are designed to allow our elected representatives in Congress to decide how and to what extent our nation will address regulation of greenhouse gases. Farm Bureau opposes the regulation of greenhouse gases by the Environmental Protection Agency (EPA) under the Clean Air Act and we commend the Chairman for giving this matter a high priority.

On January 2, 2011, EPA rules went into effect that regulate the emissions of greenhouse gases (GHG) from cars and light trucks. Now that those gases are regulated pollutants under the Clean Air Act, EPA authority extends to GHG emissions from stationary sources as well; these sources include not only power plants and refineries, but also farms and ranches.

The *Energy Tax Prevention Act* is a targeted bill that only affects the EPA regulation of greenhouse gases from stationary sources. The bill will have no effect on the mobile source emission standards that have already been promulgated for light duty motor vehicles, or standards that have been proposed for medium and heavy duty motor vehicles.

Farmers and ranchers receive a double economic jolt from the regulation of GHG from stationary sources. First, any costs incurred by utilities, refiners, manufacturers and other large emitters to comply with GHG regulatory requirements will be passed on to the consumers of those products, including farmers and ranchers. As a result, our nation's farmers and ranchers will have higher input costs, namely fuel and energy costs, to grow food, fiber and fuel for our nation and the world. To a large degree, farmers and ranchers cannot pass along these increased costs of production. Moreover, the

policies being pursued by EPA contemplate a much larger role for natural gas to replace coal and other fossil fuels. While many factors go into determining fertilizer prices, natural gas price is a principal component. Should EPA's policies have the effect of pushing natural gas prices higher, we anticipate those costs will combine with other factors into pushing fertilizer prices up and making it even tougher for domestic manufacturers in an increasingly competitive international market.

Unless Congress takes action, farmers and ranchers will also incur direct costs as a result of the regulation of GHGs by EPA. For the first time, many farm and ranch operations will likely be subject to direct New Source Review (NSR)/Prevention of Significant Deterioration (PSD) construction permit and Title V permit requirements under the Clean Air Act. For example, Title V of the Clean Air Act requires that any stationary source (including farms and ranches) that emits, or has the potential to emit, more than 100 tons of a regulated pollutant per year must obtain an operating permit. To meet this requirement, thousands of farms and ranches will be required to obtain Title V operating permits. EPA itself estimates there are more than 37,000 farms that emit between 100 and 25,000 tons of GHG per year, and would thus have to obtain these permits. (We believe the number of farms and ranches that would be required to get permits is considerably higher than that.) EPA estimates the average cost of obtaining a Title V permit is more than \$23,000. Using EPA's numbers, just the expense of obtaining Title V operating permits will cost agriculture more than \$866 million. That does not include the expense of yearly fees under Title V or any costs that might be incurred for NSR/PSD permits.

Livestock producers would be especially impacted by these permit requirements. The U.S. Department of Agriculture (USDA), in comments on EPA's advanced notice of proposed rulemaking in 2008 said, "Even very small agricultural operations would meet a 100-tons-per-year emissions threshold. For example, dairy facilities with over 25 cows, beef cattle operations of over 50 cattle, swine operations with over 200 hogs, and farms with over 500 acres of corn may need to get a Title V permit." According to the USDA publication "Farms, Land in Farms, and Livestock Operations, 2007

Summary,” National Agricultural Statistics Survey, (Feb. 2008) this covers more than 98.8 percent of milk production, 89.4 percent of beef inventory, and 96.8 percent of hog inventory. At current Title V “suggested minimum fees” from the EPA, these yearly permit costs would amount to \$175 per dairy cow, \$87.50 per beef cow, and more than \$20 per hog.

EPA recognizes the economic impact that this regulation will cause, and has sought to phase-in, or “tailor”, permit requirements by starting with the largest emitters first. Unfortunately, the Clean Air Act is very specific in its requirements and fairly inflexible in its application. Courts have generally been reluctant to allow EPA to go beyond the letter of the law. Because this “tailoring” approach will not initially require permits for some entities that are required by the Clean Air Act to obtain permits, many legal experts seriously question whether this approach can withstand legal challenge. Were a court to strike down the “tailoring rule,” all of the farms, ranches and other small entities that meet the Clean Air Act thresholds presumably would be subject to permit requirements immediately.

But even if this “tailoring” approach were to survive, farmers and ranchers would still incur the higher costs of compliance passed down from utilities, refiners and fertilizer manufacturers that are directly regulated as of January 2, 2011. In addition, farms and ranches that meet the Clean Air Act thresholds are still eventually going to have to obtain Title V and PSD/NSR permits at some point in the future and will incur the direct costs described above.

On the other hand, this costly and burdensome regulatory scheme will produce very little, if any, environmental benefit. Greenhouse gases are distributed evenly around the globe, so that a ton of GHG emitted in Illinois is no different from a ton emitted in China. Regulation of GHGs emitted in Illinois means little if emissions in China are not similarly regulated. The only effective way to address the issue is by instituting a multi-lateral, global solution. Unless and until the countries of the world agree on an international treaty on GHG emissions, unilateral regulation of GHGs by EPA will have little environmental effect. EPA Administrator Lisa Jackson has publicly acknowledged this reality in

testimony before the Senate Environment and Public Works Committee in 2009 and in response to a question on a chart showing the climate impacts, she replied, “I believe that essential parts of the chart are that the U.S. action alone will not impact CO<sub>2</sub> levels.”

This is also illustrated by the GHG regulations that EPA has already issued. For example, the EPA estimates that its regulation of GHGs from Light Duty Motor Vehicles (the linchpin of the EPA regulatory program for GHGs) will reduce global mean temperatures by a whopping 0.006-0.015° C by 2100, and reduce global mean sea level rise by approximately 0.06-0.14 cm by 2100.<sup>1</sup>

We are concerned the only tangible results from unilateral regulation of greenhouse gases by the EPA could be the loss of jobs and industry in the United States as companies move operations overseas. Such an occurrence happened several years ago to the fertilizer industry when natural gas prices spiked. Another spike in natural gas prices caused by fuel switching from fossil fuels could drive the rest of the U.S. fertilizer industry overseas. That will result in higher fertilizer costs and uncertain supply for farmers and ranchers. That is only one example of the possible adverse impacts we fear from continued EPA regulation.

The bill does not have any effect on other actions that might be affected by a restriction on GHG regulation on stationary sources. For example, the bill will not affect actions to address stratospheric ozone or the implementation of the Montreal Protocol. The bill also does not prevent research on climate change, or the development of demonstration projects to advance understanding of climate change or possible impacts.

Both the president and the administrator of EPA have stated that regulation of greenhouse gases by EPA under the Clean Air Act is not an effective way to address the issue. Both state that they prefer that the issue be addressed by Congress. Climate policy is a national issue that should be addressed by

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<sup>1</sup> EPA, *Federal Register*/Vol. 75, No. 88/Friday, May 7, 2010

elected officials. Unfortunately, once the Clean Air Act regulatory process has begun, it is very difficult to stop it administratively. The *Energy Tax Prevention Act* recognizes this fact, and applies the brakes to this process, thus restoring the jurisdiction of Congress to develop climate policy.

Farm Bureau pledges its support for the *Energy Tax Prevention Act*, and we look forward to working with the Committee on this issue.