



Summary of H.R. 1633

FARM DUST REGULATION PREVENTION ACT OF 2011

Committee on Energy and Commerce, Democratic Staff

Under the guise of protecting farmers from nonexistent regulation, H.R. 1633 would weaken clean air protections by eliminating EPA's authority to protect public health from particulate pollution produced by a range of industrial sources, such as open-pit mines, smelters, gravel and sand mines, cement kilns, coal processing plants, and other industrial operations.

EPA Will Not Regulate Farm Dust. The bill's sponsors justify H.R. 1633 based on false claims that EPA is planning to tighten its National Ambient Air Quality Standard (NAAQS) for coarse particles (PM₁₀), which was set in 1987 by the Reagan Administration. According to the bill sponsors, a tighter PM₁₀ standard could lead to regulation of dust from farming activities. In fact, EPA Administrator Lisa Jackson recently told Congress that she plans no changes to the existing NAAQS for PM₁₀.

H.R. 1633 Exempts Industrial Mines and Other Sources from Regulation. The main impact of H.R. 1633 is not to block the regulation of farm dust, which EPA says it will not regulate, but to exempt many other activities from regulation, including industrial mining operations. The bill creates a new category of particle pollution—nuisance dust—and exempts it from the entire Clean Air Act, except under narrow circumstances. H.R. 1633 defines nuisance dust broadly to include both coarse (PM₁₀) and fine (PM_{2.5}) particles from sources that have nothing to do with farming, including particulate matter from “earth moving,” which includes open-pit mines and gravel mines, and particulate matter from “activities typically conducted in rural areas,” which covers industrial operations such as smelters, cement kilns, and coal-processing facilities.

During Committee consideration, Rep. Waxman offered an amendment to preserve EPA's authority to regulate emissions from mining activities; this amendment was defeated. Rep. Castor offered an amendment to preserve EPA's authority to regulate emissions of arsenic and heavy metals, which can be emitted in particulate form from mining and smelting operations; this was also defeated.

H.R. 1633 Blocks EPA from Implementing Air Quality Standards for Deadly Fine Particles. H.R. 1633 also calls into question EPA's ability to regulate fine (PM_{2.5}) particles that can cause premature death, aggravated asthma attacks, stroke, respiratory disease, and heart attacks. This is because the bill's exemption of “nuisance dust” would require EPA's compliance monitors to distinguish between fine particles that are nuisance dust and other fine particles. EPA says this is not possible with current technology, so the bill's requirement jeopardizes EPA's ability to regulate fine particles from all sources, urban and rural.

H.R. 1633 Sets No Minimum Public Health Standards for States. H.R. 1633 prohibits EPA from taking action to address “nuisance dust” in an area if any state or local regulation applies. The bill includes no requirement that such state regulation achieve any degree of health protection for the public at large or for sensitive populations such as children and the elderly. This would set air quality protection back decades to a time when states “raced to the bottom” to set the loosest standards. Minimum federal standards are necessary to afford a basic level of clean air to all Americans.

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