

ONE HUNDRED TWELFTH CONGRESS
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Opening Statement of Rep. Henry A. Waxman
Ranking Member, Committee on Energy and Commerce
Hearing on H.R. 1633, the “Farm Dust Regulation Prevention Act of 2011”
Subcommittee on Energy and Power
October 25, 2011

Today’s hearing considers yet another bill to allow more air pollution, more asthma, and more heart attacks. And once again, it’s a bait and switch. The bill’s sponsors say the legislation is narrowly targeted to help farmers. In fact, the bill is drafted broadly and has sweeping anti-environment effects.

We are going to hear today that we must pass H.R. 1633 to stop EPA from regulating farming. This isn’t just nonsense. It’s pure fantasy.

EPA does not regulate farming practices to reduce dust and has expressed no intention of doing so in the future. EPA has set standards for the levels of coarse particulate matter in the ambient air because there is scientific evidence that this pollution causes serious health effects. Coarse particulate matter, or PM10, is produced by uncontrolled burning of coal and oil, construction and demolition activities, mining, and unpaved roads, as well as farm activities. Once EPA sets the standards for ambient levels of air pollution, it is up to the states and localities to determine how to meet them. It is the states and localities, not EPA, that decide which sources must reduce pollution and by how much.

EPA set the current PM10 standards in 1987, during the Reagan Administration. As required by the Clean Air Act, EPA has recently reviewed the science supporting those standards. Based on that review, the Administrator recently announced that she intends to propose making no change to the Reagan-era PM10 standards. Now we’re being told that we need to pass this bill because EPA could change its mind and do something the agency has said it has no intention of doing.

If we adopt this standard for legislation, there is no end to the bad ideas we could legislate. Should we pass a law saying the United States cannot invade Canada? Or one preventing the government from outlawing apple pie?

We are facing real and serious problems that are happening right now. Millions of Americans are out of work; our economy is stalling; fires, floods, and droughts are afflicting our nation. We need to spend our time addressing these real challenges, not squandering it on imaginary problems.

But even though this bill stops something that wasn't happening anyway, that doesn't mean the bill has no effect. H.R. 1633 is so broadly worded it could invalidate EPA's existing standards for both fine and coarse particulates. This would have a devastating effect on clean air requirements and public health.

The biggest problem is in section 3, which is not limited to farm activities, rural areas, ambient air quality standards, or coarse particulate matter. It says the Clean Air Act does not apply to anything that meets the bill's definition of "nuisance dust," unless a narrow exception applies. And the definition of nuisance dust is sweeping. It includes "windblown dust," which is undefined and not limited to rural areas. And it includes any particulate matter "generated from . . . activities typically conducted in rural areas."

Mining is typically conducted in rural areas, and mining operations have huge equipment that can generate large quantities of particulate air pollution. Seventy percent of the nation's power plants are located in rural areas. The particulate matter generated by power plants includes not only fine and coarse particulate matter, but also particles of mercury and lead and acid particles that form from nitrogen oxide and sulfur dioxides. Children in rural areas typically take the bus to school, and diesel buses generate particulate pollution.

Under this bill, EPA could have no authority to regulate any of this pollution.

The bill's sponsors will argue that they don't intend to exempt mines, power plants, or school buses from regulation under the Clean Air Act. But as we've seen with so many other bills this Congress, the bill language doesn't match the stated intent. It's the legislative language that matters, and the language could result in a massive increase in dangerous air pollution.

This year, the Subcommittee has reported bills to allow more carbon pollution, more air pollution from offshore drilling, more air pollution from power plants, more air pollution from industrial boilers and incinerators, and more air pollution from cement kilns. Today's bill is more of the same.

Americans want their kids to breathe clean and healthy air, not another bill to let polluters off the hook.