

# Testimony of the Honorable Robert Hurt Before the Energy and Commerce Committee's Energy and Power Subcommittee

October 25, 2011

Chairman Whitfield, Ranking Member Rush, and members of the Subcommittee, thank you for the invitation to testify before the Energy and Power Subcommittee this morning regarding H.R. 1633, the Farm Dust Regulation Prevention Act.

I represent Virginia's Fifth District, a primarily rural area which includes most of Central and Southside Virginia and is larger than the state of New Jersey. In the Fifth District, we have a proud heritage in agriculture, manufacturing, and other resource-based industries that provide good-paying jobs for thousands of Virginians.

Dust is a necessary byproduct of the hard work the farmers and businesses in my rural district perform every day. These are the people who are struggling to survive, to grow, and to create jobs during this stalled economic recovery. That is why the U.S. Environmental Protection Agency's (EPA) national standard for fugitive dust, which falls under the Clean Air Act's National Ambient Air Quality Standards (NAAQS) for coarse particulate matter (PM10), is so troubling to the

people I represent. It is yet another example of the vast expansion of the federal government and the uncertainty that Washington continues to impose upon our family farms, our small businesses, and our rural communities.

That is why H.R. 1633, the Farm Dust Regulation Prevention Act, is necessary. This bipartisan legislation will help create a better economic environment for job creation by replacing the current federal standard for dust that comes from driving on unpaved roads, working in agricultural fields, and similar activities in rural America.

H.R. 1633 provides relief from the more stringent federal standard for coarse particulate matter recommended in the April 2011 Policy Assessment for the Review of the Particulate Matter National Ambient Air Quality Standards. It also gives states and localities the flexibility to set a standard for dust if they choose. More important, it keeps the federal government out of the business of over-regulating naturally-occurring dust unless the EPA can prove substantial adverse public health effects caused by dust and can provide a rigorous cost-benefit analysis on the need for such federal regulation.

While I applaud EPA Administrator Lisa Jackson's recent promise that she will not propose a more stringent standard for coarse particulate matter, I remain

concerned about the uncertainty of the rulemaking process where these proposed rules can be modified.

I am also troubled by the comments of some in the Administration to discredit the issue of federal dust regulation, including Secretary of Agriculture Tom Vilsack who wrote that the “regulation of farm dust is another frequently repeated myth.” After reviewing the EPA’s 2006 federal standards for coarse particulate matter, which by definition includes dust, I respectfully disagree with these statements.

I know that farmers and business owners in the Fifth District disagree with this assessment of dust regulation, as well. When traveling the Fifth District last year, I spoke with a small business owner who was warned by a state regulator about the amount of dust coming from his property. When this business owner questioned further about the regulator’s concern over fugitive dust, the regulator replied that the business needed to take active measures to decrease the dust coming from the dirt road leading in and out of the facility.

It also appears that the Sierra Club would take issue with the Administration’s statements that federal dust regulations are a “myth.” When discussing a petition it filed with the Virginia Air Pollution Control Board, which was ultimately dismissed, the Sierra Club alleged that the levels of dust it

measured on a road in Southwest Virginia were “above the national health-based standard promulgated by the U.S. Environmental Protection Agency.” It is difficult to understand why the Sierra Club would take such action if the federal government mandates for fugitive dust are a “myth.”

While it is true that the EPA and state regulatory agencies have not set up monitors at every family farm and unpaved road, the Sierra Club has shown one way in which these national standards for dust regulation continue to provide uncertainty for rural America.

Because of these dust regulations, rural farming and business operations can face the threat of unnecessary harassment, regulation, and litigation by private actors or state and federal regulators.

Additionally, companies throughout the Fifth District and the country are required to comply with the federal standard for dust in order to obtain permits, such as those issued by the Virginia Department of Environmental Quality as required in its State Implementation Plan with the EPA.

This is why Congress must act in a bipartisan fashion to pass H.R. 1633 and assure our farmers and other rural industries that naturally-occurring dust will not be subject to expanded federal regulation. When it comes to dust, the EPA and the federal government should not mandate a one-size fits all standard that could

eventually lead to lost production. With unemployment rates nearing 20 percent in some areas of Virginia's Fifth District, we simply cannot afford to continue to perpetuate unnecessary regulations and uncertainty for the farmers and businesses in our rural communities.

I thank the Chairman, Ranking Member, and members of the subcommittee for the opportunity to testify this morning and look forward to answering your questions.