

Union Calendar No. 215

112TH CONGRESS
1ST SESSION

H. R. 1633

[Report No. 112-316]

To establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, to limit Federal regulation of nuisance dust in areas in which such dust is regulated under State, tribal, or local law, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 2011

Mrs. NOEM (for herself, Mr. HURT, Mr. BOSWELL, and Mr. KISSELL) introduced the following bill; which was referred to the Committee on Energy and Commerce

DECEMBER 6, 2011

Additional sponsors: Mr. LONG, Mr. SIMPSON, Mr. MCCLINTOCK, Mr. GRAVES of Missouri, Mr. POE of Texas, Mr. BURTON of Indiana, Mr. SMITH of Nebraska, Mr. LAMBORN, Mr. JONES, Mr. HERGER, Mr. GOODLATTE, Mr. AUSTIN SCOTT of Georgia, Mrs. MYRICK, Mr. BISHOP of Utah, Ms. JENKINS, Mr. FINCHER, Mr. RIBBLE, Mrs. MCMORRIS RODGERS, Mr. MCKINLEY, Mr. CONAWAY, Mr. FLORES, Mr. NEUGEBAUER, Mr. PAUL, Mr. PEARCE, Mr. COLE, Mr. SENSENBRENNER, Mr. KING of Iowa, Mr. CRAWFORD, Mr. HUELSKAMP, Mr. LATTA, Mr. DENHAM, Mr. CANSECO, Mr. FLEISCHMANN, Mr. FORBES, Mrs. LUMMIS, Mr. WALSH of Illinois, Mr. OLSON, Mr. PITTS, Mr. BARTON of Texas, Mr. GOHMERT, Mr. CHAFFETZ, Mr. MANZULLO, Mr. BACHUS, Mr. JOHNSON of Illinois, Mr. WALDEN, Mr. BRADY of Texas, Mr. SAM JOHNSON of Texas, Mr. LUCAS, Mr. SCHOCK, Mr. LANKFORD, Mr. LABRADOR, Mr. GIBBS, Mr. POMPEO, Mr. JOHNSON of Ohio, Mr. NUNNELEE, Mrs. HARTZLER, Mr. WITTMAN, Mr. HUIZENGA of Michigan, Mr. FRANKS of Arizona, Mr. GUTHRIE, Mr. LATHAM, Mr. SCHILLING, Mr. WOMACK, Mr. FLAKE, Mrs. BACHMANN, Mr. KINGSTON, Mr. SMITH of Texas, Mr. HENSARLING, Mr. DESJARLAIS, Mr. BERG, Mr. TIPTON, Mr. HALL, Mrs. EMERSON, Mr. KLINE, Mr. DUNCAN of South Carolina, Mr. CARTER, Mrs. MILLER of Michigan, Mr. YODER, Mr. REHBERG, Mr. BUCSHON, Mr. GOSAR, Mr. BOREN, Mrs. BLACK, Mr. ROGERS of Alabama, Mr. STIVERS, Mr. CAL-

VERT, Mr. LUETKEMEYER, Mr. PAULSEN, Mr. GRIFFIN of Arkansas, Mrs. CAPITO, Mr. HASTINGS of Washington, Mr. STEARNS, Mr. HULTGREN, Mrs. SCHMIDT, Mr. THOMPSON of Pennsylvania, Mr. GARDNER, Mr. SCHWEIKERT, Mr. RIGELL, Mr. ROSS of Arkansas, Mr. ROONEY, Mr. SHIMKUS, Mr. KINZINGER of Illinois, Mr. MCINTYRE, Mr. FORTENBERRY, Mr. TERRY, Mr. MCCAUL, Mr. FARENTHOLD, Mr. CASSIDY, Mr. ROKITA, Mr. SULLIVAN, Mr. GIBSON, Mr. AKIN, Mr. BROUN of Georgia, Mr. THORNBERRY, Mr. AUSTRIA, Mr. SOUTHERLAND, Mr. HARPER, and Mr. PENCE

DECEMBER 6, 2011

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To establish a temporary prohibition against revising any national ambient air quality standard applicable to coarse particulate matter, to limit Federal regulation of nuisance dust in areas in which such dust is regulated under State, tribal, or local law, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Farm Dust Regulation
5 Prevention Act of 2011”.

6 **SEC. 2. TEMPORARY PROHIBITION AGAINST REVISING ANY**
7 **NATIONAL AMBIENT AIR QUALITY STANDARD**
8 **APPLICABLE TO COARSE PARTICULATE MAT-**
9 **TER.**

10 Before the date that is one year after the date of the
11 enactment of this Act, the Administrator of the Environ-
12 mental Protection Agency may not propose, finalize, im-
13 plement, or enforce any regulation revising the national
14 primary ambient air quality standard or the national sec-
15 ondary ambient air quality standard applicable to particu-
16 late matter with an aerodynamic diameter greater than
17 2.5 micrometers under section 109 of the Clean Air Act
18 (42 U.S.C. 7409).

19 **SEC. 3. NUISANCE DUST.**

20 Part A of title I of the Clean Air Act (42 U.S.C. 7401
21 et seq.) is amended by adding at the end the following:

22 **“SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY**
23 **STATE, TRIBAL, AND LOCAL GOVERNMENTS.**

24 “(a) IN GENERAL.—Except as provided in subsection
25 (b), this Act does not apply to, and references in this Act

1 to particulate matter are deemed to exclude, nuisance
2 dust.

3 “(b) EXCEPTION.—Subsection (a) does not apply
4 with respect to any geographic area in which nuisance
5 dust is not regulated under State, tribal, or local law inso-
6 far as the Administrator finds that—

7 “(1) nuisance dust (or any subcategory of nui-
8 sance dust) causes substantial adverse public health
9 and welfare effects at ambient concentrations; and

10 “(2) the benefits of applying standards and
11 other requirements of this Act to nuisance dust (or
12 such subcategory of nuisance dust) outweigh the
13 costs (including local and regional economic and em-
14 ployment impacts) of applying such standards and
15 other requirements to nuisance dust (or such sub-
16 category).

17 “(c) DEFINITION.—In this section, the term ‘nui-
18 sance dust’ means particulate matter—

19 “(1) generated from natural sources, unpaved
20 roads, agricultural activities, earth moving, or other
21 activities typically conducted in rural areas; or

22 “(2) consisting primarily of soil, other natural
23 or biological materials, windblown dust, or some
24 combination thereof.”

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Farm Dust Regulation*
3 *Prevention Act of 2011”.*

4 **SEC. 2. TEMPORARY PROHIBITION AGAINST REVISING ANY**
5 **NATIONAL AMBIENT AIR QUALITY STANDARD**
6 **APPLICABLE TO COARSE PARTICULATE MAT-**
7 **TER.**

8 *Before the date that is one year after the date of the*
9 *enactment of this Act, the Administrator of the Environ-*
10 *mental Protection Agency may not propose, finalize, imple-*
11 *ment, or enforce any regulation revising the national pri-*
12 *mary ambient air quality standard or the national sec-*
13 *ondary ambient air quality standard applicable to particu-*
14 *late matter with an aerodynamic diameter greater than 2.5*
15 *micrometers under section 109 of the Clean Air Act (42*
16 *U.S.C. 7409).*

17 **SEC. 3. NUISANCE DUST.**

18 *Part A of title I of the Clean Air Act (42 U.S.C. 7401*
19 *et seq.) is amended by adding at the end the following:*

20 **“SEC. 132. REGULATION OF NUISANCE DUST PRIMARILY BY**
21 **STATE, TRIBAL, AND LOCAL GOVERNMENTS.**

22 *“(a) IN GENERAL.—Except as provided in subsection*
23 *(b), this Act does not apply to, and references in this Act*
24 *to particulate matter are deemed to exclude, nuisance dust.*

25 *“(b) EXCEPTION.—Subsection (a) does not apply with*
26 *respect to any geographic area in which nuisance dust is*

1 *not regulated under State, tribal, or local law insofar as*
2 *the Administrator finds that—*

3 “(1) *nuisance dust (or any subcategory of nu-*
4 *sance dust) causes substantial adverse public health*
5 *and welfare effects at ambient concentrations; and*

6 “(2) *the benefits of applying standards and other*
7 *requirements of this Act to nuisance dust (or such*
8 *subcategory of nuisance dust) outweigh the costs (in-*
9 *cluding local and regional economic and employment*
10 *impacts) of applying such standards and other re-*
11 *quirements to nuisance dust (or such subcategory).*

12 “(c) *DEFINITION.—In this section—*

13 “(1) *the term ‘nuisance dust’ means particulate*
14 *matter that—*

15 “(A) *is generated primarily from natural*
16 *sources, unpaved roads, agricultural activities,*
17 *earth moving, or other activities typically con-*
18 *ducted in rural areas;*

19 “(B) *consists primarily of soil, other nat-*
20 *ural or biological materials, or some combina-*
21 *tion thereof;*

22 “(C) *is not emitted directly into the ambi-*
23 *ent air from combustion, such as exhaust from*
24 *combustion engines and emissions from sta-*
25 *tionary combustion processes; and*

1 “(D) is not comprised of residuals from the
2 combustion of coal; and

3 “(2) the term ‘nuisance dust’ does not include
4 radioactive particulate matter produced from ura-
5 nium mining or processing.”.

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