
PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 1633) 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.

December 7, 2011.—Referred to the House Calendar and ordered to be printed.

MR. WEBSTER, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res.]

The Committee on Rules, having had under consideration House Resolution____, by a record vote of 7 to 4, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 1633, the Farm Dust Regulation Prevention Act of 2011, under a structured rule. The resolution provides one hour of general debate equally divided and controlled by the chair and ranking minority member of the Committee on Energy and Commerce. The resolution waives all points of order against consideration of the bill. The resolution provides that the amendment in the nature of a substitute recommended by the Committee on Energy and Commerce now printed in the bill shall be considered as original text for the purpose of amendment and shall be considered as read. The resolution waives all points of order against the committee amendment in the nature of a substitute. The resolution makes in order only those amendments printed in this report. Each such amendment may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or the Committee of the Whole. The resolution waives all points of order against the amendments printed in this report.

Finally, the resolution provides one motion to recommit with or without instructions.

EXPLANATION OF WAIVERS

Although the resolution waives all points of order against consideration of the bill, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the committee amendment in the nature of a substitute, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

Although the resolution waives all points of order against the amendments printed in this report, the Committee is not aware of any points of order. The waiver is prophylactic in nature.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee Record Vote No. 168

Motion by Ms. Slaughter to report an open rule. Defeated: 4-6

| Majority Members | Vote | Minority Members | Vote |
|--------------------------------|------|------------------------------|------|
| Ms. Foxx..... | Nay | Ms. Slaughter..... | Yea |
| Mr. Bishop of Utah..... | Nay | Mr. McGovern..... | Yea |
| Mr. Nugent..... | Nay | Mr. Hastings of Florida..... | Yea |
| Mr. Scott of South Carolina... | Nay | Mr. Polis..... | Yea |
| Mr. Webster..... | Nay | | |
| Mr. Dreier, Chairman..... | Nay | | |

Rules Committee Record Vote No. 169

Motion by Ms. Slaughter to make in order and provide the necessary waivers for amendment #4, offered by Rep. Eshoo, which would require that if the EPA Administrator and the Clean Air Scientific Advisory Committee find that the exemption in this bill would increase the incidence of asthma attacks, respiratory disease, cardiovascular disease, or premature mortality, then the bill's exemption from the Clean Air Act for particulate pollution has no effect. Defeated: 4-7

| Majority Members | Vote | Minority Members | Vote |
|--------------------------------|------|------------------------------|------|
| Ms. Foxx..... | Nay | Ms. Slaughter..... | Yea |
| Mr. Bishop of Utah..... | Nay | Mr. McGovern..... | Yea |
| Mr. Woodall..... | Nay | Mr. Hastings of Florida..... | Yea |
| Mr. Nugent..... | Nay | Mr. Polis..... | Yea |
| Mr. Scott of South Carolina... | Nay | | |
| Mr. Webster..... | Nay | | |
| Mr. Dreier, Chairman..... | Nay | | |

Rules Committee Record Vote No. 170

Motion by Mr. Bishop of Utah to report the rule. Adopted: 7-4

| Majority Members | Vote | Minority Members | Vote |
|--------------------------------|------|------------------------------|------|
| Ms. Foxx..... | Yea | Ms. Slaughter..... | Nay |
| Mr. Bishop of Utah..... | Yea | Mr. McGovern..... | Nay |
| Mr. Woodall..... | Yea | Mr. Hastings of Florida..... | Nay |
| Mr. Nugent..... | Yea | Mr. Polis..... | Nay |
| Mr. Scott of South Carolina... | Yea | | |
| Mr. Webster..... | Yea | | |
| Mr. Dreier, Chairman..... | Yea | | |

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Rush (IL): Would clarify that nothing in the bill precludes the EPA Administrator from enforcing National Ambient Air Quality Standards (NAAQS) for PM_{2.5} and would delete section 3, which allows the EPA to regulate “nuisance dust” in areas where states and localities do not do so if it substantially hurts public health and if the benefits of applying standards would outweigh the costs. (10 minutes)
2. Christensen (VI): Would allow the EPA the authority under the Clean Air Act to step in and take action to reduce dangerous particle pollution if state, local, or tribal laws are not sufficient to protect public health. (10 minutes)
3. Crawford (AR): Would direct the Environmental Protection Agency Administrator to consult with the Secretary of Agriculture when modifying National Ambient Air Quality Standards with respect to 'nuisance dust' under exceptions provided in Sec. 132 (b) of the Farm Dust Regulation Prevention Act of 2011. (10 minutes)
4. Markey, Edward (MA): Would ensure that particulate matter containing arsenic and other heavy metals that are hazardous to human health is not nuisance dust and remains subject to the Clean Air Act. (10 minutes)
5. Waxman (CA): Would require that particulate pollution produced from mining activities is not defined as “nuisance dust” and thus remains subject to the Clean Air Act. (10 minutes)
6. Flake, Jeff (AZ): Would add sense of Congress language regarding an approach to excluding so-called “exceptional events” (like massive dust storms that are not controllable or preventable) from determinations of whether an area is in compliance with the coarse particulate matter standard. (10 minutes)
7. Schock (IL), Capito (WV): Would require the EPA to take agriculture jobs and the economic impact on the agriculture industry into account before they issue any new regulations relating to agriculture. If a proposed regulation was found to cause the loss of more than 100 agriculturally related jobs or a decrease in more than \$1,000,000 in agriculturally related economic activity then EPA would have to give notice to the State’s Congressional Delegation, Governor, and Legislature, and also hold a public hearing in the impacted State. (10 minutes)
8. Green, Al (TX): Would require EPA to provide a report of the increase or decrease in the number of jobs as a result of enactment of the bill. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE RUSH OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

**AMENDMENT TO H.R. 1633, AS REPORTED
OFFERED BY MR. RUSH OF ILLINOIS**

In section 2, strike “applicable to particulate matter with an aerodynamic diameter greater than 2.5 micrometers” and insert “for PM₁₀”.

At the end of section 2, add the following: “Nothing in this Act precludes the Administrator from proposing, finalizing, implementing, or enforcing the national primary ambient air quality standard or the national secondary ambient air quality standard for PM_{2.5}.”.

Strike section 3.



2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE CHRISTENSEN OF VIRGIN ISLANDS OR HER DESIGNEE, DEBATABLE FOR 10 MINUTES

**AMENDMENT TO H.R. 1633, AS REPORTED
OFFERED BY MRS. CHRISTENSEN OF VIRGIN
ISLANDS**

In section 132(b) of the Clean Air Act, as proposed to be added by section 3 of the bill, after “is not regulated under State, tribal, or local law” insert “at a level requisite to protect public health (as determined by the Administrator),”.



3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
CRAWFORD OF ARKANSAS OR HIS DESIGNEE, DEBATABLE FOR
10 MINUTES

**AMENDMENT TO H.R. 1633, AS REPORTED
OFFERED BY MR. CRAWFORD OF ARKANSAS**

In section 132(b) of the Clean Air Act, as proposed to be added by section 3 of the bill, after “insofar as the Administrator” insert “, in consultation with the Secretary of Agriculture,”.



4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
MARKEY OF MASSACHUSETTS OR HIS DESIGNEE, DEBATABLE
FOR 10 MINUTES

AMENDMENT TO H.R. 1633, AS REPORTED

OFFERED BY M. Marken

In section 132(c) of the Clean Air Act, as proposed to be added by section 3 of the bill, strike “and” at the end of paragraph (1), strike the period at the end of paragraph (2) and insert “; and”, and add at the end the following paragraph:

- 1 “(3) the term ‘nuisance dust’ does not include
- 2 particulate matter containing arsenic or other heavy
- 3 metals that are hazardous to human health.”.



5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
WAXMAN OF CALIFORNIA OR HIS DESIGNEE, DEBATABLE FOR
10 MINUTES

**AMENDMENT TO H.R. 1633, AS REPORTED
OFFERED BY MR. WAXMAN OF CALIFORNIA**

In section 132(c) of the Clean Air Act, as proposed to be added by section 3 of the bill, strike “and” at the end of paragraph (1), strike the period at the end of paragraph (2) and insert “; and”, and add at the end the following paragraph:

1 “(3) the term ‘nuisance dust’ does not include
2 any particulate matter produced from mining activi-
3 ties.



6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE FLAKE OF ARIZONA OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

**AMENDMENT TO H.R. 1633, AS REPORTED
OFFERED BY MR. FLAKE OF ARIZONA**

At the end of the bill, add the following:

1 **SEC. 4. SENSE OF CONGRESS.**

2 It is the sense of the Congress that the Administrator
3 of the Environmental Protection Agency should implement
4 an approach to excluding so-called "exceptional events",
5 or events that are not reasonably controllable or prevent-
6 able, from determinations of whether an area is in compli-
7 ance with any national ambient air quality standard
8 (NAAQS) applicable to coarse particulate matter that—

- 9 (1) maximizes transparency and predictability
10 for States, tribes, and local governments; and
11 (2) minimizes the regulatory and cost burdens
12 States, tribes, and local governments bear in exclud-
13 ing such events.



7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
SCHOCK OF ILLINOIS OR HIS DESIGNEE, DEBATABLE FOR 10
MINUTES

100

**AMENDMENT TO H.R. 1633, AS REPORTED
OFFERED BY MR. SCHOCK OF ILLINOIS AND MRS.
CAPITO OF WEST VIRGINIA**

At the end of the bill, add the following:

1 **SEC. 4. IMPACTS OF EPA REGULATORY ACTIVITY ON EM-**
2 **EMPLOYMENT AND ECONOMIC ACTIVITY IN THE**
3 **AGRICULTURE COMMUNITY.**

4 (a) ANALYSIS OF IMPACTS OF ACTIONS ON EMPLOY-
5 MENT AND ECONOMIC ACTIVITY IN THE AGRICULTURE
6 COMMUNITY.—

7 (1) ANALYSIS.—Before taking a covered action,
8 the Administrator shall analyze the impact,
9 disaggregated by State, of the covered action on—

10 (A) employment levels in the agriculture
11 industry; and

12 (B) agricultural economic activity, includ-
13 ing estimated job losses and decreased economic
14 activity related to agriculture.

15 (2) ECONOMIC MODELS.—

16 (A) IN GENERAL.—In carrying out para-
17 graph (1), the Administrator shall utilize the
18 best available economic models.

1 (B) ANNUAL GAO REPORT.—Not later
2 than December 31 of each year, the Comp-
3 troller General of the United States shall sub-
4 mit to Congress a report on the economic mod-
5 els used by the Administrator to carry out this
6 subsection.

7 (3) AVAILABILITY OF INFORMATION.—With re-
8 spect to any covered action, the Administrator
9 shall—

10 (A) post the analysis under paragraph (1)
11 as a link on the main page of the public Inter-
12 net Web site of the Environmental Protection
13 Agency;

14 (B) request the Secretary of Agriculture to
15 post the analysis under paragraph (1) as a link
16 on the main page of the public Internet Web
17 site of the Department of Agriculture; and

18 (C) request that the Governor of any State
19 experiencing more than a de minimis negative
20 impact post such analysis in the Capitol of such
21 State.

22 (b) PUBLIC HEARINGS.—

23 (1) IN GENERAL.—If the Administrator con-
24 cludes under subsection (a)(1) that a covered action
25 will have more than a de minimis negative impact on

1 agricultural employment levels or agricultural eco-
2 nomic activity in a State, the Administrator shall
3 hold a public hearing in each such State at least 30
4 days prior to the effective date of the covered action.

5 (2) TIME, LOCATION, AND SELECTION.—A pub-
6 lic hearing required under paragraph (1) shall be
7 held at a convenient time and location for impacted
8 residents. In selecting a location for such a public
9 hearing, the Administrator shall give priority to loca-
10 tions in the State that will experience the greatest
11 number of job losses.

12 (c) NOTIFICATION.—If the Administrator concludes
13 under subsection (a)(1) that a covered action will have
14 more than a de minimis negative impact on agricultural
15 employment levels or agricultural economic activity in any
16 State, the Administrator shall give notice of such impact
17 to the State's Congressional delegation, Governor, and
18 Legislature at least 45 days before the effective date of
19 the covered action.

20 (d) DEFINITIONS.—In this section, the following defi-
21 nitions apply:

22 (1) ADMINISTRATOR.—The term “Adminis-
23 trator” means the Administrator of the Environ-
24 mental Protection Agency.

1 (2) COVERED ACTION.—The term “covered ac-
2 tion” means any of the following actions taken by
3 the Administrator under the Clean Air Act (42
4 U.S.C. 7401 et seq.) relating to agriculture and the
5 national primary ambient air quality standard or the
6 national secondary ambient air quality standard for
7 particulate matter:

8 (A) Issuing a regulation, policy statement,
9 guidance, response to a petition, or other re-
10 quirement.

11 (B) Implementing a new or substantially
12 altered program.

13 (3) MORE THAN A DE MINIMIS NEGATIVE IM-
14 PACT.—The term “more than a de minimis negative
15 impact” means the following:

16 (A) With respect to employment levels, a
17 loss of more than 100 jobs related to the agri-
18 culture industry. Any offsetting job gains that
19 result from the hypothetical creation of new
20 jobs through new technologies or government
21 employment may not be used in the job loss cal-
22 culation.

23 (B) With respect to economic activity, a
24 decrease in agricultural economic activity of
25 more than \$1,000,000 over any calendar year.

1 Any offsetting economic activity that results
2 from the hypothetical creation of new economic
3 activity through new technologies or govern-
4 ment employment may not be used in the eco-
5 nomic activity calculation.



8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GREEN OF TEXAS OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

AMENDMENT TO H.R. 1633, AS REPORTED

OFFERED BY Mr. Al Green

At the end of the bill, add the following section:

1 SEC. 4. REPORT ON EFFECT ON JOBS.

2 Not later than 180 days after the date of enactment
3 of this Act, the Administrator of the Environmental Pro-
4 tection Agency shall transmit to Congress a report esti-
5 mating the increase or decrease in the number of jobs in
6 the United States that will occur as a result of the enact-
7 ment of this Act (including the amendment to the Clean
8 Air Act (42 U.S.C. 7401 et seq.) made by section 3 of
9 this Act).



House Calendar No. _____

112TH CONGRESS
1ST SESSION

H. RES. _____

Report No. 112-_____

Providing for consideration of the bill (H.R. 1633) 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

DECEMBER 7, 2011

Mr. WEBSTER, from the Committee on Rules, reported the following resolution; which was referred to the House Calendar and ordered to be printed

RESOLUTION

Providing for consideration of the bill (H.R. 1633) 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 *Resolved*, That at any time after the adoption of this
- 2 resolution the Speaker may, pursuant to clause 2(b) of
- 3 rule XVIII, declare the House resolved into the Committee

1 of the Whole House on the state of the Union for consider-
2 ation of the bill (H.R. 1633) to establish a temporary pro-
3 hibition against revising any national ambient air quality
4 standard applicable to coarse particulate matter, to limit
5 Federal regulation of nuisance dust in areas in which such
6 dust is regulated under State, tribal, or local law, and for
7 other purposes. The first reading of the bill shall be dis-
8 pensed with. All points of order against consideration of
9 the bill are waived. General debate shall be confined to
10 the bill and shall not exceed one hour equally divided and
11 controlled by the chair and ranking minority member of
12 the Committee on Energy and Commerce. After general
13 debate the bill shall be considered for amendment under
14 the five-minute rule. It shall be in order to consider as
15 an original bill for the purpose of amendment under the
16 five-minute rule the amendment in the nature of a sub-
17 stitute recommended by the Committee on Energy and
18 Commerce now printed in the bill. The committee amend-
19 ment in the nature of a substitute shall be considered as
20 read. All points of order against the committee amend-
21 ment in the nature of a substitute are waived. No amend-
22 ment to the committee amendment in the nature of a sub-
23 stitute shall be in order except those printed in the report
24 of the Committee on Rules accompanying this resolution.
25 Each such amendment may be offered only in the order

1 printed in the report, may be offered only by a Member
2 designated in the report, shall be considered as read, shall
3 be debatable for the time specified in the report equally
4 divided and controlled by the proponent and an opponent,
5 shall not be subject to amendment, and shall not be sub-
6 ject to a demand for division of the question in the House
7 or in the Committee of the Whole. All points of order
8 against such amendments are waived. At the conclusion
9 of consideration of the bill for amendment the Committee
10 shall rise and report the bill to the House with such
11 amendments as may have been adopted. Any Member may
12 demand a separate vote in the House on any amendment
13 adopted in the Committee of the Whole to the bill or to
14 the committee amendment in the nature of a substitute.
15 The previous question shall be considered as ordered on
16 the bill and amendments thereto to final passage without
17 intervening motion except one motion to recommit with
18 or without instructions.