

Opening Statement of the Honorable Ed Whitfield
Subcommittee on Energy and Power
Markup of H.R. 1633, The Farm Dust Regulation Prevention Act
November 3, 2011
(As Prepared for Delivery)

Today this subcommittee will mark up H.R.1633, the "Farm Dust Regulation Prevention Act of 2011." This bill provides needed certainty that the agricultural sector and rural America will not be burdened with costly new EPA dust regulations. I urge all of my colleagues concerned about America's farmers, ranchers and businesses in rural communities to support it.

When I first became chairman of this subcommittee last January, unemployment was above 9 percent. And now, as we head toward the end of the year, it is still above 9 percent. 14 million Americans are out of work and that does not count the number who have given up looking for a job.

Job growth is practically nonexistent, and it is clear that one of the reasons is the threat of excessive or costly new regulations. Over the course of the year, we have held many hearings on EPA's proposed and recently finalized regulations that act as impediments to new jobs. And we have heard from dozens of job creators both large and small- not just manufacturers and energy producers, but also small business owners and others who have told us that their businesses are heavily impacted by new and proposed EPA rules.

Both the cost of recently finalized EPA rules and the uncertainty of pending ones is having a chilling effect on employment which is becoming impossible to deny. And now, we are hearing from farmers, ranchers and businesses in rural America who fear that the agency's pending review of its coarse particulate matter standards may result in more stringent regulations of dust in their communities.

Even under the current standard, there is extensive regulation of rural dust, and EPA has been considering a range of more stringent alternatives. We applaud Administrator Jackson's recent statement that she has decided she will propose a rule that retains the existing standard that covers farm dust. But there are many reasons why this falls short of providing certainty for farmers and ranchers.

For one thing, the Obama EPA has a track record for saying one thing but doing another. One recent example of this is the agency's interstate transport rule, the final version of which contained major changes that went well beyond anything that had been discussed previously.

For another, the PM10 standards themselves have a track record of changing from the proposal to the final stage, as occurred with both the 1997 and 2006 PM10 standards. The fact that EPA staff and its advisory committee have clearly recommended considering the option of a much tighter farm dust standard in its rulemaking record only heightens concerns about what its final rule might do and what it would cost.

Furthermore, the assurances from Assistant Administrator for Air and Radiation Gina McCarthy at our farm dust hearing last week struck me as unpersuasive. She said

the agency is not considering tightening the dust regulations affecting rural America "at this time."

She also admitted that she cannot stop environmental groups who may sue the agency to go after farm dust. These environmental groups have a history of routinely suing EPA over such matters, and the rules have a history of changing as a result of litigation -- which in fact occurred with the 1997 PM10 standards.

However, one very encouraging sign from that hearing is that no one from either side of the aisle came out in favor of tough new farm dust standards. So we should be able to agree on a bill to prevent them.

HR 1633, the bipartisan Farm Dust Regulation Prevention Act, would preclude new federal dust regulations for one year from the date of enactment. At the same time, the bill also makes clear that state, local, and tribal governments can regulate nuisance dust as they see fit. In addition, the bill allows EPA to step in and regulate nuisance dust in the absence of state, local, or tribal requirements, but only if shown to be necessary to protect public health and cost-effective.

In the Amendment in the Nature of a Substitute, we have clarified concerns raised by some of our colleagues relating to the definition of "nuisance dust." The bill now makes explicit that "nuisance dust" does not cover dust generated by combustion activities. This should address concerns the bill could be interpreted to prevent regulation of particulate matter emissions from power plants, diesel engines, or school buses. As the bill's sponsors testified, that was not the intent of the bill.

This reasonable and targeted bill has the support of the American Farm Bureau, the National Cattlemen's Beef Association, as well as over one hundred other groups representing agriculture across the country. I urge my colleagues to stand by America's farmers, ranchers and businesses in rural America and pass this much-needed bill.

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