

112TH CONGRESS
1ST SESSION

H. R. 3323

To reduce the regulatory burden on the agricultural sector of the national economy.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 2, 2011

Mr. HUELSKAMP introduced the following bill; which was referred to the Committee on Agriculture, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reduce the regulatory burden on the agricultural sector of the national economy.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Freeing Agriculture to Reap More Act”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 101. No regulation of emissions of greenhouse gases under the Clean Air Act.

Sec. 102. Exemptions from requirements for certain farm vehicles.

- Sec. 103. Prohibition of revision to coarse particulate matter air quality standards.
- Sec. 104. Rule of construction of OSHA safety standard relating to the use of sweep augers.
- Sec. 105. Hazardous material endorsement exemption.
- Sec. 106. Definition of waters of the United States.
- Sec. 107. Prohibition of imposition of fee or tax on gaseous emissions by livestock.
- Sec. 108. Pesticide regulations.
- Sec. 109. Gross income exception for dealers under the Animal Welfare Act.
- Sec. 110. Prohibition on provision of Department of Agriculture funds and administrative support for White House Rural Council.
- Sec. 111. Prohibition against inclusion of indirect emissions from land use changes.
- Sec. 112. Delay of effective date of derivatives regulations pending cumulative analysis.
- Sec. 113. Transportation of agricultural commodities and farm supplies.
- Sec. 114. Restriction on rulemaking related to child agricultural labor.

1 **SEC. 101. NO REGULATION OF EMISSIONS OF GREENHOUSE**
 2 **GASES UNDER THE CLEAN AIR ACT.**

3 Title III of the Clean Air Act (42 U.S.C. 7601 et
 4 seq.) is amended by adding at the end the following:

5 **“SEC. 330. NO REGULATION OF EMISSIONS OF GREEN-**
 6 **HOUSE GASES.**

7 “(a) DEFINITION.—In this section, the term ‘green-
 8 house gas’ means any of the following:

9 “(1) Water vapor.

10 “(2) Carbon dioxide.

11 “(3) Methane.

12 “(4) Nitrous oxide.

13 “(5) Sulfur hexafluoride.

14 “(6) Hydrofluorocarbons.

15 “(7) Perfluorocarbons.

1 “(8) Any other substance subject to, or pro-
2 posed to be subject to, regulation, action, or consid-
3 eration under this Act to address climate change.

4 “(b) LIMITATION ON AGENCY ACTION.—

5 “(1) LIMITATION.—

6 “(A) IN GENERAL.—The Administrator
7 may not, under this Act, promulgate any regu-
8 lation concerning, take action relating to, or
9 take into consideration the emission of a green-
10 house gas to address climate change.

11 “(B) AIR POLLUTANT DEFINITION.—The
12 definition of the term ‘air pollutant’ in section
13 302(g) does not include a greenhouse gas. Not-
14 withstanding the previous sentence, such defini-
15 tion may include a greenhouse gas for purposes
16 of addressing concerns other than climate
17 change.

18 “(2) EXCEPTIONS.—Paragraph (1) does not
19 prohibit the following:

20 “(A) Notwithstanding paragraph (4)(B),
21 implementation and enforcement of the rule en-
22 titled ‘Light-Duty Vehicle Greenhouse Gas
23 Emission Standards and Corporate Average
24 Fuel Economy Standards’ (as published at 75
25 Fed. Reg. 25324 (May 7, 2010) and without

1 further revision) and finalization, implementa-
2 tion, enforcement, and revision of the proposed
3 rule entitled ‘Greenhouse Gas Emissions Stand-
4 ards and Fuel Efficiency Standards for
5 Medium- and Heavy-Duty Engines and Vehi-
6 cles’ published at 75 Fed. Reg. 74152 (Novem-
7 ber 30, 2010).

8 “(B) Implementation and enforcement of
9 section 211(o).

10 “(C) Statutorily authorized Federal re-
11 search, development, demonstration programs
12 and voluntary programs addressing climate
13 change.

14 “(D) Implementation and enforcement of
15 title VI to the extent such implementation or
16 enforcement only involves one or more class I
17 substances or class II substances (as such
18 terms are defined in section 601).

19 “(E) Implementation and enforcement of
20 section 821 (42 U.S.C. 7651k note) of Public
21 Law 101–549 (commonly referred to as the
22 ‘Clean Air Act Amendments of 1990’).

23 “(3) INAPPLICABILITY OF PROVISIONS.—Noth-
24 ing listed in paragraph (2) shall cause a greenhouse
25 gas to be subject to part C of title I (relating to pre-

1 vention of significant deterioration of air quality) or
2 considered an air pollutant for purposes of title V
3 (relating to permits).

4 “(4) CERTAIN PRIOR AGENCY ACTIONS.—The
5 following rules and actions (including any supple-
6 ment or revision to such rules and actions) are re-
7 pealed and shall have no legal effect:

8 “(A) ‘Mandatory Reporting of Greenhouse
9 Gases’, published at 74 Fed. Reg. 56260 (Octo-
10 ber 30, 2009).

11 “(B) ‘Endangerment and Cause or Con-
12 tribute Findings for Greenhouse Gases Under
13 Section 202(a) of the Clean Air Act’, published
14 at 74 Fed. Reg. 66496 (December 15, 2009).

15 “(C) ‘Reconsideration of Interpretation of
16 Regulations That Determine Pollutants Covered
17 by Clean Air Act Permitting Programs’, pub-
18 lished at 75 Fed. Reg. 17004 (April 2, 2010)
19 and the memorandum from Stephen L. John-
20 son, Environmental Protection Agency (EPA)
21 Administrator, to EPA Regional Administra-
22 tors, concerning ‘EPA’s Interpretation of Regu-
23 lations that Determine Pollutants Covered by
24 Federal Prevention of Significant Deterioration
25 (PSD) Permit Program’ (December 18, 2008).

1 “(D) ‘Prevention of Significant Deteriora-
2 tion and Title V Greenhouse Gas Tailoring
3 Rule’, published at 75 Fed. Reg. 31514 (June
4 3, 2010).

5 “(E) ‘Action To Ensure Authority To
6 Issue Permits Under the Prevention of Signifi-
7 cant Deterioration Program to Sources of
8 Greenhouse Gas Emissions: Finding of Sub-
9 stantial Inadequacy and SIP Call’, published at
10 75 Fed. Reg. 77698 (December 13, 2010).

11 “(F) ‘Action To Ensure Authority To
12 Issue Permits Under the Prevention of Signifi-
13 cant Deterioration Program to Sources of
14 Greenhouse Gas Emissions: Finding of Failure
15 To Submit State Implementation Plan Revi-
16 sions Required for Greenhouse Gases’, pub-
17 lished at 75 Fed. Reg. 81874 (December 29,
18 2010).

19 “(G) ‘Action To Ensure Authority To
20 Issue Permits Under the Prevention of Signifi-
21 cant Deterioration Program to Sources of
22 Greenhouse Gas Emissions: Federal Implemen-
23 tation Plan’, published at 75 Fed. Reg. 82246
24 (December 30, 2010).

1 “(H) ‘Action To Ensure Authority to Im-
2 plement Title V Permitting Programs Under
3 the Greenhouse Gas Tailoring Rule’, published
4 at 75 Fed. Reg. 82254 (December 30, 2010).

5 “(I) ‘Determinations Concerning Need for
6 Error Correction, Partial Approval and Partial
7 Disapproval, and Federal Implementation Plan
8 Regarding Texas Prevention of Significant De-
9 terioration Program’, published at 75 Fed. Reg.
10 82430 (December 30, 2010).

11 “(J) ‘Limitation of Approval of Prevention
12 of Significant Deterioration Provisions Con-
13 cerning Greenhouse Gas Emitting-Sources in
14 State Implementation Plans’, published at 75
15 Fed. Reg. 82536 (December 30, 2010).

16 “(K) ‘Determinations Concerning Need for
17 Error Correction, Partial Approval and Partial
18 Disapproval, and Federal Implementation Plan
19 Regarding Texas Prevention of Significant De-
20 terioration Program; Proposed Rule’, published
21 at 75 Fed. Reg. 82365 (December 30, 2010).

22 “(L) Except for actions listed in paragraph
23 (2), any other Federal action under this Act oc-
24 curring before the date of enactment of this
25 section that applies a stationary source permit-

1 ting requirement or an emissions standard for
2 a greenhouse gas to address climate change.

3 “(5) STATE ACTION.—

4 “(A) NO LIMITATION.—This section does
5 not limit or otherwise affect the authority of a
6 State to adopt, amend, enforce, or repeal State
7 laws and regulations pertaining to the emission
8 of a greenhouse gas.

9 “(B) EXCEPTION.—

10 “(i) RULE.—Notwithstanding sub-
11 paragraph (A), any provision described in
12 clause (ii)—

13 “(I) is not federally enforceable;

14 “(II) is not deemed to be a part
15 of Federal law; and

16 “(III) is deemed to be stricken
17 from the plan described in clause
18 (ii)(I) or the program or permit de-
19 scribed in clause (ii)(II), as applicable.

20 “(ii) PROVISION DEFINED.—For pur-
21 poses of clause (i), the term ‘provision’
22 means any provision that—

23 “(I) is contained in a State im-
24 plementation plan under section 110
25 and authorizes or requires a limitation

1 on, or imposes a permit requirement
2 for, the emission of a greenhouse gas
3 to address climate change; or

4 “(II) is part of an operating per-
5 mit program under title V, or a per-
6 mit issued pursuant to title V, and
7 authorizes or requires a limitation on
8 the emission of a greenhouse gas to
9 address climate change.

10 “(C) ACTION BY ADMINISTRATOR.—The
11 Administrator may not approve or make feder-
12 ally enforceable any provision described in sub-
13 paragraph (B)(ii).”.

14 **SEC. 102. EXEMPTIONS FROM REQUIREMENTS FOR CER-**
15 **TAIN FARM VEHICLES.**

16 (a) FEDERAL REQUIREMENTS.—A covered farm ve-
17 hicle, including the individual operating that vehicle, shall
18 be exempt from the following:

19 (1) Any requirement relating to commercial
20 driver’s licenses established under chapter 313 of
21 title 49, United States Code.

22 (2) Any requirement relating to drug testing es-
23 tablished under chapter 313 of title 49, United
24 States Code.

1 (3) Any requirement relating to medical certifi-
2 cates established under chapter 313 of title 49,
3 United States Code.

4 (4) Any requirement relating to hours of service
5 established under—

6 (A) subchapter III of chapter 311 of title
7 49, United States Code; or

8 (B) chapter 315 of title 49, United States
9 Code.

10 (b) STATE REQUIREMENTS.—

11 (1) IN GENERAL.—Federal transportation fund-
12 ing to a State may not be terminated, limited, or
13 otherwise interfered with as a result of the State ex-
14 empting a covered farm vehicle, including the indi-
15 vidual operating that vehicle, from any State re-
16 quirement relating to the operation of that vehicle.

17 (2) EXCEPTION.—Paragraph (1) does not apply
18 with respect to a covered farm vehicle transporting
19 hazardous materials that require a placard.

20 (c) COVERED FARM VEHICLE DEFINED.—

21 (1) IN GENERAL.—In this section, the term
22 “covered farm vehicle” means a motor vehicle that—

23 (A) is traveling—

24 (i) in the State in which the vehicle is
25 registered; or

1 (ii) in a State other than the State in
2 which the vehicle is registered;

3 (B) is operated by—

4 (i) a farm owner;

5 (ii) a ranch owner;

6 (iii) a farm operator;

7 (iv) a ranch operator; or

8 (v) an employee or family member of
9 an individual specified in clauses (i)
10 through (iv);

11 (C) is transporting—

12 (i) agricultural commodities;

13 (ii) livestock; or

14 (iii) machinery or supplies to or from
15 a farm or ranch;

16 (D) except as provided in paragraph (2), is
17 not used in the operations of a for-hire motor
18 carrier; and

19 (E) is equipped with a special license plate
20 or other designation by the State in which the
21 vehicle is registered to allow for identification of
22 the vehicle as a farm vehicle by law enforcement
23 personnel.

24 (2) INCLUSION.—In this section, the term “cov-
25 ered farm vehicle” includes a motor vehicle—

1 (A) operated pursuant to a crop share
2 farm lease agreement;

3 (B) owned by a tenant with respect to that
4 agreement; and

5 (C) transporting the landlord's portion of
6 the crops under that agreement.

7 **SEC. 103. PROHIBITION OF REVISION TO COARSE PARTICU-**
8 **LATE MATTER AIR QUALITY STANDARDS.**

9 (a) PROHIBITION.—The Administrator of the Envi-
10 ronmental Protection Agency may not propose, finalize,
11 implement, or enforce any regulation described in sub-
12 section (c) if the Administrator determines pursuant to
13 subsection (b) that such regulation will incur compliance
14 costs in the United States of more than \$100,000,000 an-
15 nually.

16 (b) DETERMINATION.—In developing any regulation
17 described in subsection (c), the Administrator shall deter-
18 mine the annual compliance costs of such regulation in
19 the United States.

20 (c) REGULATION DESCRIBED.—A regulation de-
21 scribed in this subsection is a regulation that—

22 (1) revises the national primary ambient air
23 quality standard or the national secondary ambient
24 air quality standard applicable to coarse particulate

1 matter (generally referred to as “PM10”) under sec-
2 tion 109 of the Clean Air Act (42 U.S.C. 7409); and

3 (2) is proposed or finalized on or after the date
4 of enactment of this Act.

5 **SEC. 104. RULE OF CONSTRUCTION OF OSHA SAFETY**
6 **STANDARD RELATING TO THE USE OF SWEEP**
7 **AUGERS.**

8 Neither section 1910.272(g)(1)(ii) of title 29, Code
9 of Federal Regulations, nor any other occupational safety
10 and health standard shall be construed by the Occupa-
11 tional Safety and Health Commission as prohibiting an
12 employee from working inside a grain bin while a sweep
13 auger is in operation.

14 **SEC. 105. HAZARDOUS MATERIAL ENDORSEMENT EXEMP-**
15 **TION.**

16 (a) **EXCLUSION.**—Section 5117(d)(1) of title 49,
17 United States Code, is amended—

18 (1) in subparagraph (B), by striking “and” at
19 the end;

20 (2) in subparagraph (C), by striking the period
21 at the end and inserting “; and”; and

22 (3) by adding at the end the following:

23 “(D) a service vehicle carrying diesel fuel
24 in quantities of 3,785 liters (1,000 gallons) or
25 less that is—

1 “(i) driven by a class A commercial
2 driver’s license holder who is a custom har-
3 vester, an agricultural retailer, an agricul-
4 tural business employee, an agricultural
5 cooperative employee, or an agricultural
6 producer; and

7 “(ii) clearly marked with a placard
8 reading ‘Diesel Fuel.’”.

9 (b) EXEMPTION.—Section 31315(b) of title 49,
10 United States Code, is amended by adding at the end the
11 following:

12 “(8) HAZARDOUS MATERIALS ENDORSEMENT
13 EXEMPTION.—The Secretary shall exempt all class A
14 commercial driver’s license holders who are custom
15 harvesters, agricultural retailers, agricultural busi-
16 ness employees, agricultural cooperative employees,
17 or agricultural producers from the requirement to
18 obtain a hazardous material endorsement under part
19 383 of title 49, Code of Federal Regulations, while
20 operating a service vehicle carrying diesel fuel in
21 quantities of 3,785 liters (1,000 gallons) or less if
22 the tank containing such fuel is clearly marked with
23 a placard reading ‘Diesel Fuel.’”.

1 **SEC. 106. DEFINITION OF WATERS OF THE UNITED STATES.**

2 The Administrator of the Environmental Protection
3 Agency and the Secretary of the Army may not alter the
4 meaning of the terms “navigable waters” and “waters of
5 the United States” in relation to regulations promulgated
6 pursuant to the Federal Water Pollution Control Act as
7 such terms are understood on the date of the enactment
8 of this Act.

9 **SEC. 107. PROHIBITION OF IMPOSITION OF FEE OR TAX ON**
10 **GASEOUS EMISSIONS BY LIVESTOCK.**

11 Notwithstanding any other provision of law, in car-
12 rying out any Act or program to reduce the effects of
13 greenhouse gas emissions on climate change, no Federal
14 agency or official shall impose a fee or tax on gaseous
15 emissions emitted directly by livestock.

16 **SEC. 108. PESTICIDE REGULATIONS.**

17 (a) USE OF AUTHORIZED PESTICIDES.—Section 3(f)
18 of the Federal Insecticide, Fungicide, and Rodenticide Act
19 (7 U.S.C. 136a(f)) is amended by adding at the end the
20 following:

21 “(5) USE OF AUTHORIZED PESTICIDES.—Ex-
22 cept as provided in section 402(s) of the Federal
23 Water Pollution Control Act, the Administrator or a
24 State may not require a permit under such Act for
25 a discharge from a point source into navigable
26 waters of a pesticide authorized for sale, distribu-

1 tion, or use under this Act, or the residue of such
2 a pesticide, resulting from the application of such
3 pesticide.”.

4 (b) DISCHARGES OF PESTICIDES.—Section 402 of
5 the Federal Water Pollution Control Act (33 U.S.C. 1342)
6 is amended by adding at the end the following:

7 “(s) DISCHARGES OF PESTICIDES.—

8 “(1) NO PERMIT REQUIREMENT.—Except as
9 provided in paragraph (2), a permit shall not be re-
10 quired by the Administrator or a State under this
11 Act for a discharge from a point source into navi-
12 gable waters of a pesticide authorized for sale, dis-
13 tribution, or use under the Federal Insecticide, Fun-
14 gicide, and Rodenticide Act, or the residue of such
15 a pesticide, resulting from the application of such
16 pesticide.

17 “(2) EXCEPTIONS.—Paragraph (1) shall not
18 apply to the following discharges of a pesticide or
19 pesticide residue:

20 “(A) A discharge resulting from the appli-
21 cation of a pesticide in violation of a provision
22 of the Federal Insecticide, Fungicide, and
23 Rodenticide Act that is relevant to protecting
24 water quality, if—

1 “(i) the discharge would not have oc-
2 curred but for the violation; or

3 “(ii) the amount of pesticide or pes-
4 ticide residue in the discharge is greater
5 than would have occurred without the vio-
6 lation.

7 “(B) Stormwater discharges subject to reg-
8 ulation under subsection (p).

9 “(C) The following discharges subject to
10 regulation under this section:

11 “(i) Manufacturing or industrial efflu-
12 ent.

13 “(ii) Treatment works effluent.

14 “(iii) Discharges incidental to the nor-
15 mal operation of a vessel, including a dis-
16 charge resulting from ballasting operations
17 or vessel biofouling prevention.”.

18 **SEC. 109. GROSS INCOME EXCEPTION FOR DEALERS UNDER**
19 **THE ANIMAL WELFARE ACT.**

20 Section 2(f)(ii) of the Animal Welfare Act (7 U.S.C.
21 2132(f)) is amended—

22 (1) by striking “\$500” and inserting “\$5,000”;

23 and

24 (2) by adding after “year” the following: “, ex-
25 cept that the Secretary shall annually increase the

1 dollar amount in this clause to reflect changes for
2 the 12-month period ending on the most recent date
3 for which data are available in the Consumer Price
4 Index for All Urban Consumers published by the
5 Bureau of Labor Statistics of the Department of
6 Labor”.

7 **SEC. 110. PROHIBITION ON PROVISION OF DEPARTMENT**
8 **OF AGRICULTURE FUNDS AND ADMINISTRA-**
9 **TIVE SUPPORT FOR WHITE HOUSE RURAL**
10 **COUNCIL.**

11 The Secretary of Agriculture may not use funds ap-
12 propriated or otherwise made available to the Department
13 of Agriculture to provide funds or administrative support
14 for the White House Rural Council established pursuant
15 to Executive Order No. 86 of June 9, 2011.

16 **SEC. 111. PROHIBITION AGAINST INCLUSION OF INDIRECT**
17 **EMISSIONS FROM LAND USE CHANGES.**

18 (a) GENERAL EXCLUSION OF INDIRECT EMISSIONS
19 LAND USE CHANGE.—For purposes of establishing or de-
20 termining compliance with any requirement or limitation
21 under the Clean Air Act (42 U.S.C. 7401 et seq.), includ-
22 ing the renewable fuel program under section 211(o) of
23 such Act, the Administrator of the Environmental Protec-
24 tion Agency shall not take into consideration indirect
25 emissions from land use changes.

1 (b) EXCLUSION OF INDIRECT EMISSIONS FROM
2 LAND USE CHANGES IN CALCULATION OF LIFECYCLE
3 GREENHOUSE GAS EMISSIONS.—Section 211(o)(1)(H) of
4 the Clean Air Act (42 U.S.C. 7545(o)(1)(H)) is amended
5 by striking “(including direct emissions and significant in-
6 direct emissions such as significant emissions from land
7 use changes)” and inserting “(excluding indirect emissions
8 from land use changes)”.

9 **SEC. 112. DELAY OF EFFECTIVE DATE OF DERIVATIVES**
10 **REGULATIONS PENDING CUMULATIVE ANAL-**
11 **YSIS.**

12 Notwithstanding the effective date in section 774 of
13 the Dodd-Frank Wall Street Reform and Consumer Pro-
14 tection Act (15 U.S.C. 77b note), the Commodity Futures
15 Trading Commission shall, prior to implementing final
16 regulations prescribed pursuant to title VII of such Act,
17 conduct a comprehensive analysis of the economic impact
18 of such regulations, including a determination of the cu-
19 mulative costs and benefits of such regulations, and shall
20 transmit to Congress a report containing its conclusions.

21 **SEC. 113. TRANSPORTATION OF AGRICULTURAL COMMOD-**
22 **ITIES AND FARM SUPPLIES.**

23 Section 229(a)(1) of the Motor Carrier Safety Im-
24 provement Act of 1999 (49 U.S.C. 31136 note) is amend-
25 ed to read as follows:

1 “(1) TRANSPORTATION OF AGRICULTURAL COM-
2 MODITIES AND FARM SUPPLIES.—Regulations pre-
3 scribed by the Secretary under sections 31136 and
4 31502 of title 49, United States Code, regarding
5 maximum driving and on-duty time for drivers used
6 by motor carriers shall not apply during planting
7 and harvest periods, as determined by each State, to
8 drivers—

9 “(A) transporting agricultural commodities
10 in the State from the source of the agricultural
11 commodities to a location within a 150 air mile
12 radius from the source;

13 “(B) transporting farm supplies for agri-
14 cultural purposes in the State from a wholesale
15 or retail distribution point of the farm supplies
16 to a farm or other location where the farm sup-
17 plies are intended to be used within a 150 air
18 mile radius from the distribution point; or

19 “(C) transporting farm supplies for agri-
20 cultural purposes in the State from a wholesale
21 distribution point of the farm supplies to a re-
22 tail distribution point of the farm supplies with-
23 in a 150 air mile radius from the wholesale dis-
24 tribution point.”.

1 **SEC. 114. RESTRICTION ON RULEMAKING RELATED TO**
2 **CHILD AGRICULTURAL LABOR.**

3 The Secretary of Labor shall not initiate the rule-
4 making proposed and published in the Federal Register
5 on September 2, 2011 (76 Fed. Reg 171) nor promulgate
6 any regulations or revisions described in such proposed
7 rulemaking related to permissible employment of minors
8 in agricultural and nonagricultural occupations.

○