To direct the Federal Trade Commission to promulgate regulations to prohibit an entity from selling, leasing, or offering for sale or lease water rights at an excessive price during certain droughts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GALLEGO introduced the following bill; which was referred to the Committee on 

A BILL

To direct the Federal Trade Commission to promulgate regulations to prohibit an entity from selling, leasing, or offering for sale or lease water rights at an excessive price during certain droughts, 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
4 SECTION 1. SHORT TITLE.
5 This Act may be cited as the “Drought-Related Over-

pricing Prevention Act” or the “DROP Act”.

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SEC. 2. PROHIBITION ON WATER RIGHTS PRICE GOUGING.

(a) PROHIBITION.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate, under section 553 of title 5, United States Code, regulations to prohibit an entity from selling, leasing, or offering for sale or lease, at an excessive price, water rights relating to an area subject to a covered drought.

(b) EXEMPTIONS.—

(1) IN GENERAL.—In promulgating regulations under subsection (a), the Commission shall exempt from such regulations the following:

(A) An entity with less than $100,000,000 in gross revenues in the United States (including the revenues of any parent entity of such entity) during the 1-year period preceding the date of the relevant sale, lease, or offer.

(B) A State government.

(C) A local government.

(D) A Tribal government.

(2) ADJUSTMENTS FOR INFLATION.—On an annual basis, the Commission shall adjust the amount specified in paragraph (1)(A) to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

(e) EXCESSIVE PRICE DETERMINATIONS.—
(1) Standards Required.—In promulgating regulations under subsection (a), the Commission shall establish standards for determining if a price is excessive.

(2) Determinations of Excessive Price.—The standards established under paragraph (1) shall provide for a price to be determined excessive if the Commission finds that the relevant entity is selling, leasing, or offering for sale or lease water rights—

(A) using a covered drought as a pretext to increase prices; and

(B) at an inappropriately excessive price compared to the average price at which similar water rights were sold, leased, or offered for sale or lease (as the case may be), during the 120-day period preceding such covered drought, by—

(i) such relevant entity; or

(ii) by all sellers in the relevant market.

(3) Costs Not Within Control of Entity.—The standards established under paragraph (1) may ensure that an entity is not determined to be selling, leasing, or offering for sale or lease water rights at an excessive price if the entity demonstrates, by
clear and convincing evidence, that a relevant increase in price is directly attributable to costs that are not within the control of the entity.

(d) ENFORCEMENT BY COMMISSION.—

(1) UNFAIR OR DECEPTIVE ACTS OR PRACTICES.—A violation of the regulations promulgated under subsection (a) shall be treated as a violation of a regulation under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) regarding unfair or deceptive acts or practices.

(2) POWERS OF COMMISSION.—The Commission shall enforce the regulations promulgated under subsection (a) in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any person who violates such regulations shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act.

(e) DEFINITIONS.—In this section:

(1) COMMISSION.—The term “Commission” means the Federal Trade Commission.
(2) COVERED DROUGHT.—The term “covered drought” means any of the following:

(A) As determined by the Commission in coordination with the United States Geological Survey, a weather pattern and precipitation deficit that has continued for a period in excess of 6 months.

(B) As determined by the Commission in coordination with the Bureau of Reclamation, a Tier 1 or more severe shortage designation with respect to the Colorado River.