

115TH CONGRESS 1ST SESSION

H. R. 848

To amend the Solid Waste Disposal Act to incentivize efficient nutrient management practices and to clarify the citizen suit provisions of such Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 3, 2017

Mr. Newhouse (for himself, Mr. Abraham, Mr. Bishop of Georgia, Mr. Collins of New York, Mr. Conaway, Mr. Costa, Mr. Cramer, Mr. Cuellar, Mr. Denham, Mr. Gibbs, Mr. King of Iowa, Mr. Long, Mrs. McMorris Rodgers, Mr. O'Halleran, Mr. Peterson, Mr. Rouzer, Mr. Schrader, Mr. Simpson, Ms. Sinema, Ms. Stefanik, Mr. Thompson of Pennsylvania, Mr. Valadao, Mr. Vela, Mrs. Wagner, Mr. Yoho, Mr. Nunes, Mr. Pittenger, Mr. Kind, Mr. David Scott of Georgia, and Mr. Luetkemeyer) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Solid Waste Disposal Act to incentivize efficient nutrient management practices and to clarify the citizen suit provisions of such Act, 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 Regulatory Cer-
- 5 tainty Act".

1 SEC. 2. FINDINGS; PURPOSES.

- 2 (a) FINDINGS.—The Congress finds the following:
- 1) Congress never intended the Solid Waste
 Disposal Act (commonly known as the Resource
 Conservation and Recovery Act) to govern animal or
 crop waste, manure, or fertilizer, or constituents derived from such sources, or the ways in which they
 are managed, stored, handled, or applied by agricultural operations.
 - (2) The Environmental Protection Agency's September 1979 regulations promulgated under the Solid Waste Disposal Act accurately reflect Congress' intent not to regulate manure and crop residues under the Solid Waste Disposal Act.
 - (3) Congress has confidence in the ability of the Natural Resources Conservation Service and the Environmental Protection Agency to, when appropriate, implement standards and recommendations for animal feeding operations (including concentrated animal feeding operations and large concentrated animal feeding operations) and other agricultural producers, as to appropriate storage and handling techniques for animal and crop waste, manure, and fertilizer, and the constituents derived from such sources, to reasonably protect water, air, and soil resources, as well as ensure public health.

1 (4) Continued judicial misinterpretation of Con2 gress' intent for the Solid Waste Disposal Act and
3 the September 1979 rules promulgated under it
4 could pose a very real threat to the vitality of the
5 Nation's agricultural community, which would lead
6 to serious disruptions in the food supply.

(b) Purposes.—The purposes of this Act are—

- (1) to clarify the intent of Congress with respect to the purpose and scope of the Solid Waste Disposal Act, specifically that it was not intended to regulate animal or crop waste, manure, or fertilizer, or constituents derived from such sources; and
- 13 (2) to provide legal clarity relating to individ-14 uals or entities diligently attempting to comply with 15 State or Federal environmental or resource quality 16 permits, standards, regulations, conditions, require-17 ments, prohibitions, or orders.

18 SEC. 3. DEFINITION OF SOLID WASTE.

Section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6903(27)) is amended by inserting ", or, if originating from or utilized by an agricultural operation, animal or crop waste, manure, or fertilizer or constituents derived from such animal or crop waste, manure, or fertilizer" after "Atomic Energy Act of 1954, as amended (68 Stat. 923)".

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1 SEC. 4. CITIZEN SUITS.

2	Section 7002(b)(1) of the Solid Waste Disposal Act
3	(42 U.S.C. 6972(b)(1)) is amended—
4	(1) in the matter following subparagraph (A),
5	by striking "subtitle C of this Act; or" and inserting
6	"subtitle C of this Act;";
7	(2) in subparagraph (B), by striking "order."
8	and inserting "order; or"; and
9	(3) by adding after subparagraph (B) the fol-
10	lowing:
11	"(C) in the case of an alleged violation by an
12	agricultural operation—
13	"(i) if the Administrator or State is dili-
14	gently seeking compliance with such permit,
15	standard, regulation, condition, requirement,
16	prohibition, or order in a Federal or State ad-
17	ministrative proceeding;
18	"(ii) if the Administrator or State has,
19	under any other law or regulation—
20	"(I) commenced and is diligently pros-
21	ecuting a civil or criminal action against
22	such agricultural operation in a court of
23	the United States or a State to address the
24	same substance or activity that could oth-
25	erwise be the subject of an action under
26	subsection $(a)(1)(A)$ of this section: or

1	"(II) commenced a Federal or State
2	administrative proceeding against such ag-
3	ricultural operation to address the same
4	substance or activity that could otherwise
5	be the subject of an action under sub-
6	section (a)(1)(A) of this section; or
7	"(iii) if the alleged violation concerns a
8	substance or activity subject to a State plan ap-
9	proved under section 4007 of this Act."

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