

## 119TH CONGRESS 1ST SESSION

## S. 795

To amend the Federal Water Pollution Control Act to exclude prior converted cropland from the definition of "navigable waters", and for other purposes.

## IN THE SENATE OF THE UNITED STATES

February 27, 2025

Mr. Rounds (for himself, Mr. Barrasso, Mr. Thune, Mr. Hoeven, and Mr. Marshall) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

## A BILL

To amend the Federal Water Pollution Control Act to exclude prior converted cropland from the definition of "navigable waters", 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 "Farmers Freedom Act
- 5 of 2025".
- 6 SEC. 2. PRIOR CONVERTED CROPLAND.
- 7 (a) IN GENERAL.—Section 502 of the Federal Water
- 8 Pollution Control Act (33 U.S.C. 1362) is amended by
- 9 striking paragraph (7) and inserting the following:

1	"(7) Navigable waters.—
2	"(A) In General.—The term 'navigable
3	waters' means the waters of the United States,
4	including the territorial seas.
5	"(B) Exclusion.—The term 'navigable
6	waters' does not include prior converted crop-
7	land.
8	"(C) Associated definitions.—For pur-
9	poses of this paragraph:
10	"(i) Abandoned.—The term 'aban-
11	doned', with respect to an area that was
12	prior converted cropland, means that the
13	area was not used for, or in support of, ag-
14	ricultural purposes at least once in the im-
15	mediately preceding 5-year period, as de-
16	termined by the Administrator.
17	"(ii) AGRICULTURAL PURPOSE.—The
18	term 'agricultural purpose' includes land
19	use that makes the production of an agri-
20	cultural product possible, including—
21	"(I) grazing and haying;
22	"(II) idling land for conservation
23	use, such as habitat management, pol-
24	linator and wildlife management,

1	water storage and supply manage-
2	ment, and flood management;
3	"(III) irrigation tailwater stor-
4	age;
5	"(IV) farm-raised fish produc-
6	tion;
7	"(V) cranberry bogs;
8	"(VI) nutrient retention; and
9	"(VII) idling land for soil recov-
10	ery after natural disasters such as
11	hurricanes and drought.
12	"(iii) Prior converted crop-
13	LAND.—
14	"(I) IN GENERAL.—The term
15	'prior converted cropland' means any
16	area that, prior to December 23,
17	1985, was drained or otherwise ma-
18	nipulated for the purpose, or having
19	the effect, of making production of an
20	agricultural product possible, includ-
21	ing such areas that are designated as
22	prior converted cropland by the Sec-
23	retary of Agriculture.
24	"(II) Exclusion.—The term
25	'prior converted cropland' does not in-

1	clude an area that is abandoned and
2	has reverted to wetlands.
3	"(iv) Wetlands.—The term wet-
4	lands' means an area that is inundated or
5	saturated by surface or ground water at a
6	frequency and duration sufficient to sup-
7	port, and that under normal circumstances
8	do support, a prevalence of vegetation typi-
9	cally adapted for life in saturated soil con-
10	ditions, including swamps, marshes, bogs,
11	and similar areas.".
12	(b) Prohibition on Change in Use Policy.—In
13	carrying out the amendments made by this section, the
14	Administrator of the Environmental Protection Agency
15	and the Secretary of the Army, acting through the Chief
16	of Engineers, may not, with respect to prior converted
17	cropland, carry out the change in use policy described in
18	the final rule of the Environmental Protection Agency and
19	the Corps of Engineers entitled "Revised Definition of
20	'Waters of the United States'" (88 Fed. Reg. 3004 (Janu-

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 $21\;$  ary 18, 2023)) or a substantially similar policy.