

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.

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## 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

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## 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:

3 (1) Congress never intended the Solid Waste  
4 Disposal Act (commonly known as the Resource  
5 Conservation and Recovery Act) to govern animal or  
6 crop waste, manure, or fertilizer, or constituents de-  
7 rived from such sources, or the ways in which they  
8 are managed, stored, handled, or applied by agricul-  
9 tural operations.

10 (2) The Environmental Protection Agency's  
11 September 1979 regulations promulgated under the  
12 Solid Waste Disposal Act accurately reflect Con-  
13 gress' intent not to regulate manure and crop resi-  
14 dues under the Solid Waste Disposal Act.

15 (3) Congress has confidence in the ability of the  
16 Natural Resources Conservation Service and the En-  
17 vironmental Protection Agency to, when appropriate,  
18 implement standards and recommendations for ani-  
19 mal feeding operations (including concentrated ani-  
20 mal feeding operations and large concentrated ani-  
21 mal feeding operations) and other agricultural pro-  
22 ducers, as to appropriate storage and handling tech-  
23 niques for animal and crop waste, manure, and fer-  
24 tilizer, and the constituents derived from such  
25 sources, to reasonably protect water, air, and soil re-  
26 sources, as well as ensure public health.

1           (4) Continued judicial misinterpretation of Con-  
2           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.

7           (b) PURPOSES.—The purposes of this Act are—

8           (1) to clarify the intent of Congress with re-  
9           spect to the purpose and scope of the Solid Waste  
10          Disposal Act, specifically that it was not intended to  
11          regulate animal or crop waste, manure, or fertilizer,  
12          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.**

19          Section 1004(27) of the Solid Waste Disposal Act (42  
20          U.S.C. 6903(27)) is amended by inserting “, or, if origi-  
21          nating from or utilized by an agricultural operation, ani-  
22          mal or crop waste, manure, or fertilizer or constituents  
23          derived from such animal or crop waste, manure, or fer-  
24          tilizer” after “Atomic Energy Act of 1954, as amended  
25          (68 Stat. 923)”.

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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