

112TH CONGRESS
2D SESSION

S. 3605

To clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2012

Mrs. HAGAN (for herself, Mr. CRAPO, Mrs. McCASKILL, Mr. RISCH, Mr. CARPER, Mr. VITTER, Mr. COONS, Ms. LANDRIEU, Mr. PRYOR, and Mr. CONRAD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To clarify Congressional intent regarding the regulation of the use of pesticides in or near 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 “Restoring Effective
5 Environmental Protection Act of 2012”.

6 **SEC. 2. USE OF AUTHORIZED PESTICIDES; DISCHARGES OF**
7 **PESTICIDES; REPORT.**

8 (a) USE OF AUTHORIZED PESTICIDES.—Section 3(f)
9 of the Federal Insecticide, Fungicide, and Rodenticide Act

1 (7 U.S.C. 136a(f)) is amended by adding at the end the
 2 following:

3 “(5) USE OF AUTHORIZED PESTICIDES.—Ex-
 4 cept as provided in section 402(s) of the Federal
 5 Water Pollution Control Act (33 U.S.C. 1342), the
 6 Administrator or a State shall not require a permit
 7 under that Act for a discharge from a point source
 8 into navigable waters of—

9 “(A) a pesticide authorized for sale, dis-
 10 tribution, or use under this Act; or

11 “(B) the residue of the pesticide, resulting
 12 from the application of the pesticide.”.

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

16 “(s) DISCHARGES OF PESTICIDES.—

17 “(1) NO PERMIT REQUIREMENT.—Except as
 18 provided in paragraph (2), a permit shall not be re-
 19 quired by the Administrator or a State under this
 20 Act for a discharge from a point source into navi-
 21 gable waters of—

22 “(A) a pesticide authorized for sale, dis-
 23 tribution, or use under the Federal Insecticide,
 24 Fungicide, and Rodenticide Act (7 U.S.C. 136
 25 et seq.); or

1 “(B) the residue of the pesticide, resulting
2 from the application of the pesticide.

3 “(2) EXCEPTIONS.—Paragraph (1) shall not
4 apply to the following discharges of a pesticide or
5 pesticide residue:

6 “(A) A discharge resulting from the appli-
7 cation of a pesticide in violation of a provision
8 of the Federal Insecticide, Fungicide, and
9 Rodenticide Act (7 U.S.C. 136 et seq.) relevant
10 to protecting water quality if—

11 “(i) the discharge would not have oc-
12 curred without the violation; or

13 “(ii) the amount of pesticide or pes-
14 ticide residue in the discharge is greater
15 than would have occurred without the vio-
16 lation.

17 “(B) Stormwater discharges subject to reg-
18 ulation under subsection (p).

19 “(C) The following discharges subject to
20 regulation under this section:

21 “(i) Manufacturing or industrial efflu-
22 ent.

23 “(ii) Treatment works effluent.

24 “(iii) Discharges incidental to the nor-
25 mal operation of a vessel, including a dis-

1 charge resulting from ballasting operations
2 or vessel biofouling prevention.”.

3 (c) REPORT.—Not later than 1 year after the date
4 of enactment of this Act, the Administrator of the Envi-
5 ronmental Protection Agency, in consultation with the
6 Secretary of Agriculture, shall submit a report to the Com-
7 mittee on Environment and Public Works and the Com-
8 mittee on Agriculture of the Senate and the Committee
9 on Transportation and Infrastructure and the Committee
10 on Agriculture of the House of Representatives that in-
11 cludes—

12 (1) the status of intra-agency coordination be-
13 tween the Office of Water and the Office of Pes-
14 ticide Programs of the Environmental Protection
15 Agency regarding streamlining information collec-
16 tion, standards of review, and data use relating to
17 water quality impacts from the registration and use
18 of pesticides;

19 (2) an analysis of the effectiveness of current
20 regulatory actions relating to pesticide registration
21 and use aimed at protecting water quality; and

22 (3) any recommendations on how the Federal
23 Insecticide, Fungicide, and Rodenticide Act (7

- 1 U.S.C. 136 et seq.) can be modified to better protect
- 2 water quality and human health.

