

113TH CONGRESS
1ST SESSION

H. R. 1304

To permit the chief executive of a State to create an exemption from certain requirements of Federal environmental laws for producers of agricultural commodities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2013

Mr. WALBERG introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To permit the chief executive of a State to create an exemption from certain requirements of Federal environmental laws for producers of agricultural commodities, 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 “Flexibility to Farm
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The agricultural community of the United
2 States serves as the economic backbone of many
3 communities and employs millions of Americans.

4 (2) In recent years, one-size-fits-all policies
5 issued by the Environmental Protection Agency have
6 increased dramatically, requiring agricultural pro-
7 ducers to focus on regulation compliance rather than
8 on growing the world's healthiest, most abundant
9 food supply.

10 (3) Attempts by the Environmental Protection
11 Agency to expand the definition of "navigable
12 waters" under the Federal Water Pollution Control
13 Act expand the scope of Federal jurisdiction under
14 that Act well beyond the intent of Congress, and
15 would eliminate a central precept of that Act, which
16 reserves certain waters to the exclusive jurisdiction
17 of the States.

18 (4) The Environmental Protection Agency's in-
19 terpretation of the Spill Prevention, Control, and
20 Countermeasure program has attempted to regulate
21 milk in the same manner as petroleum, requiring
22 dairy farmers to develop oil spill prevention plans
23 and moving far beyond common sense and the intent
24 of the law.

1 (5) An increasing number of poultry and live-
2 stock operations have been forced to apply for per-
3 mits under the National Pollutant Discharge Elim-
4 nation System resulting from the Environmental
5 Protection Agency’s expanding definition of what
6 constitutes a discharge under the Federal Water
7 Pollution Control Act.

8 (6) Duplicative and costly permitting require-
9 ments under the Federal Water Pollution Control
10 Act will require additional National Pollutant Dis-
11 charge Elimination System permits for pesticide ap-
12 plications, subjecting pesticide users to unnecessary
13 red tape and financial burdens while exposing them
14 to the threat of unfounded litigation.

15 (7) The Environmental Protection Agency has
16 initiated a program to regulate greenhouse gases as
17 “air pollutants” under the Clean Air Act, which
18 could impose an undue burden on agricultural pro-
19 ducers by requiring them to obtain permits to con-
20 tinue operations.

21 (8) The Federal Government should not impose
22 further rules or regulations that are overly burden-
23 some or cause economic hardship for the agricultural
24 community.

1 **SEC. 3. UNDULY BURDENSOME REGULATIONS EXEMPTION.**

2 (a) IN GENERAL.—If the chief executive of a State
 3 determines, in accordance with this section, that a require-
 4 ment of a covered Federal environmental law, or a regula-
 5 tion thereunder, is unduly burdensome to persons in the
 6 State acting in their capacity as farmers, such require-
 7 ment or regulation shall not apply to persons in the State
 8 acting in that capacity.

9 (b) PROCEDURE.—Before finalizing any determina-
 10 tion under subsection (a), the chief executive of a State
 11 shall solicit and accept public comments regarding such
 12 determination for a period of not less than 90 days.

13 (c) DEFINITIONS.—In this Act:

14 (1) COVERED FEDERAL ENVIRONMENTAL
 15 LAW.—The term “covered Federal environmental
 16 law” means—

17 (A) the Clean Air Act (42 U.S.C. 7401 et
 18 seq.), insofar as such Act applies to emissions
 19 of air pollutants other than emissions resulting
 20 from the combustion of any fossil fuel; and

21 (B) the Federal Water Pollution Control
 22 Act (33 U.S.C. 1251 et seq.).

23 (2) FARMER.—The term “farmer” means—

24 (A) a producer, as that term is defined
 25 in—

1 (i) section 1001 of the Food, Con-
2 servation, and Energy Act of 2008 (7
3 U.S.C. 8702);

4 (ii) section 1506(a) of the Food, Con-
5 servation, and Energy Act of 2008 (7
6 U.S.C. 8773(a)); and

7 (iii) section 212 of the Agricultural
8 Marketing Act of 1946 (7 U.S.C. 1635a);
9 and

10 (B) a producer of a specialty crop, as that
11 term is defined in section 3 of the Specialty
12 Crops Competitiveness Act of 2004 (7 U.S.C.
13 1621 note; Public Law 108–465).

14 (3) STATE.—The term “State” means any of
15 the several States of the United States, the District
16 of Columbia, the Commonwealth of Puerto Rico, the
17 United States Virgin Islands, Guam, American
18 Samoa, the Commonwealth of the Northern Mariana
19 Islands, and any other territory or possession of the
20 United States.

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