

**Opening Statement of Ranking Member Frank Pallone, Jr.  
House Committee on Energy and Commerce  
Subcommittee on Environment  
Hearing on H.R. \_\_\_\_, the Farm Regulatory Certainty Act**

*November 9, 2017*

Mr. Chairman, I strongly oppose the bill we are considering today. It would undermine environmental protection, protect polluters, and block citizens' access to the courts. I have no doubt that it would harm public health if adopted.

The bill is also completely unnecessary. We are likely to hear claims today that farmers are facing regulatory uncertainty, or overly burdensome regulations. And we may hear other claims that an overzealous court applied the requirements of the Resource Conservation and Recovery Act, or RCRA ("Ric-ra") beyond what Congress ever intended. These claims are simply not true. Farmers already enjoy a clear exemption from the requirements of RCRA, so long as they are acting appropriately. Manure that is applied as fertilizer is not waste, and is not covered by waste laws. However, when

manure is dumped on land in amounts far beyond what the land can absorb, that is absolutely waste, and is exactly the type of dangerous disposal that RCRA was intended to prevent.

This bill responds to a specific RCRA case in Washington State concerning a concentrated animal feeding operation that did not act appropriately. They did not use their manure as fertilizer. Instead, they stored it in large, unlined lagoons, and dumped it on their fields in vast quantities. That dumping polluted groundwater and endangered public health. Why would we consider legislation that would reward these polluters?

Well, that is exactly what this bill does – it blocks citizen enforcement of our waste laws to reward polluters. This bill is among the last things this Committee should be considering. We could have used this hearing slot to conduct oversight of the Environmental Protection Agency's implementation of the Lautenberg Toxic Substances Control Act reform law we passed last Congress. We could have used it to look at EPA Administrator Scott Pruitt's questionable travel, questionable lobbying activities, or questionable use of

Agency resources. We could have used it to look at the pressing issue of climate change and the implementation of the Paris Agreement by every country on earth other than the United States.

Instead, we are here today to discuss a bad bill that would undermine environmental protection and harm public health as a handout to polluters. It is dangerous, misguided, and, frankly, poorly drafted. The language is shockingly broad, and would block citizen suits anytime an agricultural operation is engaged in an administrative proceeding. That would be true even if the administrative proceeding is completely unrelated to the dangerous condition the citizens are trying to address. I sincerely hope this is merely a drafting error, and something the sponsors of the legislation will want to correct.

But even if that language is fixed, I will continue to strongly oppose this bill. We have a responsibility on this Committee to protect the victims of pollution, not the polluters. I yield back.