

Testimony of The Honorable Dan Newhouse (WA-04)
Before the United States House of Representatives
Committee on Energy and Commerce Subcommittee on Environment
Testimony Discussion Draft H.R. __ the Farm Regulatory Certainty Act
November 9, 2017

Chairman Walden, Chairman Shimkus, Ranking Member Tonko, and Members of the Subcommittee, thank you for the opportunity to testify before you today on the Discussion Draft, the *Farm Regulatory and Certainty Act*. I also want to thank Representative Costa, who introduced this bipartisan legislation with me.

I represent the hard-working farmers of Central Washington. As a Member of Congress serving with you in this body, I want to speak to you today as a peer on specific issues currently faced by dairy and other livestock producers not only in my community but in your districts throughout the country.

Today, the farming community is just two percent of the entire United States population, many of which are generational family farms. As a third-generation farmer myself and the former Washington State Department of Agriculture director, I know how seriously farmers take our responsibility to be good stewards.

In my home state of Washington, we have just over 400 dairy farms with nearly 270,000 milk-producing cows with each cow producing on average 24,000 pounds or 3,000 gallons of milk each year. By these numbers, Washington State ranks 10th nationally in total milk production.

In Yakima County, Washington, where I live, there are nearly 70 operational dairies making Yakima one of the ten largest dairy producing counties in the nation based on the 2012 USDA Census of Agriculture.

Farming communities, like mine in Yakima, face a multitude of challenges as one of the most highly regulated industries in our country. My constituents know all too well the kinds of challenges encountered when operating a family farm. From inconsistent regulations to severe labor shortfalls, our farming communities need to know the rules of the road. They need and deserve certainty.

Here is why I am with you today:

In 2013, a dairy in Washington State was proactively working with the Environmental Protection Agency (EPA) to address nutrient management issues on their farm. Up until this time, the dairy had operated under the stringent Washington State Nutrient Management Program with a state-approved nutrient management plan for nearly two decades. But in the face of strong EPA enforcement actions, the dairy entered into a tough consent decree with the EPA to ensure that the farm corrected problems and complied with applicable management requirements.

After entering into the agreement to develop stronger environmental protections, a third-party obtained documents between EPA and the dairy. Ultimately, the dairy was subject to a citizen suit under the Resource Conservation and Recovery Act (RCRA).

The goal of environmental rules should be to assist agricultural producers to improve nutrient management and reduce their environmental footprint, not to subject them to lawsuits that threaten to put them out of business. That is why I am here today to discuss this legislation.

This legislation seeks to encourage farmers to be proactive stewards and create a climate to reinforce farmers' ability to trust that as they work with regulators, their efforts to address stewardship issues will result in outcomes that benefit the environment—and not result in exposing farmers who are working in good faith to comply with the law to third-party suits that are a kind of “double-jeopardy.”

The legislation is straightforward and limited in scope to the citizen suit provisions under RCRA. Simply put, this legislation covers only the agricultural activities that are already exempt under

EPA's RCRA regulations. This legislation would not prevent EPA from enforcing regulations under the Safe Water Drinking Act, the Clean Water Act, or any other applicable laws. Nor would this legislation exempt livestock producers from any laws or regulations intended to govern agricultural operations.

I firmly believe farmers have and must continue to lead the charge on good stewardship and conservation. The discussion draft before you today seeks to protect farmers who are trying to do the right thing by working with state or federal agencies to address nutrient management issues.

Thank you for holding this legislative hearing. I also want to thank Chairman Shimkus, full Committee Chairman Walden, and their staff for working with me on this legislation, and I hope we can get this common-sense legislation signed into law.

I yield back the balance of my time...