



March 27, 2008

Superfund Docket
Environmental Protection Agency, 2822T
1200 Pennsylvania Ave, NW
Washington, DC 20460

RE: Docket ID# EPA-HQ-SFUND-2007-0469
Proposed Rule Change for CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances of Animal Waste

To Whom It May Concern:

Citizens Campaign for the Environment (CCE) is an 80,000 member environmental advocacy organization in New York and Connecticut. CCE works to protect public health and the natural environment by championing sensible local, state and federal policy that positively affects the environment and public health.

Vibrant and economically viable local farms are critical to New York's landscape, economy, environment, and identity. CCE believes that after native ecosystems and forested lands, farmland is a preferred land use and supports policies that ensure the nation's drinking water sources are protected and our beaches and waterways are free from disease and illness-causing bacteria and pathogens. CCE is an active stakeholder in the New York State Department of Environmental Conservation (NYSDEC) CAFO working group, and serves on the Agriculture Environmental Management (AEM) steering committee. AEM is a voluntary program, created through enabling state legislation, that works with farmers and certified planners to develop comprehensive nutrient management plans (NMPs) to reduce agricultural pollution and protect local waterbodies and watersheds.

CCE appreciates the opportunity to comment on the proposed rule change to exempt reporting Air Releases of Hazardous Substances of Animal Waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also known as Superfund), and Emergency Planning and Community Right-to-Know Act administrative requirements. CCE is concerned with the proposed rule change, as submitted in the Federal Register Notice, due to its potential to negatively affect the environment, public health and limit the public's right to access important information. *CCE recommends that the EPA abandon this proposal for several reasons.*

The EPA is charged with protecting human health and the environment. CCE is concerned that by relaxing hazardous air emission reporting rules for industrial animal feeding operations, it will signify that the EPA is not addressing or attempting to address the release or cause of toxic air emissions, which endanger both the environment and human health. ***CCE believes that it is incumbent upon the EPA to continue recording hazardous air releases from animal waste to fulfill its duty as prescribed by Congress and the President.***

Previously, the EPA granted reporting exemptions for naturally occurring radionuclides, however, exempting hazardous air releases from animal waste is not similar. Hazardous air emissions associated with voluminous animal waste are a consequence of industrial animal husbandry practices and are not naturally occurring in industrial concentrations. Exempting hazardous air releases from reporting requirements indicates EPA's indifference toward improper disposal and storage of animal waste, which consequently encourages mismanagement of pollutants and provides no incentives for compliance with the law.

In sufficient quantities, animal waste can pose toxic hazards and the public has the right to know if they are being exposed to hazardous air emissions from neighboring animal waste. EPA is knowingly violating the public's right to know by blatantly disregarding EPCRA, under the guise of reducing the burden of the EPA staff to follow up on an average of 34,000 toxic air emissions reported annually. EPA must consider streamlining and/or improving reporting practices to save and emission reporters' valuable dollars time, while improving the public's ability to access information regarding hazardous air emissions. ***CCE strongly supports the EPA streamlining and improving its reporting practices.***

Economic Impacts of Reporting Exemptions:

CCE objects to EPA cost-benefit analysis of exempting administrative reporting of hazardous air emissions from animal waste. While the EPA estimates savings to farmers and to the federal government, EPA fails to include the benefits of maintaining continuous records of hazardous air emissions as an incentive and tool to protect the economy, public health, and the environment. The proposed rule appears inconsistent with EPA's recognition of the cost-benefit associated with addressing environmental polluters instead of ignoring the problem. Examples of environmental and economic benefits of strong programs are highlighted on EPA's website, including a 20 year analysis of the Clean Air Act, which cost \$523 billion dollars to implement, but without these pollution prevention and control programs, the cost to the nation would have been calculated between \$6 and \$50 trillion dollars. Additionally, Executive Order 12866 instructs federal entities to address "significant regulatory action" that will annually affect the economy by at least \$100m annually or adversely affect... "the environment, public health or safety" EPA's cost-benefit analysis fails this standard and instead troublingly assumes that ignoring environmental pollution will benefit the economy. Furthermore, the Clean Air Act outlines co-benefits of addressing environmental pollution, which include: improving visibility, increasing agriculture yields of certain crops, and improving worker attendance and productivity. CCE strongly believes that ignoring hazardous air emissions, in any form, is detrimental to the economy, public health, and the environment and that EPA must uphold the agency's mission and continue requiring hazardous air emission reporting from animal waste operations. ***CCE strongly supports addressing environmental pollution and keeping records of continuous toxic air emissions.***

If EPA believes the agency and/or local/state partners are unable to adequately address hazardous air emissions due to funding shortfalls, then EPA should request additional funding from Congress. Eliminating hazardous air emissions documentation, under the guise of eliminating paperwork, threatens public health by weakening regulatory practices, oversights, and consequences. The EPA should adopt practices that encourage the farming community to exceed waste management standards; not encourage the agriculture community to lower their standards to compete with unregulated animal ag-industry. ***CCE strongly supports compliance with EPCRA and CERCLA by addressing and cleaning up toxic pollution.***

Terms & Definitions:

CCE agrees with the EPA's definition of farms as stated in the Federal Register Notice. (1) Any place whose operation is agricultural and from which \$1,000 or more of agricultural products were produced and sold, or normally would have been sold, during the census year. Operations receiving \$1,000 or more in Federal government payments are counted as farms, even if they have no sales and otherwise lack the potential to have \$1,000 or more in sales; or (2) A Federal or state poultry, swine, dairy or livestock research farm.

CCE recommends that the EPA clarify the term animal waste to include all manure, feces, urine, other excrement, and bedding produced by livestock that has not been composted, digestive emissions and urea. ***CCE strongly urges the EPA to include animal carcasses in the definition of animal waste as they must also be disposed of properly.***

The EPA has requested comment as to whether other facilities that produce animal waste, such as circuses, should be exempt from reporting hazardous air emissions from animal waste and CCE concludes that would not be in the best interest of public and worker health or the environment. ***CCE strongly opposes administrative reporting exemptions for any facility that produces animal waste.***

Applicability to Executive Orders:

EPA asserts that Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority and Low-Income Populations) does not apply to the proposed rule to exempt hazardous air emission reporting from animal waste. CCE maintains that hazardous air emissions do affect human health and the environment. Furthermore, many rural farming communities have a disproportionately large low-income sections meaning that Executive order 12898 is applicable to this ruling.¹ Worker health is a primary concern of hazardous air emissions on farms. In May 1990, the U.S. Center for Disease Control released a report highlighting gasses, including ammonia and hydrogen sulfide, which negatively affect farm workers who enter manure pits.² The CDC report underscores the fact that direct exposure to toxic gasses from farms will harm individuals and possibly cause death. ***CCE strongly opposes the EPA decision to exempt the proposal rule from the scrutiny required under Executive Order 12989.***

¹ http://socialsecurity.ourfuture.org/research-center/state-reports/ssreport_rural_NY.pdf

² <http://www.cdc.gov/niosh/90-103.html>

The EPA also asserts that under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks) relaxing reporting requirements for hazardous air emissions from farms will not adversely affect children. CCE maintains the human health component of air emissions. Children breathe faster than adults, are lower to the ground and spend more time outdoors than adults. These factors, combined with the fact that children take in more air, relative to size, than adults puts them at a greater risk for adverse implications resulting from air pollution.³ Children also live in rural areas and on farms. Therefore, Executive Order 13045 would also apply to this ruling and provides further ground that the U.S. should not provide administrative exemptions for any air emissions. ***CCE strongly opposes the EPA's recommendation to exempt reporting toxic air emissions under Executive Order 13045.***

In conclusion, CCE appreciates the opportunity to comment on this proposed rule change. However, CCE strongly believes that the EPA is obligated to document hazardous air emissions, regardless of source, and provide due diligence to pursue actions that address hazardous air emissions from animal waste operations. ***CCE respectfully requests that the EPA abandon the draft proposed rulemaking. CCE further recommends that the EPA streamline and improve the reporting process to conserve time and resources while improving the public's access to information regarding their health and environment, while maintaining compliance with CERCLA and EPCRA.***

Thank you for your thoughtful consideration of our comments.

Respectfully Submitted,

Sarah Eckel
Central New York Program Coordinator

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