



October 23, 2007

Honorable Tom Harkin, Chair, and  
Honorable Saxby Chambliss, Ranking Member  
Agriculture, Nutrition and Forestry Committee  
United States Senate  
Washington, D.C. 20510

Dear Senators Harkin and Chambliss:

As the associations representing state and local environmental officials throughout the country, we are writing to share our views on the 2007 Farm Bill comprehensive legislation to amend current law. While we appreciate your efforts to provide important assistance to our nation's farmers, we are troubled by proposals to exempt manure from Confined Animal Feeding Operations (CAFOs) from requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA).

If manure were exempted from the definitions of "hazardous substance" and "pollutant or contaminant," releases or threatened releases of hazardous components, manure would not be covered by CERCLA or EPCRA. The implications of such an exclusion are significant.

First, the CERCLA and EPCRA requirements to report hazardous releases of toxic chemicals associated with manure, including ammonia, hydrogen sulfide, arsenic, nutrients and nitrates would be eliminated, preventing local, state and federal emergency responders from having critical information about potentially dangerous releases that could affect communities. Second, the U.S. Environmental Protection Agency (EPA) or a state could not use CERCLA response authorities to respond to hazardous substances released from manure (e.g., investigations or clean-up) that threaten the environment, welfare or public health. Third, a state or EPA would be prevented from taking action, including issuing abatement orders, in situations where there is an imminent and substantial endangerment to the public health, welfare or environment. Fourth, CAFOs would also be exempt from any natural resource damages that may result from a release of a hazardous substance, leaving the financial burden of any cleanup on the public.

In addition, the reporting requirements in these acts are useful to state and local regulators. Given the paucity of monitors in rural states, CERCLA and EPCRA reports may be the only source of information to people affected by excessive air emissions from CAFOs.

If the intent of such proposals is to protect small farms from what is perceived to be onerous environmental regulation, we propose instead that a small farm exemption be considered for non-CAFO operations. However, the wholesale exemption of manure could endanger both public health and the environment.

We urge you to reject these proposed exemptions from your bill. Thank you for considering our views.

Sincerely yours,



James D. Taft  
Executive Director  
Association of State Drinking Water Administrators



Linda Eichmiller  
Executive Director  
Association of State and Interstate  
Water Pollution Control Administrators



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