

United States Senate
WASHINGTON, DC 20510-3306

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COMMITTEES:
COMMERCE, SCIENCE, AND
TRANSPORTATION
HEALTH, EDUCATION, LABOR,
AND PENSIONS
JUDICIARY
SMALL BUSINESS
INTELLIGENCE

The Honorable Christine Todd Whitman
Administrator
The Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20016

Dear Governor Whitman:

I am writing to express my grave concern about your agency's secret negotiations to create special exemptions from the Clean Air Act for concentrated animal feeding operations (CAFOs). These actions threaten the quality of life and air for thousands of rural families across America.

As you know, livestock farms are a proud part of the economy in North Carolina and much of the United States. At the same time, the tremendous fumes and waste emitted by CAFOs cause real harms to rural residents. People who want to continue living in these communities find it difficult because of the odors; people who want to leave find they can't without selling their homes for a fraction of their former value. Research at North Carolina State University and Iowa State University increasingly suggests that emissions by CAFOs into the air and water are harmful to human health.

Across America, farmers and state and local officials are committed to addressing the negative impacts from livestock farming while preserving the profitability of our family farms. I have strongly supported research at NCSU that is developing affordable technologies to reduce emissions, and there is similar work going on at ISU. Unfortunately, according to press reports, as well as a recent letter from the State and Territorial Air Pollution Program Administrators (STAPPA), your agency is now "privately negotiating" with the CAFO industry to undermine state protections and human health.

Under EPA's first proposal, CAFOs would fund an environmental monitoring program in exchange for industry-wide immunity from compliance with the Clean Air Act or the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). According to the state regulators who refused to participate in this deal, the grant of immunity would be broad and retroactive, and would cover both federal law and state implementation plans. In addition, the immunity would be afforded to all CAFOs, even though monitoring would not occur at over 99% of these facilities. Worst of all, according to STAPPA, there is no requirement that facilities receiving amnesty actually reduce their air emissions. It is stunning to me that your agency is contemplating a sweeping grant of amnesty that not only eliminates federal clean air protections, but also takes away the rights of states and communities to protect themselves.

The second proposal is even more troubling. According to these same reports, your agency is on the edge of simply exempting most CAFOs from the Clean Air Act. You would achieve this vast exemption by interpreting emissions from barns and lagoons as “fugitive” emissions. It is completely inappropriate for your agency to take this momentous action as a result of secret negotiations and without the public notice and comment required by the Clean Air Act and the Administrative Procedure Act.

If the actions of your agency were in keeping with the law and in the interest of rural communities, why would you carry out these negotiations in secret?

Unfortunately, your agency's secret negotiations are par for the course in this administration. After private consultations with the oil and energy industry, the White House's “energy task force” developed a blueprint for rolling back air quality and health protections of the Clean Air Act’s New Source Review. Your agency also weakened proposed CAFO regulations that would have protected the water supply from contamination. Regarding both clean air and clean water, your agency has now developed regulations that are far weaker than those we have in North Carolina. Instead of leading the nation as it should when it comes to public health and environmental protection, EPA is now bringing up the rear.

I respectfully request that:

1. EPA immediately dissolve any secret agreements and halt any rulemaking or policy formation pending a full notice and comment period.
2. EPA refrain from any attempts to preempt or undermine state and local laws that protect families from the fumes and waste generated by CAFOs.
3. EPA immediately provide my office with all records and documents concerning both the “safe harbor” and “fugitive emission” issues discussed above.

Please be aware that, if your agency continues on its present course, I will be forced to consider legislation to prohibit the measures you are now contemplating. Clean air and the nation’s health should come first. If you have any questions regarding this letter, please contact Robert Gordon on my staff at 202-224-3154. He will contact you shortly by phone in order to determine your progress on these requests. Thank you very much.

Yours sincerely,



John Edwards