

United States Senate

WASHINGTON, DC 20510

April 22, 2022

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Regan:

We write to encourage the U.S. Environmental Protection Agency (EPA) to continue the longstanding exemption for livestock odors as it works to develop updated reporting requirements under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA).

As you know, the EPCRA was enacted to ensure proper notice is given to relevant authorities in cases of accidental spills, chemical plant explosions, and release of hazardous chemicals from sinking ships or train derailments. Congress never imagined that normal odors of livestock, poultry, and egg production would somehow be captured.

In 2008, EPA finalized a rule to exempt manure odors from CERCLA and EPCRA reporting requirements. This exemption was defended in court by the Obama administration, arguing that Congress never believed low-level livestock manure odors were the kind of releases they intended to manage with these laws. However, in 2017, the U.S. Court of Appeals for the D.C. Circuit vacated this CERCLA and EPCRA reporting exemption. In 2018, Congress responded in strong bipartisan fashion by passing the Fair Agricultural Reporting Method (FARM) Act. This law amended CERCLA to expressly exempt reporting of air emissions from animal waste at farms. In 2019, EPA finalized a parallel reporting exemption under EPCRA. This rule reflected the relationship between CERCLA and EPCRA release reporting requirements and comports with the statutory text, framework, and legislative history, as well as EPA's previous regulatory actions.

Maintaining the farm reporting exemption from EPCRA provides clarity to both farmers and emergency responders. Farms and ranches of all sizes will be burdened with additional regulatory reporting requirements if the exemption is eliminated.

Congress never intended EPCRA to regulate manure odors from farms. Further, such a regulation will directly impede the purpose of EPCRA. We strongly encourage EPA to maintain the EPCRA reporting exclusion for air emissions from animal waste at farms.

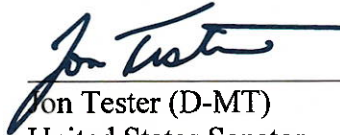
Sincerely,

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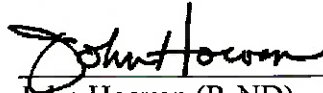
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United States Senator



Jon Tester (D-MT)
United States Senator



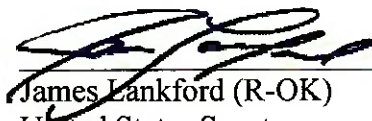
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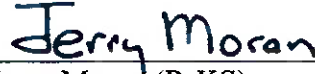
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