

Rural Communities Have a Right To Know About Their Exposure to Hazardous Emissions

To: Senate Environment and Public Works Committee

Re: Rural Communities Have a Right To Know About Their Exposure to Hazardous Emissions

Chairman Barrasso, Ranking Member Carper, Chairman Rounds, Ranking Member Booker, and members of the Environment and Public Works Committee:

In light of the upcoming hearing in the Senate Environment and Public Works Subcommittee on Superfund, Waste Management, and Regulatory Oversight, the undersigned, submit this letter in opposition to S.2421, the so-called, "Fair Agricultural Reporting Method Act." Instead of protecting rural communities from toxic chemical releases, S.2421 would exempt all concentrated animal feeding operations ("CAFOs") from reporting their emissions of hazardous substances into the air like ammonia and hydrogen sulfide.

As individuals and organizations representing rural community members, farmers, and other constituents, we strongly believe that Americans have a right to know about toxic air emissions near their homes and workplaces—no matter what the source. Hydrogen sulfide is hydrogen sulfide whether from an industrial power plant or an industrial concentrated animal feeding operation ("CAFO"). There is no reason that people should be denied information about the poisonous emissions they are exposed to simply because the emissions come from a CAFO, where hundreds or thousands of animals are confined for long periods in facilities where their waste is concentrated and stored in high volumes, rather than being dispersed naturally across pastures.

Animal waste at medium and large CAFOs regularly emit ammonia and hydrogen sulfide at levels above the health-based 100 pounds per day reportable quantity under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") and the Emergency Planning and Community Right-to Know Act ("EPCRA"). Ammonia and hydrogen sulfide emissions from CAFOs can cause serious health impacts such as exacerbation of asthma, scarring of the respiratory tract, and even death. Many of our members live in communities near these animal factories, and we know all too well the real-life meaning of these harms. Large CAFOs have been required to report these hazardous emissions for decades. Repealing this reporting requirement would prevent rural residents, some of whom live on and operate family farms, from knowing about poisons in their air simply because the poisons come from CAFOs.

In 2008, EPA illegally exempted all CAFOs from having to report their releases under CERCLA. However, large CAFOs have consistently been required to report their releases to state and local officials under EPCRA. Last April, the D.C. Circuit ruled that the CERCLA exemption is illegal and upheld the requirement that large CAFOs report under EPCRA. In that decision, the Court found that "all of EPCRA's reporting mandates are piggybacked on the CERCLA mandates in one form or another." So Congress's proposal to exempt all CAFOs from the CERCLA reporting mandate risks exempting all CAFOs from EPCRA reporting, as well.

The Court's decision protects rural Americans by ensuring they have information to help protect their families from toxic chemical releases. As the D.C. Circuit recognized, the risk of harm from AFOs "isn't just theoretical; people have become seriously ill and even died as a result" of their emissions. Our members must close doors and windows to keep out the stench from CAFOs. They get headaches and feel nauseous when they go outside. They suffer from burning airways and decreased lung capacity because of the toxic emissions that emanate from CAFOs every day.

Congress long ago made clear that communities deserve to know what toxic chemicals are being released in their midst. They also deserve to know that their local emergency responders have that information and that they can therefore effectively protect their communities. Our organizations, many of which have members from rural communities across this country, deserve the right to know about polluters in our neighborhoods just like those in urban America who live amidst facilities that have been reporting their emissions under these laws for decades.

The undersigned therefore strongly urge Congress to remain steadfast in requiring CAFOs to disclose their emissions so that we can better protect our health and our communities.

Respectfully,

Harpeth Conservancy