

Subcommittee on Environment and Hazardous Materials hearing entitled, "Hazardous Substance Releases and Reporting under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) and the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)."

Mr. Chairman, I commend you and thank you for holding this hearing. On March 18, I wrote the Environmental Protection Agency (EPA) about the proposed reporting exemption for air releases from farms that, among other things, would deprive local emergency responders and communities of knowledge of significant releases of ammonia and hydrogen sulfide from large industrialized animal feeding operations.

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September 24, 2008

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Chairman, I commend you and thank you for holding this hearing. On March 18, I wrote the Environmental Protection Agency (EPA) about the proposed reporting exemption for air releases from farms that, among other things, would deprive local emergency responders and communities of knowledge of significant releases of ammonia and hydrogen sulfide from large industrialized animal feeding operations. At that time, I indicated that the proposed exemption appeared to be ill-considered and contrary to the public interest. Today, after reviewing the Government Accountability Office's (GAO) report and the comments EPA received from the national association representing Local Emergency Planning Committees and State Emergency Response Commissions, I can say with certainty that the Bush Administration's plan to exempt industrial-sized animal feeding operations from air emissions reporting requirements is nothing more than a favor to Big Agribusiness at the expense of the public health and communities living near these facilities.

One question I asked EPA concerned why it didn't consider limiting the exemption to so-called family farms rather than providing an exemption for large corporate concentrated animal feeding operations. The answer from EPA was that "the Agency's basis or rationale for proposing the exemption is not dependent on the size of the farm." EPA also informed me that it was not aware of any small farm operations that have triggered the reporting requirements for ammonia and hydrogen sulfide.

Clearly, EPA is not concerned

about small farms that most likely would not have releases of ammonia or hydrogen sulfide above the reportable quantity limit anyway. This exemption from long-standing regulations is clearly designed for big industrialized animal feeding operations such as the ones identified by GAO that produce more manure annually than the sanitary waste produced by cities like Philadelphia and Houston.

EPA, in its own risk assessment for CAFO's in March 2004, stated that "a dairy CAFO with 1,000 animal units is equivalent to a city of 164,500 people." We should keep in mind that human waste is treated before discharge into the environment, but animal waste is either not treated at all or minimally treated by virtue of the storage methods used before disposal.

As its rationale for the exemption, EPA has taken the position that it could not foresee any response action being taken as a result of a notification of a release of ammonia or hydrogen sulfide above 100 lbs/day and that requiring monitoring or recommendations to local officials regarding evacuations and shelter-in-place would not be a necessary or an appropriate response to the release of hazardous substances to the air from animal waste at farms.

The public evacuation of residents living near Excel Dairy in Minnesota this summer due to hydrogen sulfide releases entirely undermines EPA's rationale for the exemption. Further, the national association representing State Emergency Response Commissions and the Local Emergency Planning Committees told EPA in March that the proposed exemption "endangers responders and the public by denying them information they would use to protect themselves from hazardous chemical releases."

We should let the first responders on the ground make the judgment whether a response is necessary after a notification is filed -- not political officials sitting in Washington who want to do favors for Big-Agribusiness.

I look forward to the testimony of our witnesses.

Prepared by the Committee on Energy and Commerce

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