

Support the Bipartisan Long-Costa Amendment

Clarify that Family Farms are NOT Hazardous Waste Sites
Uphold a Policy Backed by Obama and Bush Administrations

September 7, 2017

Dear Representative:

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted to provide for cleanup of the worst industrial chemical toxic waste dumps and spills, such as oil spills and chemical tank explosions. CERCLA has two primary purposes: to give the federal government necessary tools for prompt response to problems resulting from hazardous waste disposal into water and soil, and to hold polluters financially responsible for cleanup. The Emergency Planning and Community Right-to-Know Act (EPCRA) requires that parties who emit hazardous chemicals submit reports to their local emergency planning offices, thus allowing local communities to better plan for chemical emergencies.

In 2008, the EPA finalized a rule to exempt all agricultural operations from CERCLA reporting and small operations from EPCRA reporting requirements, recognizing that low-level continuous emissions of ammonia and hydrogen sulfide from livestock are not “releases” that Congress intended to regulate. When Waterkeeper sued EPA in 2009, the Obama administration spent eight years defending this Bush-era regulation. In defending the lawsuit, the Obama EPA argued that CERCLA and EPCRA language does not explicitly exempt farms because Congress never believed that the continuous emissions of agricultural operations would fall into the realm of regulation. However, in April 2017, the D.C. Circuit Court issued a decision vacating EPA’s 2008 exemption, concluding that these statutes are unambiguous.

Not only does this court decision have the potential to bring nearly 100,000 farms and ranches under federal regulatory authority, but will also likely put our nation’s environmental and public health at risk. Currently, Hazardous Substance release reports are taken by the National Response Center (NRC), run by the Coast Guard. This department has averaged 28,351 reports per year over the last eight years. When farms from across the nation are suddenly in violation of CERCLA reporting requirements, reports from over 100,000 agricultural operations will inundate the NRC. This increase of over four times the average annual amount, in less than one week, could potentially prevent the Coast Guard from responding to actual hazardous waste emergencies, entirely defeating the primary purposes of CERCLA.

Following the D.C. Circuit’s decision, the EPA’s options are limited. The court recently granted a stay for three months, providing time for the agency to develop administrative guidance, but buying time does not change the ultimate outcome: thousands of farms and ranches across the nation will be forced to report their daily emissions to the EPA or face liability of up to \$53,907 per day. Now, it is up to Congress to ensure that the EPA is not required to implement this overly burdensome court decision. We urge Congress to confirm that it never intended to regulate manure under CERCLA or EPCRA by supporting the attached bipartisan appropriations provision introduced by Representatives Billy Long (R-MO) and Jim Costa (D-CA).

Sincerely,

Agri-Mark, Inc.

Alabama Cattlemen’s Association

Alabama Farmers Federation
Alaska Farm Bureau
American Dairy Coalition
American Farm Bureau Federation
Arizona Cattle Feeders
Arizona Farm Bureau
Arkansas Farm Bureau Federation
California Cattlemen's Association
California Cattlewomen
California Dairies, Inc.
Center for Dairy Excellence
Colorado Dairy Farmers
Colorado Farm Bureau
Colorado Livestock Association
Connecticut Farm Bureau
Dairy Business Milk Marketing Cooperative
Dairy Farmers of America
Dairy Producers of New Mexico
Dairy Producers of Utah
Delaware Farm Bureau
Exotic Wildlife Federation
FarmFirst Dairy Cooperative
Florida Cattlemen's Association
Florida Farm Bureau Federation
Georgia Farm Bureau
Idaho Farm Bureau Federation
Idaho Dairymen's Association
Illinois Farm Bureau
Indiana Farm Bureau

Iowa Farm Bureau Federation
Iowa State Dairy Association
Kansas Farm Bureau
Kansas Livestock Association
Kentucky Farm Bureau Federation
Louisiana Farm Bureau Federation
Michigan Farm Bureau
Michigan Milk Producers Association
Milk Producers Council
Minnesota Farm Bureau
Minnesota Milk Producers Association
Minnesota State Cattlemen's Association
Mississippi Cattlemen's Association
Mississippi Farm Bureau Federation
Missouri Cattlemen's Association
Missouri Farm Bureau
Missouri Dairy Association
Missouri Pork Association
Montana Farm Bureau
National All-Jersey, Inc.
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Cattlemen's Beef Association
National Corn Growers Association
National Council of Farmer Cooperatives
National Milk Producers Federation
National Pork Producers Council
National Sorghum Producers
National Turkey Federation

Nebraska Cattlemen's Association
Nebraska Farm Bureau Federation
New Hampshire Farm Bureau Federation
New Mexico Cattle Growers Association
New Mexico Farm and Livestock Bureau
New Mexico Wool Growers, Inc.
New York Farm Bureau
Northeast Dairy Farmers Cooperatives
Northwest Dairy Association
North Carolina Farm Bureau
North Dakota Farm Bureau
North Dakota Stockmen's Association
Ohio Cattlemen's Association
Ohio Dairy Producers Association
Ohio Farm Bureau Federation
Oklahoma Farm Bureau
Oregon Dairy Farmers Association
Oregon Cattlemen's Association
Oregon Farm Bureau
Professional Dairy Managers of Pennsylvania
Pennsylvania Cattlemen's Association
Pennsylvania Farm Bureau
Select Milk Producers, Inc.
South Carolina Farm Bureau
South Dakota Cattlemen's Association
South Dakota Dairy Producers
South Dakota Farm Bureau
South East Dairy Farmers Association
Southeast Milk, Inc.

Southwest Council of Agribusiness
St. Albans Cooperative Creamery, Inc.
Tennessee Farm Bureau
Texas Association of Dairymen
Texas Cattle Feeders Association
Texas Farm Bureau
Upstate Niagara Cooperative, Inc.
United Egg Association
Utah Farm Bureau
U.S. Cattlemen's Association
U.S. Poultry and Egg Association
Virginia Cattlemen's Association
Virginia Farm Bureau
Virginia Poultry Federation
Washington Cattlemen's Association
Washington Cattle Feeders Association
Washington Farm Bureau
Washington State Dairy Federation
Western States Dairy Producers Association
Western United Dairymen
Wisconsin Dairy Business Association
Wisconsin Farm Bureau
Wyoming Farm Bureau Federation
Wyoming Stock Growers Association

AMENDMENT TO DIVISION A OF THE RULES

COMMITTEE PRINT 115-31

OFFERED BY MR. LONG OF MISSOURI

At the end of division A (before the short title), insert the following:

1 SEC. ■ ■ . None of the funds made available by this
2 Act may be used by the Environmental Protection Agency
3 to enforce notification requirements respecting released
4 substances under subsections (a) through (d) of section
5 103 of the Comprehensive Environmental Response, Com-
6 pensation, and Liability Act of 1980 (42 U.S.C. 9603) or
7 subsections (a) through (c) of section 304 of the Emer-
8 gency Planning and Community Right-To-Know Act of
9 1986 (42 U.S.C. 11004) with respect to releases of haz-
10 ardous substances from animal waste at farms.