



December 12, 2018

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Agency: Environmental Protection Agency (EPA)

Submitted via electronic mail to www.regulations.gov

RE: Comments on Emergency Release Notification Regulations: Reporting for Air Emissions from Animal Waste at Farms; Emergency Planning and Community Right-to-Know Act

The Texas and Southwestern Cattle Raisers Association (TSCRA) appreciates the opportunity to comment on the Environmental Protection Agency's (EPA) proposed rule to amend the release notification regulations under the Emergency Planning and Community Right-To-Know Act (EPCRA) to add the reporting exemption for air emissions from animal waste at farms and ranches.

TSCRA is a 141-year-old trade association and is the largest and oldest livestock organization based in Texas. TSCRA has more than 17,500 beef cattle operations, ranching families and businesses as members. These members represent approximately 55,000 individuals directly involved in ranching and beef production who manage 4 million head of cattle on 76 million acres of range and pasture land primarily in Texas and Oklahoma, but throughout the Southwest.

TSCRA supports EPA's proposal and encourages the Agency to clarify that this proposal does not create a new administrative exemption from the law, but rather codifies the effect of the statutory exemption in the recently enacted FARM Act. The characterization by EPA of the proposal "to add the reporting exemption" may create the false impression that EPA is creating a new regulatory exemption using its discretionary rulemaking authority. Rather, the Agency is simply harmonizing its EPCRA regulations with the FARM Act. The FARM Act, as codified in law by the U.S. Congress, effectuated the Agency's proposed change.

The prospect of reporting manure emissions under EPCRA is infeasible for beef cattle producers and potentially exposes them to liability for failure to report. Without this amendment from the EPA the life-altering impact on cattle producers could be grave. The expectation created by the D.C. Circuit's mandate to vacate the 2008 Rule presupposes a world in which reporting compliance is readily-achievable by all cattle producers. As our comments lay out in detail, this is far from the truth.

The science of emissions estimation on ranches is limited in supply and narrow in scope. Scientists fail to agree on an appropriate metric for emissions estimation from ranches. A cattle producer taking on the speculative exercise of estimating air emissions from cow manure does nothing more than play a guessing game. The information and metrics currently available – namely worksheets developed by Texas A&M Agrilife Extension and the University of Nebraska-Lincoln to estimate ammonia and hydrogen sulfide emissions – are limited to cattle feeding operations with certain structures subject to

climatic conditions present in specific regions of the country.¹ As for pasture-based producers, there is scant data and no publicly-available emissions methods to estimate the pounds per day of ammonia or hydrogen sulfide emitted from cow manure in a field. Simply put, our members that are pasture-based producers cannot report manure emissions from their operations with any degree of confidence.

Feedlot operators and, even more so, pasture-based cattle producers continue to struggle with interpreting EPA's regulations to understand what types of releases need to be reported to the government. Once they have obtained this, their next obstacle is how to report that information to the government. The proposed rule clearly delineates the releases that do not need to be reported by farmers and ranchers, providing much needed regulatory certainty to ranchers across America.

EPA's proposed amendment to its EPCRA regulations reflect the statutory exemption established in the FARM Act and is well-received and appreciated by TSCRA. Incorporating the FARM Act's definitions of "animal waste" and "farm" into the ECPRA regulations provides much-needed regulatory clarity to agricultural producers. Clear definitions allow cattle producers to better understand whether a given release should be reported under EPCRA section 304. And most importantly, EPA's legal justification is grounded in congressional action, legislative history, and prior agency action.

TSCRA appreciates the opportunity to provide comment on this rulemaking proposal. TSCRA supports EPA's action and supports finalization of this rule as proposed. If you have any questions regarding these comments, please contact Peyton Schumann at 512-469-0171 or at pschumann@tscra.org.

Sincerely,



Robert E. McKnight, Jr.
President

¹ Stowell, Ammonia Emissions Estimator; Preece, Ammonia Emissions from Cattle Feeding Operations.