



The Johns Hopkins Center for a Livable Future
Bloomberg School of Public Health
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March 22, 2018

United States Senate
Dirksen Senate Office Building
Washington, DC 20510

Disclaimer: The opinions expressed herein are our own and do not necessarily reflect the views of The Johns Hopkins University.

RE: Agriculture Creates Real Employment (ACRE) Act

Dear Members of the United States Senate,

We are researchers at The Johns Hopkins Center for a Livable Future, based at the Bloomberg School of Public Health in the Department of Environmental Health and Engineering. The Center engages in research, policy analysis, education, and other activities guided by an ecologic perspective that diet, food production, the environment, and public health are interwoven elements of a complex system. The Center also recognizes the prominent role that food animal production plays regarding a wide range of public health issues surrounding that system. We are writing to express our concerns regarding the Agriculture Creates Real Employment (ACRE) Act, a piece of legislation that pulls together eight farm-related bills.¹ We believe that one of these bills in particular, the Fair Agricultural Reporting Method (FARM) Act, would be detrimental to public health.

Over the last 60 years, food animal production has shifted from an extensive system of small and medium-sized farms to one characterized primarily by large-scale, industrial operations that concentrate large numbers of animals in small geographic areas.² This transition to large, high-density, confined animal feeding operations (CAFOs) has resulted in the routine accumulation of large volumes of animal waste, often at rates far exceeding the capacity of nearby farmland to absorb it.³ As a result, the excess waste produced by these operations represents a significant public health and ecological hazard.⁴

These large-scale animal feeding operations produce numerous air pollutants that reduce air quality and can negatively impact human health,⁵ including several – ammonia and hydrogen sulfide – that fall within the jurisdiction of the Comprehensive Environmental Compensation and Liability Act (CERCLA),⁶ a law that requires reporting the release of hazardous substances that may endanger public health or the environment, and authorizes a federal response to this release or threatened release.⁷ Air emissions from CAFOs are of particular concern due to the number and concentration of animals on these operations. Ammonia and hydrogen sulfide are associated with a range of adverse health impacts, including irritation

and damage to the skin, eyes and respiratory tract, severe cough, chronic lung disease, olfactory neuron loss, and death.⁸

In spite of the known health risks associated with the air pollutants produced by animal operations and deemed hazardous by CERCLA, the FARM Act seeks to exempt animal feeding operations from the air emissions reporting requirements under CERCLA. The United States (US) Environmental Protection Agency (EPA) has provided this reporting exemption since 2008, deeming the reporting for animal waste “unnecessary because, in most cases, a federal response is impractical and unlikely.”⁹ A US Court of Appeals ruling in April 2017, however, struck down this exemption, determining that concerns of efficiency in federal response “don’t give the agency carte blanche to ignore the statute whenever it decides the reporting requirements aren’t worth the trouble.”¹⁰ We support this court ruling and oppose the exemptions that would allow the release of pollutants known to be hazardous to public health and the environment without documentation or authorized action.

We also recognize that this legislation, and previous EPA reporting exemptions, were designed to ease the regulatory burden on farmers and ranchers. In light of this, we propose that the reporting requirements apply only to large operations that are of particular concern due to their size and concentration of animals. An example of this approach is the EPA’s 2008 final rule that only subjected large CAFOs to Emergency Planning and Community Right-to-Know Act (EPCRA) reporting.¹¹ We believe that narrowing the scope of the CERCLA reporting requirement from all farms with animal operations to only those characterized as large CAFOs by the EPA would help achieve a balance between the protection of public health and supporting farmers and ranchers.

Thank you for considering our concerns. We welcome the opportunity to discuss this further and answer any questions you may have. Please contact us at (410) 502-7578 or by emailing Bob Martin, Director of the Food System Policy Program, at rmarti57@jhu.edu.

Sincerely,

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References

¹ 115th Congress, 2D Session. “S. ___” EDW18214.

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² The Pew Charitable Trusts and Johns Hopkins University Bloomberg School of Public Health. *Putting Meat on the Table: Industrial Farm Animal Production in America*. Washington: DC. 2008.

³ Literature review of contaminants in livestock and poultry manure and implications for water quality. United States Environmental Protection Agency. Updated July 2013. Retrieved March 20, 2018. EPA 820-R-13-002. <https://goo.gl/GJkvw1>

⁴ Ibid.

⁵ Hribar C, Schultz M. Understanding concentrated animal feeding operations and their impact on communities. *Bowling Green, OH: National Association of Local Boards of Health*. Retrieved March 2018. 2010;18:2013. https://www.cdc.gov/nceh/ehs/docs/understanding_cafos_nalboh.pdf

⁶ CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms. United States Environmental Protection Agency. Updated on March 12, 2018. Retrieved March 20, 2018. <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

⁷ Superfund: CERCLA Overview. United States Environmental Protection Agency. Updated on July 24, 2017. Retrieved March 20, 2018. <https://www.epa.gov/superfund/superfund-cercla-overview>

⁸ Hribar, Schultz

⁹ No. 09-1017, Waterkeeper Alliance, et al., Petitioners v. Environmental Protection Agency, Respondent, U.S. Poultry and Egg Association, et al., Intervenors. On Petitions for Review of Final Regulation Issued by the U.S. Environmental Protection Agency. United States Court of Appeals for the District of Columbia Circuit. Decided April 11, 2017. Retrieved March 20, 2018. [https://www.cadc.uscourts.gov/internet/opinions.nsf/2E91F70B0AF28BBE852580FF004E33FF/\\$file/09-1017-1670473.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/2E91F70B0AF28BBE852580FF004E33FF/$file/09-1017-1670473.pdf)

¹⁰ Ibid.

¹¹ CERCLA and EPCRA Reporting Requirements...