From:	Randy Deitz
To:	Lynn Beasley
Subject:	CERCLA / EPCRA farm related issues
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Attachments:	BILLS-112hr2997ih.pdf

Hi Lynn. The interest in exempting manure from the CERCLA definition of hazardous substance and pollutant or contaminant is back. There may be a hearing on HR 2997 (see attached bill). I did a fact sheet (see text below) to address the bill last fall (with your input). Does the final bullet regarding EPA revising our 2009 rulemaking need to be updated? Or any other of the bullets? Thanks.

- BILLS-112hr2997ih.pdf

EXEMPTING MANURE FROM THE CERCLA DEFINITION OF HAZARDOUS SUBSTANCE OR POLLUTANT AND CONTAMINANT (H.R.2997 – S.1729)

- EPA has never designated manure as a hazardous substance nor has the Agency ever designated a farm a Superfund site and has no plans to do so.

- Manure is not a hazardous substance. However, there are substances associated with manure, such as ammonia and hydrogen sulfide that are by definition hazardous substances, which can also damage human health and the environment.

- EPA addressed the burdens to farmers related to air release reporting. In December 2008, EPA issued a final rule "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms."

- The exemption became effective on January 20, 2009. The final rule exempts all farms that release hazardous substances from animal waste to the air from reporting under CERCLA section 103. The final rule also exempt**s** farms that release hazardous substances from animal waste to the air from reporting under the Emergency Planning and Community Right to Know Act (EPCRA) section 304 if they stable or confine *fewer* than the number of animal species of the large CAFO threshold as defined in Clean Water Act National Pollutant Discharge Elimination System (NPDES) program regulations.

- A farm owner or operator who falls under the large CAFO definition is required to report a release which exceeds the EPCRA reportable quantity threshold to state and local officials, but is generally not required to stop or reduce the release.

- The final rule does not limit any of the Agency's other authorities under CERCLA, EPCRA, or the Clean Air Act (CAA). Nor does it impact EPA's authority to respond to citizen complaints or requests for assistance from state or local government agencies to investigate and respond to releases of hazardous substances from farms.

- Some agricultural industry groups sued EPA in federal court over the 2008 final rule

as not providing broad enough reporting exemptions while certain environmental groups sued EPA for having provided any reporting exemptions.

- EPA petitioned the U.S. Court of Appeals for the D.C. Circuit for remand of the final rule. In October 2010 the court granted EPA's motion without imposing a rulemaking schedule. EPA told the court that we plan to propose a new rulemaking to revise the final rule to address issues raised by stakeholders. The rulemaking process will rely on information currently being analyzed from the National Air Emissions Monitoring Study (NAEMS).