From: Gerain Perry
To: Lynn Beasley; Richard Mattick
Subject: should the CERCLA Ag rule be marked as economically significant?
Date: 02/18/2011 12:33 PM

Or is the jury still out on it depending on what we do?
----- Forwarded by Gerain Perry/DC/USEPA/US on 02/18/2011 12:32 PM -----

From: Charlotte Bertrand/DC/USEPA/US
To: Gerain Perry/DC/USEPA/US@EPA
Cc: Stuart Miles-McLean/DC/USEPA/US@EPA
Date: 02/18/2011 12:16 PM
Subject: Re: Concur on this Reg Agenda Entry?

At one point the estimate for costs was huge. Are we sure that this will not be economically significant? Our economists have been pulled in b/c OSWER thought it would be.
Thank!

Charlotte Bertrand
U.S. Environmental Protection Agency
Office of the Administrator
Office of Policy
1200 Pennsylvania Ave., NW
Mail Code 1804A
Washington, D.C. 20460
phone: 202-564-8374
fax: 202-564-7322

▼ Gerain Perry---02/16/2011 08:55:10 AM-------- Forwarded by Gerain Perry/DC/USEPA/US on 02/16/2011 08:54 AM ----- REGULATORY AGENDA REVIEW

From: Gerain Perry/DC/USEPA/US
To: Erik Swenson/DC/USEPA/US@EPA, Charlotte Bertrand/DC/USEPA/US@EPA
Date: 02/16/2011 08:55 AM
Subject: Concur on this Reg Agenda Entry?

----- Forwarded by Gerain Perry/DC/USEPA/US on 02/16/2011 08:54 AM -----

REGULATORY AGENDA REVIEW FORM

Regulatory Comments:

	Current data from the Maintenance form
***1. Agency** - 2050	AAship:**OSWER** Office in AAship:**OEM** Division: SAN: **5484** Tier: **2**

2. RIN	2050-AG66
***3. Regulation Title**	CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms
***4. Workgroup Chair Name**	Lynn Beasley
5. Mail Code **City, State Zip**	City: State: Zip:
***6. Phone**	202-564-1965
7. TDD Phone	
8. Email	Beasley.Lynn@epamail.epa.gov
9. FAX	202-564-2625
10. 2nd Contact Name	
11. 2nd Contact Mail Code **2nd Contact City State Zip**	City:Washington State:DC Zip:20460
12. 2nd Contact Phone	
13. 2nd Contact TDD Phone	
14. 2nd Contact Email	
15. 2nd Contact FAX	
***16. Will this be included in the Regulatory Plan?**	The Regulatory Plan is published annually and includes descriptions of the Agency's most significant regulatory actions. These are actions that are considered "show piece" initiatives that embody the core of the Agency's regulatory priorities. Actions that appear in the plan are also referenced in the Agenda.
***17. OMB Priority**	Economically Significant (Major) - Includes actions that will have an annual effect on the

Category	economy of at least $100 million or will adversely affect a sector of the economy in a material way, i.e. productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Other Significant - Includes actions that the Agency anticipates would create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients; or raise novel legal or policy issues arising out of legal mandates, Presidential priorities, or the principles set forth in E.O. 12866. Substantive but Nonsignificant - Includes actions that have substantive impacts, but do not fit into the categories of Significant, Routine and Frequent, or Informational or Administrative. Under EO 12866 OMB is entitled to review substantive but non significant actions but they have chosen, or are expected to choose not to. Items that OMB is not entitled to review belong in the Informational or Administrative category. Routine and Frequent - Includes actions that have explicitly been designated by OMB for the Agenda as specific cases of a multiple recurring application of a regulatory program in the Code of Federal Regulations that does not alter the body of the regulation. (Note: If an individual rulemaking that normally falls into a routine and frequent category is submitted to OMB for review, we should classify the rulemaking as "economically significant", "other significant", or "substantive but non-significant".) Informational / Administrative - Includes actions that are primarily informational, or pertain to Agency matters not central to accomplishing the Agency's regulatory mandate, which the Agency places in the Agenda to inform the public of the activity.

18. North American Industrial Classification System: NAICS Codes Modify Codes

	NAICS Code	NAICS Description of the Affected Industrial Sectors
01.	112	Animal Production

NAICS codes are used to classify all economic units (businesses, governments, and nonprofit organizations) that produce goods and services. EPA includes the codes in the Regulatory Agenda to help people find the rules they are interested in. Nearly 1200 codes were assigned in 2002. The codes are reviewed every five years so they can keep current with changes in the economy and revisions will be proposed in early 2009. To the extent feasible, EPA uses NAICS codes to help identify the regulated parties and includes this information in a table in the first part of the preamble. [NOTE: After the Preamble Wizard is operational we can add "The NAICS codes that you insert here will be picked up by the Preamble Wizard so that you do not have to re-type them when you draft the preamble."] There is no limit to the number of codes that can be listed.

The Census Bureau in the Department of Commerce maintains a number of useful tools for finding the correct codes. You can use the search feature at **www.census.gov/naics**. In the 'NAICS Search' box on the left side of that page, enter a keyword that describes the regulated entity. A list of primary business activities containing that keyword and the corresponding NAICS codes will appear. Choose the one that most closely corresponds to your primary business activity, or refine your search to obtain other choices. Rather than searching through a list of primary business activities you may also view the

complete 2002 NAICS structure with codes and titles at **www.census.gov/epcd/naics02/naicod02.htm**. Click on the codes to see the corresponding definition, cross-reference, and index item.

19. Regulatory Flexibility Act	as amended by the small business Regulatory Enforcement Fairness Act
19a. Is this action likely to have **any** impact (positive or negative) on **any** small entities?	If yes, check the boxes for the specified entities. If no, please check that no small entities are affected. Undetermined may be selected if the action is not in the final rule stage.
19b. Is the action likely to have any **adverse** economic impact on small entities? (RFA - Effects on Small Entities)	If yes, check the boxes for the specified entities. If no, check that no small entities are affected.
*19c. Is this action likely to have a **significant adverse economic impact on a substantial number of small entities (SISNOSE)** as defined in the Regulatory Flexibility Act (RFA)?	
***20. Government Levels** Are any levels of Government affected?	Check all the types of government that are applicable to your action. Undetermined may be selected if the action is not in the final rule stage.

If you checked one or more levels of government above, describe how each of the following levels of government are likely to be impacted – **Select one choice in each cell:**

	Federal Agencies	State Government	Local Government	Tribal Government	**Small Government**
Likely to be involved in the implementation of this action					
Likely to be regulated by this action					

***21. Federalism** Is this action likely to have "federalism implications" as defined in E.O. 13132?	For additional information concerning this question, go to -->> **http://intranet.epa.gov/adplibrary/statutes.htm#federalism**
***22. Unfunded Mandates** 22a. Is this action subject to	For additional information concerning this question, go to -->> **http://intranet.epa.gov/adplibrary/statutes.htm#umra**

Section 202 of the Unfunded Mandates Reform Act (UMRA)?	
22b. If your action is subject to Section 202 of UMRA, please check which category or categories are affected.	

23.

* **Potential Effects**	Note: If you select "TBD" for any of the questions in this section, you need to be sure to address them in your Analytic Blueprint and review your "TBD" answers in RAPIDS as you gather new information. Remember it is important to consider transparency and meaningful participation of entities that may be interested in this action.	
Human Health	Will this action address/ concern human health impacts? (If you answer "Yes," a comment is required.) **Comments**:	
Childrens' Health	Is this action likely to address an adverse impact on **childhood lifestages** including prenatal (via exposure to women of childbearing age)? (If you answer "Yes," a comment is required.) **Comments**:	
	If yes, are these potential adverse impacts due to exposure and/or toxicity? • Exposure – children and/or women of childbearing age are more likely to be highly exposed than other lifestages. • Toxicity – the developing fetus, infants, and/ or children are more likely to have an adverse response than adult lifestages. **Comments**:	Check all that apply
Environmental Justice	Does this action involve a topic that is likely to be of particular interest to or have particular impact upon minority, low-income, or indigenous populations, or tribes? Selecting **No** means that this action is not likely to be of any particular interest to these populations or tribes. Selecting **TBD** means that, given the information available at this time, the Agency does not know if these populations or tribes will be particularly interested in this action. **Comments**: **If you answered 'yes' to the previous question,** please check a minimum of one of the following options:	

	The action is likely to impact the health of these populations.
	The action is likely to impact the environmental conditions of these populations.
	The action is likely to present an opportunity to address an existing

	disproportionate impact on these populations.
	The action is likely to result in the collection of information or data that could be used to assess potential impacts on the health or environmental conditions of these populations or tribes.
	The action is likely to affect the availability of information to these populations or tribes.
	Other reasons Explain:

24. Energy Impacts Is the action likely to have any significant effect on the supply, distribution, or use of energy as defined in Executive Order 13211?	For additional information concerning this question, go to -->> **http://intranet.epa.gov/adplibrary/statutes.htm#energy**
25. International Impacts Will this regulatory action be likely to have international trade and investment effects, or otherwise be of international interest?	
***26. Congressional Review Act (CRA) under SBREFA** Is this action Major under CRA?	A "major rule" is a rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in: -an annual effect on the economy of $100 million or more; -a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or -significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Note: A rule can be a a significant regulatory action under E.O. 12866 without being considered a major rule under the CRA. For more information on the CRA, please visit http://intranet.epa.gov/adplibrary/statutes.htm#cra.
***27. CFR** **Look up CFR's**	40 CFR 302; 40 CFR 355 (limited to 400 characters currently **22** characters) Separate CFR entries with returns Do not create blank spaces at the end of the entries. Provide the citation(s) to the CFR section(s) which are affected or will be affected by this action or policy. Do not cite to the level of the chapter or subchapter and do not include the words "Part" or "Section" in your citation. If you wish to indicate "new" or "revision," do so in parentheses after the citation(s). For Example: To Cite: Write the Following: 12 CFR section 120.2(d)(4) 12 CFR 120.2(d)(4) 42 CFR parts 121-135 42 CFR 121 to 135 Revision to 42 CFR 121 42 CFR 121 (Revision) Not yet determined 00 CFR NYD None 00 CFR None (If unknown, use 00 CFR NYD, if not applicable, use 00 CFR None)
***28. Legal Authority**	42 USC 9603; 42 USC 11004 (limited to 400 characters currently **25** characters)

Look up Laws	Separate Law entries with returns Do not create blank spaces at the end of the entries. Provide the citation for legal authority that authorizes the regulatory action. Use the United States Code (USC) citations whenever possible. If a law is not yet codified, use only the Public Law citation. You may also use Executive Order citations. Drop all periods from your citations. For Example: To Cite: Write the Following: 12 U.S.C. 1701 et seq. 12 USC 1701 et seq 15 U.S.C. 78(c)-(hh) 15 USC 78(c) to 78(hh) 20 U.S.C. 1411-1420 20 USC 1411-1420 Public Law 91-190, section 203 PL 91-190, sec 203 Executive Order 12866 E.O. 12866 (If unknown, use Not Yet Determined)
***29. Abstract**	On December 18, 2008, EPA published a Final Rule, "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms (73 FR 76948) ("the Final Rule"). The Final Rule established exemptions from certain reporting requirements under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and the Emergency Planning and Community Right to Know Act (EPCRA). On January 15, 2009, Waterkeeper Alliance, Sierra Club, the Humane Society of the United States, Environmental Integrity Project, the Center for Food Safety, and Citizens for Pennsylvania's Future (collectively, "Waterkeeper") filed a Petition for Review of the Final Rule. The petition challenged the exemptions under both CERCLA and EPCRA. On March 17, 2009, the National Pork Producers Council filed its Petition for Review challenging a portion of the Final Rule that amended the EPCRA regulations. The two cases were consolidated. On February 11, 2009, the National Chicken Council, National Turkey Federation, and U.S. Poultry & Egg Association moved to intervene on behalf of EPA to assert their interests in the Final Rule. Since August 25, 2009, this case has been held in abeyance so that the Parties could participate in the D.C. Circuit Mediation Program. The mediation process did not resolve the issues raised by all of the Parties, but it did raise issues warranting reconsideration of the final rule by EPA. As such, EPA sought and received a voluntary remand, without vacature of the Final Rule during the reevaluation period. The abstract should provide a description of the problem the regulation will address; the need for a Federal solution; and to the extent available, alternatives that the agency is considering to address the problem. Identify who will be regulated. Avoid using regulatory and statutory citations, undefined acronyms (this even includes NAAQS and NESHAP), abbreviations, and language that the public will not understand. Write your abstract in plain English. You will be able to re-use all or parts of a well-written abstract often during the rulemaking. You can move an abstract back and forth between RAPIDS and MS Word by highlighting the abstract with the cursor, opening "Edit" at the top of the screen and selecting "Copy." You may use returns for normal paragraph breaks. (Limited to 4000 characters, currently **1580** characters)
***30. Regulatory Plan entries**	do not appear in the Spring Regulatory Agenda. To view these sections during the Spring go to the regular Comprehensive Data Form under the Regulatory Plan data. You can access the form by pressing the "Reg Details" button above. At least one of the following Regulatory Plan entries must be completed.

31. Legal and Statutory Deadlines

Judicial NPRM:	**Desc.** (limited to 130 characters- currently **0** characters)
Statutory NPRM	**Desc.** (limited to 130 characters- currently **0** characters)
Judicial Final:	**Desc.** (limited to 130 characters- currently **0** characters)
Statutory Final:	**Desc.** (limited to 130 characters- currently **0** characters)
Judicial Other:	**Desc.** (limited to 130 characters- currently **0** characters)
Other:	**Desc**. (limited to 130 characters- currently **0** characters)

*32. Timetable (Listing of Timetable Entry forms)

Timetable -Reg Agenda **Double-click on a stage name below to edit the stage's info** **+ Add new stage** **× Delete existing stage**

To Reorder: **edit an entry below and type a different number in the sort order field at the top of the form**

***33. Reg Agenda Stage**	(Please indicate the current stage of the rulemaking. For example, if the comment period on the NPRM has ended, select "FINAL" rule stage. "PRERULE" should only be selected you plan to publish an ANPRM in the FR. If "COMPLETED" has been selected, you should have corresponding information in the timetable, e.g. either a Final FR publication date, or a date of withdrawal. Please specify the date completed here:
34. SAN	5484
35. Additional Info	
36. EPA Online URL (If there are actual FR dates published after 2005). **Update URL Display**	(limited to 132 characters currently **0** characters) (To edit this URL use the Timetable entry form)
37. URL for more information about the program	(Editable-enter only one URL at a time) (limited to 132 characters currently **0** characters)
***38.**	EPA-HQ-SFUND-2007-0469

Docket number: (Required for Final or Completed actions)	If you have an action that is in the final stage (NPRM has been published) or is completed, you must provide the docket number. If you have not opened a docket for your action, it is encouraged that you open your docket early. Please go to **http://intranet.epa.gov/fdmsinfo/forms.html** for the appropriate docket request form. Your docket number should be in the following format: EPA-[HQ or R##]-[(Program Office)-XXXX]-200X-XXXX. Examples include: EPA-HQ-OW-2005-0001; EPA-HQ-OAR-2005-001; EPA-R02-OARM-2005-0001; EPA-HQ-SFUND-2005-0001. Please note that OSWER docket numbers use program specific identifiers, such as SFUND, RCRA, OPA, etc.
***40. Subject Code** (User Sort Code)	60CERCLA The Agenda is organized first by program, then by stage of the action (which is drawn from question 35) and then by statutory authority. The subject code groups similar program actions in the same part of the Agenda.
41. Secondary Sort Code	302 The second level code (used to sort RINs within the statutory authority; see question 38a) is the main authorizing section of the statute (e.g. If a rule were authorized by section 111 of the Clean Air Act, the secondary sort code would be CAA111).
42. OPEI Contact (Optional. Use the button below to search the EPA's address book for the name of your OPEI contact.) **Look up OPEI contact**	Name: Charlotte Bertrand Mail Code: Phone: Email: Comments: Date Reviewed:
43. OGC Contact (Optional. Use the button below to search the EPA's address book for the name of your OGC contact.) **Look up OGC contact**	Name: Erik Swenson Mail Code: Phone: Email: Comments: Date Reviewed:

Update of Reg Agenda form completed 02/16/2011 08:53:35 AM

Name of person updating this form:

Program Office Approval

Regulatory Agenda form approved by Program Office:

Program Office Approver:

AAship (RSC) Approval

Date Regulatory Agenda form approved by AAship:

AAship Approver:

Approve Reg Agenda Data

Date RMD approved for sending to Regulatory Agenda:

RMD Approver:

Gerain Perry-02/16/2011 08:54:16 AM
Gerain Perry-08/26/2010 07:31:12 AM
Gerain Perry-08/26/2010 07:30:22 AM