

AIR POLLUTION

White House mulls exemption for farms on manure emissions

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EPA is nearing its final rule on air emissions from manure. ratsbeyfus/Flickr

The Trump administration is in the final stage of writing rules to exempt farms from reporting air emissions from manure — but the issue may be far from settled.

EPA's regulations are under review at the White House Office of Management and Budget, where officials met last week with the National Pork Producers Council, one of the farm groups pressing for the exemption, the administration reported. EPA has said it aims to publish a final rule this month, setting the stage for legal challenges from environmental groups.

The administration proposed to exempt livestock operations from reporting air emissions under the Emergency Planning and Community Right-to-Know Act, or EPCRA, following last year's passage in Congress of legislation exempting farms from reporting under a related but separate law.

The interaction of the two laws — the second being the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) — is in the background as officials try to balance environmental risks with routine farm practices such as manure storage and spreading. The primary air pollutant from manure is ammonia.

EPA also plans to set definitions of "farm" and "animal waste" in the EPCRA regulations.

Any effort by EPA to exempt farms from the reporting requirements risks legal challenge, said Kelly Foster, a lawyer with the Waterkeeper Alliance, which has sued EPA in the past over agricultural exemptions. The group, along with others, won a decision in federal court in 2017 throwing out an exemption dating back to the George W. Bush administration.

That court decision led Congress to pass an exemption on its own, which in turn led to EPA crafting the regulations.

Foster and others working on the issue told E&E News they expect final regulations to look much like what EPA proposed for public comment last December. The agency said its proposal is a response to provisions in the fiscal 2018 omnibus appropriations act.

That legislation included a bill called the "Fair Agricultural Reporting Method Act," which exempted farms from reporting under CERCLA. Because CERCLA and EPCRA work together, EPA said, the new regulations would keep them consistent with each other.

"It seemed pretty clear-cut," said Scott Yager, chief environmental counsel at the National Cattlemen's Beef Association.

If EPA doesn't put the regulations in place, Yager said, farms of all sizes could become subject to the reporting requirement.

Reporting ammonia emissions on a farm is an inexact science. Typically, farms use a worksheet based on the number of animals and what would be expected from various types of animal waste, Yager said.

Livestock groups say the environmental laws in question were intended to address toxic waste sites, not farms. But environmentalists say ammonia emissions from manure are dangerous to breathe at certain concentrations and often find a way into waterways, posing a public health threat. That's been at issue in North Carolina, with its concentration of large hog and poultry operations, but isn't confined to that region, Foster said.

"That's a really huge problem in a lot of areas," she said.

Officials aren't proposing changes to regulations dealing with other types of releases from manure, such as breaches of manure lagoons, EPA said. Those types of incidents could still be subject to the laws, the agency said.

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