

United States Senate

WASHINGTON, DC 20510

December 21, 2017

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Administrator Pruitt:

We are a bipartisan group of Senators representing states where poultry farming is a key part of the economy. We are writing to share our constituents' serious questions and concerns about recent guidance promulgated by the Environmental Protection Agency (EPA). This guidance seeks to implement an April 2017 ruling by the U.S. Court of Appeals for the District of Columbia (*Waterkeeper Alliance v. EPA*) regarding the duty of livestock producers to report air emissions from their facilities under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In our view, this guidance is woefully inadequate and unclear; the EPA must take immediate action to clarify the types of farming operations to which it applies and to simplify the reporting procedure for any farms that must use it.

On April 11, 2017, the D.C. Circuit Court vacated a 2008 EPA rule that exempted most farms from certain release reporting requirements under two statutes, CERCLA and the Emergency Planning and Community Right to Know Act. Following two requests from the Administration, the D.C. Circuit Court extended the effective date of its decision to January 22, 2018.^[1]

With five weeks remaining before the new effective date, farmers in our states are asking us urgent questions and raising serious concerns about the applicability of the new reporting requirements and the recently issued guidance. Some are unaware of the guidance that your agency has already prepared, while others are frankly stating that they find it to be unclear and unhelpful. Many have expressed frustration trying to navigate a new process with which they have previously had no experience. Quite simply, our constituents deserve better. The EPA must take additional efforts to communicate with farmers on this matter including how to identify, measure, or calculate emissions to determine whether an operation is subject to reporting requirements.

With these concerns in mind, we ask that you review and respond to the following questions, and that you brief our offices on the matter within the next three weeks:

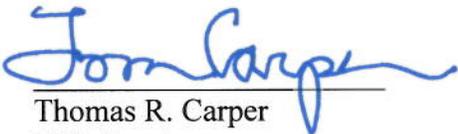
[1] <https://www.epa.gov/newsreleases/dc-circuit-court-grants-trump-epa-request-extend-deadline-farmers-report-emissions>

1. How are you working with farmers and others in the regulated community to help them identify whether they are subject to any new reporting requirements? In light of the D.C. Circuit's ruling more than eight months ago, do you expect to take any further administrative action to clarify the size or levels of emissions produced by farming operations that might be covered by these requirements? Do you anticipate further requesting a delay in the compliance deadline in order to do so?
2. What other federal, state, and local partners are you working with to assist farmers in understanding any new reporting obligations? How are you working with the United States Department of Agriculture in this regard?
3. As we mentioned, some of our constituents have expressed to us that the current reporting process and methodology is confusing. What steps are you taking to simplify your guidance and streamline the reporting process?
4. For farmers who may have limited access to the internet, what steps are you taking to assist these individuals in meeting any new reporting requirements? For those that do have such access, what steps are your taking to simplify reporting?

Our farmers care deeply about the environment and pride themselves on being good stewards of their land. We look forward to working with you to ensure that they have the resources they need to adequately understand and determine if they must comply with the EPA's requirements, and we await your prompt response to our information and briefing requests.

For any questions regarding this request, please contact Brian Papp with Senator Carper at 202-224-5042, Leah Rubin Shen with Senator Coons at 202-224-2441, or Jack Overstreet with Senator Isakson at 202-224-3643.

Sincerely,



Thomas R. Carper
U.S. Senator



Christopher A. Coons
U.S. Senator

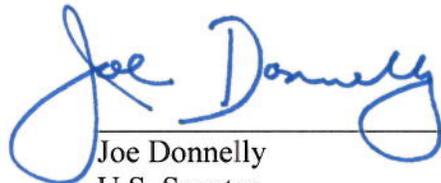


Johnny Isakson
U.S. Senator



David A. Perdue
U.S. Senator


Benjamin L. Cardin
U.S. Senator


Joe Donnelly
U.S. Senator


Chris Van Hollen
U.S. Senator


Joni K. Ernst
U.S. Senator


Mark R. Warner
U.S. Senator


Roger F. Wicker
U.S. Senator


Tim Kaine
U.S. Senator

CC: The Honorable Sonny Perdue
Secretary
United States Department of Agriculture