

December 20, 2024

The Honorable Michael S. Regan
Administrator
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

National Air Emissions Monitoring Study Group
Office of Air Quality Planning and Standards
United States Environmental Protection Agency
109 T.W. Alexander Drive
Research Triangle Park, NC 27709

Submitted electronically to NAEMS@epa.gov

Dear Administrator Reagan and NAEMS Research Group:

On behalf of the undersigned organizations representing swine, dairy, poultry and egg producers across the United States, and the several thousand signatories to the Air Consent Agreements, we are writing to request a 180-day extension of time, until at least August 15, 2025, to provide meaningful comment on the draft AP-42, Chapter 9, Section 4 and Air Emissions Estimating Methods for Animal Feed Operations (“EEMs”), which were released for public comment by the United States Environmental Protection Agency (“EPA”) on November 14, 2024.

The additional time is necessary for livestock and poultry producers to study, function test and understand the newly revised modeling that EPA recently released. Following the initial release of earlier draft models in 2021, it took participants in the Air Consent Agreements nearly 2 and ½ years to test and understand the operation of the models, to identify multiple critical failure points in the operations of those models, and to draft research papers explaining these concerns.

With EPA’s recent release of these newly updated models, EPA staff have indicated a number of changes were made to the models necessitating new testing and study on the part of the industry. Unfortunately, those changes are not immediately evident in the newly released documents. In addition to the extension of time, we request that EPA staff work with industry researchers to understand the precise changes made in order to help expedite further review and development of meaningful comments and input to the Agency.

Further, it is our understanding that when completed, in addition to the EEMs, that EPA intends to also release a farmer-facing emissions estimating webtool that will rely on the models for the information it generates. We request that EPA provide access to that webtool and the ability to fully “beta test” it in order to understand its capabilities, operation and accuracy. That testing, and the opportunity to provide comment on it, should be allowed to happen during the comment period of the draft EEMs.

Finally, as we look to evaluate the models, we are disappointed in the failure of the EPA's Office of Enforcement and Compliance Assurance ("OECA") to adequately respond to the multiple concerns we have raised regarding the legal obligations livestock farmers will face once the EEMs are finalized. In light of the significant, nearly 20-year passage of time since those agreements were signed, fundamental notions of due process demand that the process not be completed until there is a clear understanding of the obligations farmers will face.

On April 8, 2024, representatives of the undersigned organizations met with EPA staff, including a staff member from OECA. At that meeting, the parties discussed the numerous questions that livestock farmers have raised regarding EPA's plans to finalize and implement the EEMs, as well as how EPA intends to provide notice to the farmers and other parties who will face rapid deadlines for action under the nearly 20-year old Air Consent Agreements. EPA staff were not prepared to answer the questions of the signatory representatives during the meeting, and instead, asked that the signatory representatives follow up with questions in writing. The signatory representatives did as requested and provided the communication to EPA (attached) on May 3, 2024. That communication raised over 30 different questions covering the logistics of EPA's rollout process, EPA's outreach plans to signatories, and the substance of the Air Consent Agreements and the obligations under them.

While waiting for a response from OECA, representatives from the pork industry, including a number of farmers, followed up and met in person with EPA Headquarters staff on September 10, 2024, to raise the same concerns again. At that meeting, the pork producers made clear that a response from OECA to the posed questions was integral to informing responses to the draft EEMs. On September 24, 2024, a response to those questions finally arrived, but it was completely inadequate, and does not, on its face, appear to have been the product of either OECA or the EPA's General Counsel's Office, and simply cannot be relied upon in any manner.

Finally, last week the National Pork Producers Council Environmental Policy Committee, made up of pork producers, technical experts and research scientists, met in Research Triangle Park with representatives of the NAEMS Research Group in EPA's Office of Air Quality Planning Standards ("OAQP"). In a discussion regarding the EEM's and timing, OAQPs made clear that many of the questions would need to be answered by OECA.

We strongly urge EPA to respond to the 30 questions raised in our May 3, 2024 communication prior to the close of the comment period so that we can understand EPA's position with regard to those questions and provide comments on them as well.

We request this reasonable extension of time to allow for a better understanding of the science and the long-delayed models that EPA will rely on, and to understand both the plans for EPA's implementation and release of these models, as well as the significant legal liability their final publication will trigger. While livestock farmers remain eager for this process to conclude, a slight additional delay to ensure the modeling and science does not suffer from serious defects is essential to seeing the process through to completion.

We thank you for your time and consideration. As long partners in this process, we truly value the hard and difficult work that EPA staff are undertaking on this project and look forward to continuing to work constructively and cooperatively with the Agency and its staff.

If you have any questions, please do not hesitate to contact Michael Formica, National Pork Producers Council, at 202-347-3600 or by email at formicam@nppc.org.

Sincerely,

American Farm Bureau Federation
National Milk Producers Federation
National Pork Producers Council
United Egg Producers
U.S. Poultry & Egg Association

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