



risk assessment was done in the late 1980s and 1990s and “there was no need to regulate.”

Slaughter equated recent concerns about PFAS in biosolids to dioxin fears in the 1990s with EPA deciding in 2001 not regulate because of the low risk from exposure to dioxin in biosolids.

“There are also other exemptions under CERCLA that should protect land application of biosolids,” Slaughter said.

“There's an exemption to liability for federally permitted release[s], either under [a national pollutant discharge elimination system (NPDES)] permit, or the 503 regulations.” Slaughter said EPA's 503 rule designates land application of biosolids as “nationwide federally regulated” through the use of NPDES permits.

Therefore, “it should qualify as a federally permitted release that is not subject to CERCLA liability,” according to Slaughter.

“Finally, CERCLA is usually designated for old industrial sites, sites that need to be cleaned up for future use, such as residential housing or brownfields development, to put a site back into commercial use, and we've never seen rural agricultural areas be much of a focus of CERCLA regulation either at the state or the federal level,” Slaughter noted in arguing the Superfund program is not likely to refocus on agricultural sites because of EPA's listing of PFOA and PFOS.

“But again, it's something we need to keep an eye on,” he added.

EPA's issuance of the proposed rule is expected just days after the Office of Management and Budget (OMB) designated the plan as “economically significant” and required the agency to provide a detailed look at the plan's potential direct and indirect costs and benefits.

OMB's designation of the upcoming rule prompted some industry sources to predict that its highly anticipated release might be delayed.

But Slaughter rejected such notions, telling WEF members that OMB's requested cost review will be just a “bump in the road” since EPA appears determined to move quickly on its proposed listing of PFOA and PFOS under Superfund.

“EPA is determined to designate PFAS as a CERCLA hazardous substance [and] they are already at work on what you know, frankly, may be a fairly lowball estimate of what the cost” of the designation will be. “And it's not expected to be a significant deterrent to the designation of PFAS,” he said, adding chemical manufacturers and others will definitely file lawsuits challenging the rule. — *Rick Weber* ([rweber@iwpnews.com](mailto:rweber@iwpnews.com))

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