



Attention farm owners and operators: new air reporting requirements will (likely) go into effect this week!

By Dana Stanton, Elaine Enfonde and Alison Torbitt

As of November 15, many farm owners and operators will have to report to the U.S. Environmental Protection Agency (EPA) the “hazardous” air emissions from their farms. Previously, farm owners and operators were exempt from hazardous substance release reporting requirements. However, earlier this year, a federal court struck down the exemption, setting a deadline of November 15, 2017, for farm owners and operators to begin reporting releases of hazardous substances, although it is still possible that deadline may be extended.

Briefly, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right to Know Act (EPCRA) require facilities to report releases of hazardous substances that are equal to or greater than their reportable quantities (RQ) within any 24-hour period. Under a 2008 rule, farms releasing hazardous substances from animal waste to the air above RQ were exempted from reporting under CERCLA and, for EPCRA, were exempted for all but large concentrated animal feeding operations (CAFOs). Based on an April 11, 2017 DC Circuit Court ruling, that rule was struck down and, therefore, effective November 15, 2017, these reporting requirements are applicable to releases of hazardous substances from animal wastes, including the most common: ammonia and hydrogen sulfide, that are equal to or exceed the RQ. The RQ for both ammonia and hydrogen sulfide is 100 pounds in a 24-hour period. So, if a farm releases 100 pounds or more ammonia or hydrogen sulfide in a 24-hour period, the farmer must notify EPA. The most common farms emitting above this RQ are sizeable beef, dairy, horse, swine and poultry operations.

At this time, there are a few exceptions. Farm owners and operators in compliance with their Animal Feeding Operation Air Compliance Agreement (70 FR 4958) are not expected to report air releases under CERCLA and EPCRA. Also, air emissions from the normal application of fertilizer do not have to be reported, but any spills or accidents involving these substances in a quantity over the RQ must be immediately reported to the NRC under CERCLA section 103.

To help farm owners and operators estimate how much ammonia and hydrogen sulfide is released from animal waste at their farms, EPA issued guidance for farm owners and operators on October 26, 2017, which can be viewed [here](#). The EPA guidance includes worksheets and examples to help

farm owners and operators calculate the releases. The number of animals, the species, how the animals are housed and how the waste is managed are all factors that complicate the analysis, leading some farm owners and operators to consider hiring a consultant.

If the emissions meet or exceed the reportable quantity, the farm owner or operator must call the EPA's National Response Center (NRC) at 1-800-424-8802 to report the releases. For continuous releases, that initial call must be followed up by mailing a written notification to the EPA Regional Office and then on the one-year anniversary of the initial notification, sending a second follow-up written notification. For those seeking to expedite their initial continuous release notification or for those that own or operate multiple farms, EPA has authorized a temporary e-mail option to NRC-CERCLA-EPCRA-REPORT@uscg.mil with "initial continuous release notification" as the subject line. For one-time or irregular releases over the RQ, farm owners and operators should notify the NRC immediately following each release.

If you have a large or mid-sized farm, the time is now to assess your farm's air emissions using the guidance linked above or a consultant, and find out if you need to report.

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