
CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

Overview

Two environmental laws, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA), require reporting releases of a hazardous substance that exceeds a reportable quantity within a 24-hour period. The purpose of the notification is for federal, state, and local officials to evaluate the need for an emergency response to mitigate the effects of the release to the community.

Due to a recent court decision, some farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under CERCLA.

Why do I need to report?

Previously, EPA exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only large concentrated animal feeding operations (CAFOs) were subject to EPCRA reporting, which is a separate but related law.

Citizen groups challenged the validity of EPA's rule, and the U.S. Court of Appeals for the DC Circuit struck down EPA's rule on April 11, 2017. Therefore, EPA's regulatory exemption no longer applies.

As a result of the Court decision, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions as early as May 1, 2018.

When do I need to report?

Farms do not have to report until the Court issues its mandate, which is expected as early as May 1, 2018.

Do I need to submit a CERCLA report?

Reporting is required when releases of hazardous substances (like ammonia or hydrogen sulfide) from animal waste meet or exceed their reportable quantities within a 24-hour period. For a complete list of CERCLA hazardous substances, please see the Resources link at: www.epa.gov/animalwaste.

What substances need to be reported?

Ammonia (NH₃) and hydrogen sulfide (H₂S) are common hazardous substances emitted from animal waste that require reporting if released to the air in amounts greater than or equal to their reportable quantity of 100 lbs within a 24-hour period. If a farm releases any other hazardous substances above their designated reportable quantities within a 24-hour period, those need to be reported as well.

How do I estimate releases?

To help you comply with the reporting requirements, EPA has made resources available on its website that may be helpful in estimating emissions. You may also use other models for estimating emissions or you may estimate quantities of releases by relying on:

- Past release data;
- Engineering estimates;
- Your knowledge of the facility's operations and release history; or
- Your best professional judgment.

Why Can't EPA Tell Me How Many Animals Require Reporting?

EPA recognizes it will be challenging for farmers to estimate releases because there is no generally accepted methodology for estimating these emissions at this time.

Many factors influence emissions:

- geographic location;
- environmental conditions;
- management practices (e.g. feed, manure);
- animal characteristics (e.g. number, species, life stage);
- operating conditions; and
- general management practices.

Due to the complex interactions of these factors, emissions cannot be standardized based solely on the number and type of animals at each animal operation. For example, there are many scenarios when operations with fewer animals will have higher emissions than operations with greater numbers of the same species of animals.

EPA is working on developing methodologies to estimate emissions from a wide variety of operations and thus better inform emission estimates from animal waste. However, that work will not be completed prior to the Court's mandate that farms report.

Facility owners and operators are required to report an estimate only—monitoring data is not required. Additionally, farmers are not required to reduce emissions. Farmers should keep a copy of the calculation for future reference. For more information, please see the Resources link at: www.epa.gov/animalwaste.

How do I report for CERCLA?

To comply with CERCLA reporting requirements for air releases of hazardous substances from animal waste, instead of reporting every day, farms may follow a streamlined reporting process known as “continuous release reporting.” This requires the facility owner or operator to follow the steps outlined in the column to the right.

How often do I need to estimate emissions?

If you use the continuous release reporting process, you need to review emissions from the farm once a year. You should also estimate emissions following any significant changes in operations that may result in statistically significant increases in emissions. You’ll also need to report any statistically significant increases in emissions.

Do I need to submit an EPCRA report?

EPA interprets the statute to exclude farms that use substances in “routine agricultural operations” from reporting under EPCRA section 304. This encompasses routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture. For more information, see: www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal.

Do farms that have animals that reside primarily outside of an enclosed structure and graze on pastures, need to comply with reporting releases of hazardous substances from animal wastes under CERCLA?

Yes, if the facility has releases above the reportable quantity. EPA considers all contiguous property under common ownership to be a single facility for reporting purposes. For purposes of determining whether you have a reportable release, a person must identify all of the sources of hazardous substances releases, identify the quantities that are emitted from each source, and add up the quantities released for the facility. In making this determination, farms should include all releases from the facility, including releases from animal waste due to animals that reside primarily outside of an enclosed structure.

Additional Resources

- Email comments or suggestions on guidance materials to: CERCLA103.guidance@epa.gov
- Regional Contacts: www.epa.gov/epcra/cr-erns-regional-contacts
- Continuous Release Reporting Forms: www.epa.gov/animalwaste
- National Response Center: 800-424-8802 or farms@uscg.mil

Questions?

- See the CERCLA and EPCRA guidance for more information: www.epa.gov/animalwaste
- Call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346

CERCLA Continuous Release Reporting Process

Step 1: Provide the National Response Center (NRC) with an initial continuous release notification by email (farms@uscg.mil) or by phone (1-800-424-8802). An owner or operator can send one email notification for multiple farms.

Your email should identify that this is an initial continuous release notification and include:

- Name of the farm
- Location of the farm (e.g., name of city/town and state)
- Name(s) of the hazardous substance(s) released (ammonia and/or hydrogen sulfide)

Note: The NRC does not require personally identifiable information, such as an address for a private residence. A generic location (name of city/town and state) may be sufficient.

You will receive an email from the NRC with a single identification number (CR-ERNS) for your farms(s). Include the CR-ERNS number on the follow-up report discussed in Step 2.

Step 2: Within 30 days of the NRC notification, submit an initial written notification to the EPA Regional Office for the area where the release occurs (see www.epa.gov/epcra/cr-erns-regional-contacts). Use the Continuous Release Reporting Form.

Step 3: Submit a one-time first anniversary follow-up report to the EPA Regional Office.

If there are significant changes at your operation that could result in a change in emissions, additional reporting may be necessary.