



# CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms

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Covers for Manure Storages: Workshop and Field Day  
October 29, 2009  
Goodwins and Miedema Dairy Farm  
Circleville, OH  
Lynn M. Beasley, U.S. EPA



# Overview

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- CERCLA/EPCRA Reporting Basics
- Summary of Significant Rule Provisions
- Key Issues Associated with Rule Development
- Post Rule



# CERCLA/EPCRA Reporting Basics

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- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
  - CERCLA section 103 Notification Requirements
    - Episodic Reporting
    - Continuous Release Reporting
- Emergency Planning and Community Right to Know Act (EPCRA)
  - EPCRA section 304 Emergency Reporting Requirements
    - Emergency Reporting
    - Continuous Release Reporting
  - EPCRA section 324 Public Availability of Plans, Data Sheets, Forms, and Followup Notices
    - Followup emergency notice submitted under EPCRA section 304(c) is to be made publicly available.
- Exemptions and Exclusions



# Summary of Significant Rule Provisions

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- The final rule was published on December 18, 2008, and became effective on January 20, 2009.
  - Final rule is a balance between the unlikelihood that the Federal government would respond to CERCLA notifications and comments from those who are concerned with releases of hazardous substances from such farming operations, particularly larger farming operations.
  - Exempts all farms from the notification requirements of CERCLA section 103 for releases of hazardous substances from animal waste to the air.
    - Notification to the National Response Center (NRC) when a reportable quantity (RQ) or more is released from a facility into the environment.
  - Provides a limited EPCRA reporting exemption for releases of hazardous substances from animal waste into the air at farms that have animals which are stabled or confined (e.g., barns or feedlots) in numbers below those for a large concentrated animal feeding operation (CAFO), as adopted from the NPDES program regulations.
    - Farms that exceed the threshold number of animals for a large CAFO will still be required to report under EPCRA 304, and state and local authorities will receive reports and communities will have access to information about releases.



# Summary of Significant Rule Provisions (Cont.)

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- The rationale for the rule was based on the purpose of notifying the NRC, SERCs and LEPCs when a hazardous substance is released—the unlikelihood that a response to that release would be taken by any government agency.
- The final rule does not create any new reporting requirements under CERCLA and EPCRA, and the exemption did not apply to other sources at farms (e.g., tanks) or releases from animal waste to other media.
- Enforcement
  - Does not prevent the Agency from enforcing any of the CERCLA liability provisions, nor any other statutory authorities.
  - Does not prevent the federal government from taking a response to the release.
  - State or local governments could request federal assistance in any necessary response.



# Key Issues Associated with Rule Development

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- EPA
  - Federal on-scene coordinators are unlikely to respond to notifications from farms to the NRC.
    - To date, EPA has not initiated a response to any NRC notification of ammonia, hydrogen sulfide, or any other hazardous substances released to the air where animal waste at farms is the source of that release.
    - EPA does not foresee a situation where the Agency would initiate a response action as a result of such notification.
- State and Local Governments
  - Several have indicated that such response actions are unlikely to be taken as a result of a notification of releases of hazardous substances from animal waste at farms.



# Key Issues Associated with Rule Development (Cont.)

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- Environmental and Citizen Groups
  - Concern that air emissions of hazardous substances from animal waste may pose a risk, particularly at the largest animal feeding operations.
    - Provided health studies regarding exposure to ammonia and hydrogen sulfide from farms.
  - The public has a right to know what is released into their communities.
  - Reporting releases of hazardous substances increases the visibility of farms to the communities.



# Post Rule

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- Interest from Capitol Hill
  - EPA briefed House and Senate Agriculture Committee staff in 2008 and House Agriculture staff in 2009
  - No legislation has been introduced to exclude manure from CERCLA in 2009 (111<sup>th</sup> Congress).
- Continuous Release Reporting Forms
  - EPA is developing forms and guidance for farms to submit their release information.





# Contact Information

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- Lynn M. Beasley
  - [Beasley.lynn@epa.gov](mailto:Beasley.lynn@epa.gov)
  - 202-564-1965