Tennessee Poultry Grower
2017 Educational Seminar

November 9, 2017
Cleveland, TN

Ammonia Reporting Regulation Update

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US Poultry & Egg Association

The All-Feather Association
Ammonia Reporting Regulation Update

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act

Passed in 1980 - In response to unacceptable hazardous waste practices and management going on in the 1970s

• Provides "Superfund" to clean up uncontrolled or abandoned hazardous-waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment

EPCRA - Emergency Planning & Community Right-to-Know Act

• Law to designed to help local communities protect public health, safety, and the environment from chemical hazards

• EPCRA, requires each state to appoint a State Emergency Response Commission (SERC). The SERCs are required to divide their states into Emergency Planning Districts and to name a Local Emergency Planning Committee (LEPC) for each district.
2004 USPOULTRY, NTF & NCC formally requested exemption from CERCLA and EPCRA reporting.

December 2008, EPA agreed, in part - exemption provided for all animal agriculture sectors

Full exemption from reporting under CERCLA program

Partial exemption from reporting under EPCRA program
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- 2009 New administration vacates the exemption – Exemption stays in place until EPA finalizes Estimation Methodologies.

- DC Circuit – April 2015
  - Court allowed “restart” of challenge to EPA’s reporting exemption for farms
  - Waterkeepers file motion to recall the exemption.

- March 2016 Briefs to the Court
  - USPOULTRY filed motion as Intervenor pointing out EPAs authority to provide the exemption

- April 2017 Court Issues Ruling
  - Exemption is vacated - “EPA lacks authority to carve out reporting exemptions.
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• EPA petitioned to delay submission of reports until July 9, 2017

• EPA failed to seek a rehearing

• USPOULTRY & NPPC petitioned for a rehearing – request denied

• EPA files motion for a six-month stay or until January 17, 2018
  • USPOULTRY supports the stay

• Court grants stay until November 15, 2017
  • Extension will be considered if EPA shows it is working on guidance
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EPA issues Guidance
– October 27, 2017

EPA requests extension of stay
– October 23, 2017

Two months or January 17, 2018

Farms Exempt from EPCRA Reporting
Exemption for “Routine Agricultural Operation”

“any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer” is excluded from the definition of “hazardous chemical” and the “handling and storage of the animals’ waste, would also be considered a routine agricultural operation,”
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- CERCLA Reports to be filed on November 15, 2017

- All Farms that release 100 pounds/day of ammonia must report

- No estimating methodology exists

<table>
<thead>
<tr>
<th>Source Information</th>
<th>Poultry Grow-Out Houses - (Number of Houses)</th>
<th>Litter Storage Area – Yes / No</th>
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</thead>
<tbody>
<tr>
<td>Environmental Medium</td>
<td>Ammonia from poultry operations is generated from the natural breakdown of manure. The process is continuous and stable. The medium affected from ammonia generated during this breakdown is air.</td>
<td></td>
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</tbody>
</table>

- CERCLA violations require 60 day notice of intent to sue – liability can be avoided

<table>
<thead>
<tr>
<th>Identity and Quantity of Hazardous Substance:</th>
<th>Source and CASRN#: Ammonia – 7664-41-7</th>
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<tbody>
<tr>
<td>Although it is possible that I may be releasing more than the reporting threshold quantity of 100 pounds of ammonia per day, I do not have scientific equipment to measure how much I emit on a daily basis. A study titled “Tyson Broiler Ammonia Emission Monitoring Project” performed by Burns, et. al indicated that the average daily ammonia emission was roughly 31 lbs./day per house. While this value may be appropriate for the specific farm studied, release from my farm may vary based on several factors, including the final age of the birds, on farm maintenance and atmospheric conditions. Based on these factors, I am making a good faith effort to submit this written notification under the reporting requirements of the Comprehensive Environmental Response, Compensation and Liability Act.</td>
<td></td>
</tr>
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</table>
1) Will there be an official reporting formatted document that we will complete – so that reporting is synonymous with all houses / farms?

Updated Guidance Documents
http://www.uspoultry.org/environment/regulatory.cfm
2) Who do we turn the reporting documents in to? Local Emergency Office (Fire Department), NRCS Office, Other, etc.???

CERCLA
- You must make an initial telephone call to:
  - National Response Commission- 1-800-424-8802

  - After making the telephone report to NRC, you will be assigned a CR-ERNS/Incident number, which is assigned to you specifically.

  - NOTE: Remember the CR-ERNS number assigned for each report that is made. This number will not change and is used to track each report for the facility that is submitted to NRC.
2) Who do we turn the reporting documents in to? Local Emergency Office (Fire Department), NRCS Office, Other, etc.???

CERCLA

Initial Written Report  Must be submitted within 30 days of the initial phone call to NRC.

Send one copy of the completed initial written report to the EPA Regional Office for the region in which your facility is located.

https://www.epa.gov/aboutepa/visiting-regional-office
3) Do we need to invest in an air ammonia monitoring device to record a specific value for the emissions released?

- No - This type of requirement has never been discussed.

4) Who performs this task? Is it the responsibility of the contract grower? Is it the responsibility of the integrator company?

This responsibility fall to the owner/operator of the facility.
5) Who is held accountable for the emissions value that exceeds the threshold?

The owner/operator of the facility is accountable for exceeding the reporting threshold

6) Is there a threshold value that is standard or is it based on criteria – Age of Litter, age of birds, Seasonal variance, etc.?

Reportable Quantity for ammonia – 100 pounds per day

Reportable Quantity for hydrogen sulfide– 100 pounds per day
7) Are litter stack sheds, incinerators and/or dead bird compost sheds included in this monitoring program or just where there is forced air ventilation?

Under CERCLA the definition of a “facility” differs.

A "facility" is defined under CERCLA to include any building, structure, installation, equipment, pipe or pipeline, well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft or any site or area where a hazardous substance has been deposited, stored, disposed of or placed, or otherwise come to be located.
8) How often will farms be audited and compared to the latest records documented for that house/farm?

No third party audits are required

Continuous release reports are acceptable

Reporting Process

CERCLA:

Make initial notification call

1. Initial telephone report to the National Response Commission
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Reporting Process

CERCLA:
Information required when making initial telephone report

Required Information
Make sure to provide the following information when providing telephone report to the NRC.

1. Identify your report as an “initial continuous release notification” under CERCLA Section 103(f)(2).

2. Identify the name and location of the facility responsible for the release. **Address is not required** – City/town and State is **sufficient**.

3. Identify hazardous substance released – **In this case Ammonia**
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Reporting Process

CERCLA:

Information required when making initial telephone report

Example Phone Call

“Hello, my name is ________. I am calling to give an initial notification of continuous release of ammonia from a farm on which I have animal manure. I am reporting under this emission in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act. I want to clarify that this is a notification of a continuous release the cause of the ammonia is the natural breakdown of animal manure. I want to clarify that I do not have an emergency. The following information is personal information subject to exemption number 6 under the Freedom of Information Act and is Confidential Business Information.”

The name of my farm is: ________________

My farm is located in: (Provide name of town/city and State)

Currently, I have no way of estimating my emissions but I may be exceeding the threshold of 100 pounds of ammonia per day.”

Note: Ask for and record the CR-ERNS number the NRC assigns to your farm. Each additional call to the NRC will require the CR-ERNS number that was assigned to you during the first call. Make sure to provide the CR-ERNS number on the initial written report, the one-time 12-month follow up report and any time you contact the NRC after the initial telephone report.
Reporting process continued

4. File Initial Written Report

Must be completed within 30 days of the initial phone call
Send one copy of the completed initial written report to the following:
• The EPA Regional Office for the region in which your facility is located
### CERCLA CONTINUOUS RELEASE REPORTING FORM

#### SECTION III: HAZARDOUS SUBSTANCE INFORMATION

Although it is possible that I may be releasing more than the reporting threshold quantity of 100 pounds of ammonia per day, I do not have scientific equipment to measure how much I emit on a daily basis. Furthermore, there is no published estimation methodology that allows me to estimate total daily emissions that may come from the natural breakdown of manure on my farm. Based on these factors, I am making a good faith effort to submit this written notification under the reporting requirements of the Comprehensive Environmental Response, Compensation and Liability Act.

#### CERTIFICATION STATEMENT

I certify that the hazardous substance release described herein is continuous and stable in quantity and rate under the definition in 40 CFR 302.8 (b) or 355.32 and that all submitted information is accurate and current to the best of my knowledge.

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<tr>
<th>Print Name:</th>
<th>Position:</th>
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<tr>
<td>Signature:</td>
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This document was produced by the U.S. Poultry & Egg Association

The guidance provided in this document has not been approved or endorsed by the EPA or State regulatory agencies responsible for administering EPCRA / CERCLA reporting programs.
5. One Time Follow Up Report

Must be submitted to the appropriate EPA regional office (same office as Step 4) within 30 days of the first anniversary of the initial telephone report.

Follow the same guidelines for writing the follow up report as seen in Step 4.
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Reporting process continued

6. Change in Source Review
   Conducted as needed

   Construction or removal of houses
   Construction of litter storage facility
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9) Are corrective actions going to be dictated by EPA, NRCS, Emergency Office, etc.?

There has been no indication that EPA will mandate corrective actions

A recent lawsuit filed by several environmental groups has asked the court to force EPA to consider mandating air permits for animal agriculture operations

Air permits are not required for the release of ammonia
10) What is the frequency expectations for monitoring and documenting the air emissions on farms / houses?

   At present no monitoring is required
   Reporting is required as discussed earlier

11) Is anyone performing this task today as a “practice” model to be ready for the “Go Live” date for reporting?

   NRC capability is lacking
   System currently generates automatic notifications
   - State Emergency Response Commissions
   - Department of Homeland Security
Thank You!

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