

CERCLA / SARA Title III

Administrative Reporting Exemption for Certain Air Releases of Ammonia and Hydrogen Sulfide from Animal Waste



March 2009

Susan Parker
DEQ
Michigan SARA Title III
Program

1980 CERCLA Enacted



- Comprehensive Environmental Response, Compensation and Liability Act of 1980
- Emergency response for hazardous substances released into the environment
- CERCLA = Superfund

December 3, 1984 in Bhopal, India
Union Carbide chemical plant
Methyl isocyanate release
4,000 deaths
40,000 maimed & seriously injured
Plants defoliated
Livestock died



1986 SARA Enacted



- **Superfund Amendments and Reauthorization Act of 1986 (SARA)**
- **SARA Title III = Emergency Planning and Community Right-to-Know Act (EPCRA)**

Release Reporting under CERCLA & SARA Title III

- Releases must be reported if they equal or exceed the Reportable Quantity (RQ) in a 24-hour period.
- Exemptions:
 - Federally Permitted releases
 - Application of pesticides

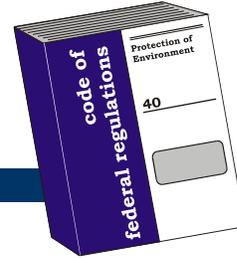


Release Reporting under CERCLA & SARA Title III

- Continuous Releases occur without interruption, or are routine, anticipated and incidental to normal operations.
- Continuous Releases qualify for reduced reporting – Instead of reporting the release every day that it exceeds the threshold, you can report one time.



CERCLA section 103 40 CFR 302



- CERCLA Hazardous Substances
- **Initial phone notification** to the US Coast Guard National Response Center (NRC)
Within 15 minutes of discovery
- **Written report to EPA Region 5 required only for continuous releases**
 - Initial Written Report:** within 30 days after initial phone notification
 - Follow-up Written Report:** within 30 days after first anniversary of initial written report

SARA Title III section 304 40 CFR 355.40



- CERCLA Hazardous Substances & SARA Title III Extremely Hazardous Substances
- **Initial phone notification** to State Emergency Response Commission (SERC) Local Emergency Planning Committee (LEPC)
Within 15 minutes of discovery
- **Follow-up written report to SERC & LEPC**
 - For one-time releases:** Within 7 days after release
 - For continuous releases:** Within 30 days after initial phone notification

Examples of Reportable Releases

Anhydrous Ammonia → 18 gals

Guthion 2L → 1/2 gal

Dimethoate 4E → 2.5 gal

Counter 20CR → 480 lbs

Sevin 4F → 25 gal



What about releases from manure?

Ammonia RQ = 100 lbs

Hydrogen Sulfide RQ = 100 lbs



These actually are mountains of manure!

2001 Discussions Began

- Late 1990's EPA realized they did not have sufficient air emissions data to determine potential regulatory requirements for AFOs under the Clean Air Act (CAA)
- 2001 discussions began between EPA and AFOs



2003 Clarification Requested

- National Cattlemen's Beef Association seeks clarification:
- Does CAA require permits?
- Does CERCLA and SARA Title III apply to animal waste?



2005 Petition for Exemption

- National Chicken Council
- National Turkey Federation
- U.S. Poultry & Egg Association

Submitted a formal petition to the Agency requesting an exemption from the reporting requirements.



2005 Air Compliance Agreement

- 2,568 agricultural operations, representing 6,267 farms, received a covenant not to sue for CERCLA, SARA Title III, and CAA violations in exchange for their participation in the Agreement.
- \$2.9 million in civil penalties
- \$2,500 per farm for the National Air Emissions Monitoring Study



2005 Air Compliance Agreement

- National Air Emissions Monitoring Study
- 2 years beginning in Spring 2007
- 25 representative sites.
- Within 18 months following the monitoring study's conclusion, EPA will publish emission estimating methodologies for animal feeding operations.



2006 House Appropriations

House Appropriations Bill

The Committee attaches to EPA's 2006 appropriations, a call for an expeditious resolution of this matter.



2007 Bills Introduced in Congress

Call for exemption from reporting air releases from animal waste.

Clarify that manure is not classified as a hazardous substance under CERCLA

Expand the definition of manure to include urine, associated bedding, compost or materials commingled with the waste, and digestive air emissions.



Options Analysis

A workgroup was formed to evaluate several mechanisms for reducing or eliminating the CERCLA and SARA Title III reporting burdens for “Concentrated Animal Feedlot Operations.”



2007 Option Selected



During the fiscal year 2008 budget request, EPA Administrator Johnson announced to the Energy and Commerce Committee, the Agency's intent to exempt the release reporting of air emissions from animal waste.

Proposed Exemption

MANURE HAPPENS

- Completely eliminated CERCLA and SARA Title III release reporting.
- Included all air releases arising from animal waste.
- Did not exempt releases from sources other than animal waste.
- Did not exempt releases to other medias.



Industry Perspective



- Most are small scale farmers.
- Lack expertise to estimate releases.
- Reporting is burdensome.
- No need for an emergency response.
- Response agencies do not want the information.
- Releases are low level and disperse in the air.
- Emissions are not measurable.

Agency Perspective



- Interest by Congress
- Need to address trade association concerns.
- Reports serve no purpose because a response is not likely.



Environmental Groups / Public Perspective

- These emissions pose health risks.
- Represent ½ of the nation's ammonia emissions.
- Largest source of complaints to state agencies.
- AFOs generate 3 times more waste yearly than people in the U.S.
- Only source of information for the public.
- Negative impact on Air Agreement



2008 Final Rule



Published December 18, 2008
Effective January 20, 2009

- Administrative reporting exemption for CERCLA
- Limited administrative reporting exemption for SARA Title III

Applies to releases of hazardous substances to the air that meet or exceed their reportable quantity where the source of those hazardous substances is animal waste at farms.

Final Rule



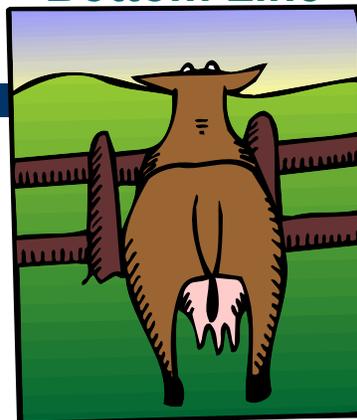
Only Large CAFOs (as defined by the Clean Water Act) must report emissions from animal waste.

Hazardous substance releases that are emitted to the air from animal waste are considered to be continuous and stable in quantity and rate, and qualify for continuous release reporting.

Animals that are not stabled or confined and graze on pastures are exempt.

Bottom Line

CERCLA exemption



SARA Title III partial exemption

Final rule only applies to emissions to the air from animal waste.

Ongoing Emission Factor Study

CAFOs that signed the Consent Agreement do not have to report air releases until after the Emission Factors have been determined.

All other CAFOs must report.



Cows enter the air-pollution barn, known as the bovine bio-bubble.



Region 5 States' Coordination

Calculation worksheets developed by representatives from Extension Agencies in Wisconsin, Illinois, & Michigan based on currently available research.

Written report form developed by Illinois, Michigan, Wisconsin, Ohio, & Indiana.

www.michigan.gov/degrelease

Continuous Release Reporting Requirements for emissions to the air from animal waste at CAFOs

	NRC	SERC	LEPC	EPA Region 5
Initial Phone Notification Within 15 minutes	exempt	✓ PEAS	✓	
Initial Written Report Within 30 days of Initial phone notification		✓ MI SARA Title III Program	✓	exempt
1-year follow-up written report				exempt

Michigan Compliance



- 224 CAFOs in Michigan
- 64 agricultural operations representing 132 farms signed the Consent Agreement with EPA – 96 of the farms are CAFOs
- 126 Initial Phone Notifications received between 1/16 and 3/20/09
- 101 Initial Written Reports received as of 3/23/09

It's not over...

January 2009 a lawsuit was filed against U.S. EPA regarding the exemptions by a coalition of groups including: the Waterkeeper Alliance, Sierra Club, Environmental Integrity Project, The Humane Society of the United States, Citizens for Pennsylvania's Future, and Center for Food Safety.

