From: Lynn Beasley
To: Wal er Cybulski
Cc: beasley.lynn@epa.gov
Subject: Re: Fw: Rescheduled: CERCLA/EPCRA Report ng Requirements Workgroup Ca l (Mar 7 02:00 PM EST)
Date: 03/07/2012 04:37 PM

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thanks Walter, I made some notes/responses in your message below.

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▼ Walter Cybulski---03/07/2012 04:24:19 PM---Hello, Lynn. I was taking a look after the meeting to see if there was anything more helpful in the

From: Walter Cybulsk /DC/USEPA/US
To: Lynn Beasley/DC/USEPA/US@EPA
Date: 03/07/2012 04:24 PM
Subject: Fw: Rescheduled: CERCLA/EPCRA Reporting Requirements Workgroup Call (Mar 7 02:00 PM EST)

Hello, Lynn.

I was taking a look after the meeting to see if there was anything more helpful in the past rule for this question:

1. Do we consider storage of chicken litter, after clean out of barns, which will later be used for application to cropland, the "normal application of fertilizer?"
   a. What guidance will we give to non-animal farms that are storing manure (i.e., for fertilizer) on how to report their releases?
   b. Industry (and maybe The Fertilizer Institute) has asked EPA to interpret the "normal application of fertilizer" to include such storing of manure in anticipation of applying to fields.

I saw in the last rule that we said "The Agency is not, in this rule, defining facility, **normal application of fertilizer**, or routine agricultural operations" and so passed on going into that issue previously. I agree with you that bulk storage elsewhere after clean outs of barns on the same farm for later use on croplands, at non-animal farms for use as crop fertilizer, and so forth are potential sources of hazardous substance air releases of concern as well that may be reportable under CERCLA/EPCRA (aside: I would think storage is distinct from application, and I would assume what was intended to be exempt in the statute would be releases upon and after applying to the field, but not when stored prospectively for XX weeks/months first [I agree, but we get comment/requests to broaden the definition to include storage]; do we have anything on this, such as information from the congressional record on what they were thinking at the time?[there was discussion about application of fertilizer in the legislative history but it was more of a concern for chemical fertilizers rather than manure, I believe the Fertilizer Institute pushed hard for the "normal application of fertilizer" exemption to protect their members. Now, the Ag industry sees that exemption as a way to reduce their reporting exposure]). I guess it is a question to pose to your management whether they want to attempt to define "normal application of fertilizer" or avoid it as last time [that is exactly why I want to bring it up again now. I don't want to run into the situation were my management hasn't had a chance to think through it and something gets inserted into the rule and/or preamble at the last minute - [redacted]]. If they want to define it this time and if they are under the assumption that some time amount of storage is encompassed in "normal application," the difficulty seems to be the fact that we have just as limited a basis to give guidance on that issue as we do with confined animal operations that are outside of NAEMS. I assume we would have to search for data, methods for estimating releases for common wastes and methods of waste storage outside of stables/barns/houses, and so forth in a similar fashion as we are attempting to do for the other confined animal situations. It would assume that would be an undertaking , and management would have consider whether we have the resources to do that search also in order to adequately address that separate question. Otherwise, it seems we are in a similar boat as we may be with releases at those other confined animal operations not addressed by NAEMS. At that point, it seems that we would have to say for the rule that people are responsible for reporting air releases from hazardous substances from animal wastes at farms [that is what I would like to do, but higher ups want to provide [redacted] believe the thought is that we want to help them to meet their reporting requirements]. We have studied some of the most common confined animal operations and are able to provide guidance here on which of those farms may not likely have to report based on those detailed studies and emissions estimating technologies derived from them. For other confined animal operations not extensively studied (by NAEMS or any other investigation) or other situations where air releases of hazardous substances from animal wastes at farms have not yet been similarly investigated (e.g., extended bulk storage of animal wastes for later use as crop fertilizer on the same farm or on another farm) to derive emission estimating methodologies, it is up to the operators of those farms to determine the best way to estimate their potential releases and whether they exceed an RQ. It seems that may be what we are stuck with for those other situations.

Not sure if that helps address your question, but it would seem you would have to ask management whether they want to tackle that question this time or not address it again. And if they want to tackle that issue, then outline to them what it could entail (an additional literature search, etc., which will need resources - both time and money) if they are assuming that some time amount of storage is encompassed in "normal application." (Unless someone can come up with past information or otherwise be brave to contend/support that any extended storage does not fall within "normal application," although that may still leave you with not being able to give guidance on releases under those other storage situations without further study.) I would still come down on the side as the most vocal folks at today's meeting that if we do not have an adequate basis to guide farms or exempt them for the situations that we know little about, that it will unfortunately be up to the farm to determine what to do to estimate their releases and whether they are reportable (with that said, however, if we cannot adequately tell them how to estimate emissions ourselves, it seems they almost have an unwritten exemption since I am not sure how we would enforce, etc..)

Anyway, thanks for reading the above essay if you made it this far and hopefully it is somewhat helpful as a guide on what to possibly do with that question. :-) If there are any thoughts on this one or other comments that I made, I am happy to discuss.

thanks Walter, these are the types of thoughts/issues that I need to lay out for my management. I want them to have the chance to make the decision either way so that we go into this fully informed - or as much as we can be.
Thanks.

- Walter

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----- Forwarded by Wa ter Cybulski/DC/USEPA/US on 03/07/2012 03:08 PM -----

From: Walter Cybulsk /DC/USEPA/US
To: Lynn Beasley/DC/USEPA/US@EPA
Date: 03/01/2012 05:19 PM
Subject: Re: Rescheduled: CERCLA/EPCRA Reporting Requirements Workgroup Ca l (Mar 7 02:00 PM EST)

Hello, Lynn.

I will call into the meeting to discuss the documents, but I went through them already so thought I would send what notes I had along to you.

[attachment "PreambleOutlineDraft2_ORD.docx" deleted by Walter Cybulski/DC/USEPA/US] [attachment "Notes-Questions RE CERCLA-EPCRA Reporting Requirements Rule_ORD.docx" deleted by Walter Cybulski/DC/USEPA/US]

Talk to you next week.

- Walter

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▼ Lynn Beasley---02/29/2012 07:11:58 AM---Call in: 1-866-299-3188 Code: 202-564-1965

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/P86AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAMAAAAAAAAAAQAAAAAAAAAAAAAAAAAA AA==

Rescheduled: CERCLA/EPCRA Reporting Requirements Workgroup Call

Wed /P86AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAUAAAAAAAAAAQAAAAAAAAAAAAAAAAAA
03/07/2012 2 00 AA==
PM - 3 00 PM

A tendance is **required** for Wal er Cybulski

Chair: **Lynn Beasley/DC/USEPA/US**

This reschedule notice has been applied to the meeting.

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/P86AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAEAAAABAAAAAQAAAAAAAAAAAAAAAAAA AA==
Aaron Bell/DC/USEPA/US@EPA, Alicia Kaiser/DC/USEPA/US@EPA, Allison Mayer/RTP/USEPA/US@EPA, Alyse Stoy/R7/USEPA/US@EPA, Bill Finan/DC/USEPA/US@EPA, Bill Schrock/RTP/USEPA/US@EPA, Bryce Covington/R4/USEPA/US@EPA, Carlos Evans/DC/USEPA/US@EPA, Caron

Required: Falconer/R4/USEPA/US@EPA, Catherine Norman/DC/USEPA/US@EPA, Charlotte Bertrand/DC/USEPA/US@EPA, Cheryl Turcotte/R8/USEPA/US@EPA, Dan Breedlove/R7/USEPA/US@EPA, David Cobb/R8/USEPA/US@EPA, Erik Swenson/DC/USEPA/US@EPA, George Hess/R7/USEPA/US@EPA, Jennifer Schuller/R8/USEPA/US, Joseph Byron/R8/USEPA US@EPA, Kimberly Fedinatz/DC/USEPA/US@EPA, Larry Elmore/RTP/USEPA/US@EPA, Mary Wesling/R9/USEPA/US@EPA, Michael Boydston/R8/USEPA/US@EPA, Michael Massey/R9/USEPA/US@EPA, Nicholas Peak R10/USEPA/US@EPA, Nina Bonnelycke/DC/USEPA/US@EPA, Perry Pandya/R3/USEPA/US@EPA, Peter Ob/DC/USEPA/US@EPA, Richard Mattick/DC/USEPA/US@EPA, Robin Dunkins/RTP/USEPA/US@EPA, RUTH MCNAMARA/R5/USEPA/US@EPA, Sanda Howland/DC/USEPA/US@EPA, Sicy Jacob/DC/USEPA/US@EPA, Suzanne Powers/R10/USEPA/US@EPA, Tim Sullivan/DC/USEPA/US@EPA, Walter Cybulski/DC/USEPA/US@EPA

[at achment "PreambleOutlineDraft2.docx" dele ed by Walter Cybulski/DC/USEPA/US] [attachment "Notes-Questions RE CERCLA-EPCRA Reporting Requirements Rule-ord.docx" deleted by Walter Cybulski/DC/USEPA/US]

Call in: 1-866-299-3188
Code: 202-564-1965

Hi,

I wanted to send the attached preamble outline and notes around again and then have a conference call to discuss and address. The notes file contains questions/issues that either the workgroup resolves or I'm going to need to get a decision from my management (hopefully with your recommendations). If you are unavailable for the call, please feel free to send me an email with your thoughts - I'll add them to the discussion.

We are a little bit on hold now because my management would like us to use the final NAEMS emissions estimating methodology results in the preamble and rule; however, I think there are other issues that we should resolve now, so we'll be ready to go when the final NAEMS results are in.

thanks,

Lynn