Appointment

From: Ford, Hayley [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4748A9029CF74453A20EE8AC9527830C-FORD, HAYLE]
Sent: 4/23/2018 9:01:49 PM
To: Administrator / Ex. 6

Subject: HOLD: United Egg Producers Future Leaders Visit
Attachments: EPA Administrator Pruitt Speaker Request Form_UEP June 2018.docx
Location: Green Room

Start: 6/12/2018 3:00:00 PM
End: 6/12/2018 3:30:00 PM
Show Time As: Busy

POC: Hema

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 10/11/2017 10:26:18 PM
To: Bennett, Tate [Bennett.Tate@epa.gov]
Subject: RE: Draft communications plan for the CERCLA EPCRA reporting requirements

I believe OEM (Patty Gioffre and Kim Jennings) is working with OGC (Jen Lewis and David Fotouhi) on the guidance.

From: Bennett, Tate
Sent: Wednesday, October 11, 2017 6:00 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>
Subject: Re: Draft communications plan for the CERCLA EPCRA reporting requirements

So nothing to date? Maybe a status summary? They Administrator might get asked about it tomorrow (only reason I'm asking!)

Sent from my iPad

On Oct 11, 2017, at 5:31 PM, Taylor, Trish <Taylor.Trish@epa.gov> wrote:

> Hi Tate,
>
> OPA is currently reviewing a draft news briefing and desk statement (attached) but no TPs.
> Once finalized, we'll have Q&As to accompany the guidance.
>
> Thanks,
> Trish
>
> **From:** Bennett, Tate
> **Sent:** Wednesday, October 11, 2017 5:13 PM
> **To:** Taylor, Trish <Taylor.Trish@epa.gov>
> **Subject:** Re: Draft communications plan for the CERCLA EPCRA reporting requirements
>
> Hey Trish! Do you have any talking points already developed on this? Thank you!
>
> Sent from my iPad
>
> On Oct 4, 2017, at 3:44 PM, Taylor, Trish <Taylor.Trish@epa.gov> wrote:
>
>> Sure. I have a 4 pm mtg, but will be in the office until 6 pm tonight, and back in tomorrow 8:30 am.
>>
>> **From:** Bennett, Tate
>> **Sent:** Wednesday, October 04, 2017 3:29 PM
>> **To:** Taylor, Trish <Taylor.Trish@epa.gov>
>> **Cc:** Benjamin, Kent <Benjamin.Kent@epa.gov>
>> **Subject:** Re: Draft communications plan for the CERCLA EPCRA reporting requirements
>>
>> This looks complete to me. Can I give you a quick call on this later today? I just have a few pedestrian questions.
>>
>> On Oct 4, 2017, at 2:02 PM, Taylor, Trish <Taylor.Trish@epa.gov> wrote:

Hi Tate,

Attached is a draft communications plan that includes a ListServ of potential ag stakeholders.
OLEM DAA Patrick Davis suggested that I share the list with you to see if you may have additional names/groups to include in our planned outreach regarding upcoming reporting regs. We've been working with subject matter experts in the Office of Emergency Management (OEM) and OPA has been provided the draft comms plan for review/approval.

Please let me know if you have any questions or concerns.
Thank you,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

From: Taylor, Trish
Sent: Tuesday, October 03, 2017 6:31 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Draft communications plan for the CERCLA EPCRA reporting requirements

Hi Barry and Patrick,

Attached is the draft communications plan for the CERCLA / EPCRA reporting requirements for air releases of hazardous substances from animal waste at farms guidance.
It has been reviewed/approved by RID Division Director, K. Jennings.
OEM is currently working on the communications materials which will include a draft press release, desk statement, webpage update and Q&As.

Deliberative Process / Ex. 5

Per your suggestion, once you have reviewed/approved the comms plan, I can share with Tate Bennett, to make sure we are not

missing any key groups from our ListServ and then move it forward to OPA for input.

Please let me know if you have any questions or concerns.
Thank you,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

<DRAFT Comm Plan for Animal Waste Emissions Guidance 10-3-17 (v.2).docx>

<DRAFT Desk Statement on Animal Waste Emissions Guidance 10-11-17.docx>

Message

From: Harwood, Jackie [Harwood.Jackie@epa.gov]
Sent: 1/10/2018 2:20:43 PM
To: Sands, Jeffrey [sands.jeffrey@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]
CC: Levine, Carolyn [Levine.Carolyn@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Great – thanks for the update Jeff.

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Sands, Jeffrey
Sent: Wednesday, January 10, 2018 9:20 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Levine, Carolyn <Levine.Carolyn@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Hi Jackie,

I am planning on meeting with Troy at 10am this morning to discuss strategy a bit further. I will be back in touch soon.

Thanks.

Jeff

From: Harwood, Jackie
Sent: Wednesday, January 10, 2018 9:18 AM
To: Sands, Jeffrey <sands.jeffrey@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Levine, Carolyn <Levine.Carolyn@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FW: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting
Importance: High

Hi Jeff and Tate –

Just checking back in on this. Will you be passing on any comments?

Thanks.
Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Sands, Jeffrey
Sent: Friday, January 05, 2018 5:08 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Jackie,

Thanks for passing along. I will review this over the weekend and get back with you as quickly as possible.

I should add that we are going to USDA Monday afternoon to brief them on this issue so there may be more to add in our response on coordination with them from that meeting.

Best,
Jeff

From: Harwood, Jackie
Sent: Friday, January 5, 2018 4:19 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Hi Tate and Jeff,

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We understand from OCIR that Troy Lyons would like the Agency to respond to the Senators' letter as soon as possible,
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 We would be grateful if you could get back to us with your thoughts and/or edits.

Please let me know if you have any questions or concerns about this.

Thank you.

Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Sands, Jeffrey [sands.jeffrey@epa.gov]
Sent: 1/10/2018 2:20:02 PM
To: Harwood, Jackie [Harwood.Jackie@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]
CC: Levine, Carolyn [Levine.Carolyn@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

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Cc: Levine, Carolyn <Levine.Carolyn@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: FW: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting
Importance: High

Hi Jeff and Tate --

Just checking back in on this. Will you be passing on any comments?

Thanks.
Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Sands, Jeffrey
Sent: Friday, January 05, 2018 5:08 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Jackie,

Thanks for passing along. I will review this over the weekend and get back with you as quickly as possible.

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Best,
Jeff

From: Harwood, Jackie
Sent: Friday, January 5, 2018 4:19 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Hi Tate and Jeff,

Attached is a letter the Administrator received from a bipartisan group of 11 Senators from states where poultry farming is a key part of the economy. In the letter they expressed concerns they have heard from farmers in their states on the new EPCRA/CERCLA reporting requirements and EPA's guidance, and asked us to respond to four questions. I've attached what OLEM has developed so far in response to this letter–Barry Breen and OEM asked that I pass it on to you to review before we move it forward.

We understand from OCIR that Troy Lyons would like the Agency to respond to the Senators' letter as soon as possible,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 We would be grateful if you could get back to us with your thoughts and/or edits.

Please let me know if you have any questions or concerns about this.

Thank you.

Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Hazlett, Anne - OSEC, Washington, DC [Anne.Hazlett@osec.usda.gov]
Sent: 1/17/2018 2:35:11 AM
To: Bennett, Tate [Bennett.Tate@epa.gov]
Subject: RE: EPA fact sheets hazardous substances from animal waste

Hey there-- thanks. Let's catch up soon!

Anne

From: Bennett, Tate [mailto:Bennett.Tate@epa.gov]
Sent: Tuesday, January 16, 2018 3:18 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Sands, Jeffrey <sands.jeffrey@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: EPA fact sheets hazardous substances from animal waste

All-

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.

If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit www.epa.gov/animalwaste for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: CERCLA103.guidance@epa.gov
- Regional Contacts: www.epa.gov/epcra/cr-erns-regional-contacts
- Call with questions: 1-800-424-9346

As always, our office is happy to be a resource as well.

Tate

Elizabeth Tate Bennett
Associate Administrator for Public Engagement & Environmental Education
Office of the Administrator
U.S. Environmental Protection Agency
(202) 564-1460
Bennett.Tate@epa.gov

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law and subject the violator to civil or criminal penalties. If you believe you have received this message in error, please notify the sender and delete the email immediately.

Message

From: Nitsch, Chad [Nitsch.Chad@epa.gov]
Sent: 1/16/2018 11:45:47 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Milbourn, Cathy [Milbourn.Cathy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Levine, Carolyn [Levine.Carolyn@epa.gov]; Janifer, Pamela [Janifer.Pamela@epa.gov]
CC: Sands, Jeffrey [sands.jeffrey@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Richardson, RobinH [Richardson.RobinH@epa.gov]; Bowles, Jack [Bowles.Jack@epa.gov]; Barbery, Andrea [Barbery.Andrea@epa.gov]
Subject: RE: Outreach Calls: Animal Waste

Thanks Nancy. To clarify, I'm hosting a call on Thursday at 2pm with NASDA (~60 participants). My hope is that we'll also be able to invite ECOS (+~60 participants) but that will depend on teleconference capacity. Jeff is leading the call. I'll have a call-in tomorrow AM.

Thanks,

Chad Nitsch
Acting Director of State and Regional Partnerships
Office of Congressional and Intergovernmental Relations
United States Environmental Protection Agency
202-564-4714

From: Grantham, Nancy
Sent: Tuesday, January 16, 2018 5:53 PM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>; Richardson, RobinH <Richardson.RobinH@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: Outreach Calls: Animal Waste

Hi Latosha,

To summarize where we are in terms of calls for Thursday, 1/18 tomorrow:

11:00 a.m. est "leaderview" call with the trade groups – (# of lines?) OLEM will lead

12:30 p.m.est "leaderview" call with OPEE stakeholders (100 lines) – OPEE will lead

Tate has requested that we get the numbers and access codes for these calls asap so notification can be made asap tomorrow.

FYI – there will also be a 2 p.m. est call with NASDA tomorrow – Chad Nitsch is leading

Please let us know if you need any further information to make this happen.

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Thomas, Latosha
Sent: Tuesday, January 16, 2018 5:49 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Milbourn, Cathy <Milbourn.Cathy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Outreach Calls: Animal Waste

Hi everyone,

As you know, we are hosting calls for our stakeholders that will be impacted by the new reporting requirements related to animal waste. Based on my discussions with many of you earlier, I wanted to make sure that I've captured everything in the outline below. In addition, let me know if the language that will be sent with the call invites is ok. Thanks!

Animal Waste Outreach Calls

Overview: EPA will host two (2) calls to notify stakeholders of the new requirements related to animal waste. The 1st call will include livestock trade associations + industry + state, local, tribal officials. The 2nd call will include actual members of the associations/organizations.

1st Call

When: Thursday (1/18) @10AM ET

Hosts: Patty Gioffre/Kim Jennings (OEM/RID)

Key Messages:

Deliberative Process / Ex. 5

Participants:

- Livestock Trade Associations
    - National Cattleman's Beef Association
    - Arizona Cattle Growers Association
    - National Chicken Council
    - National Council of Farmer Cooperatives
    - National Turkey Federation
    - US Poultry and Egg Association
    - United Egg Producers
    - National Pork Producers Council
    - National Pork Board
    - National Milk Producers Federation
    - Mid-Atlantic Dairy Association
    - Nisei Farmers League
    - Innovation Center for US Dairy
    - Dairy Farmers of America
    - Dairy Management Inc.
    - Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
    - Cornell PRO-DAIRY Program
- Industry
    - Seaboard Farms
    - Tyson Foods
    - National Association of Sara Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
    - National Association of State Departments of Agriculture
    - National Association of Clean Air Agencies – Agriculture Committee
    - American Farm Bureau Federation
- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviros/NGOs
    - Sierra Club

2nd Call

When: Thursday (1/18) @2PM ET

Hosts: Tate Bennett (Patty Gioffre/Kim Jennings will participate for support)

Key Messages:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Participants: Actual members of the above associations/organizations/groups

Language to be sent with invites (+ attached comms materials)

Deliberative Process / Ex. 5

ACTIONS

- OEM will send out invitations to participants of the 1st call
- OPE will send out invitations to participants of the 2nd call
- Latosha (OEM) will work with Cathy Milbourn (OPE) re: logistics for 2nd call*

*OEM should be able to handle the quantity of participants related to the 1st call since there will be less people.

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Sands, Jeffrey [sands.jeffrey@epa.gov]
Sent: 1/5/2018 10:12:04 PM
To: Bodine, Susan [bodine.susan@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]
CC: Bennett, Tate [Bennett.Tate@epa.gov]
Subject: FW: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting
Attachments: CMS_18-000-2865_CERCLA-EPCRA Air Emissions.pdf; AL 18 000 2865 Draft Reply 1-4-2018 v5 CLEAN 1-5-18.docx

All,

Just received this note and wanted to be sure that you saw this draft response to the Senate from OLEM. Any thoughts feedback you would have are appreciated.

Have a nice weekend.

Best,
Jeff

From: Harwood, Jackie
Sent: Friday, January 5, 2018 4:19 PM
To: Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Review Requested - Senators' Letter on CERCLA/EPCRA Reporting

Hi Tate and Jeff,

Attached is a letter the Administrator received from a bipartisan group of 11 Senators from states where poultry farming is a key part of the economy. In the letter they expressed concerns they have heard from farmers in their states on the new EPCRA/CERCLA reporting requirements and EPA's guidance, and asked us to respond to four questions. I've attached what OLEM has developed so far in response to this letter--Barry Breen and OEM asked that I pass it on to you to review before we move it forward.

We understand from OCIR that Troy Lyons would like the Agency to respond to the Senators' letter as soon as possible,

Deliberative Process / Ex. 5

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Please let me know if you have any questions or concerns about this.

Thank you.

Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Wilbur, Jennifer [Wilbur.Jennifer@epa.gov]
Sent: 3/28/2018 6:58:47 PM
To: Breen, Barry [Breen.Barry@epa.gov]; Cook, Steven [cook.steven@epa.gov]; Simon, Nigel [Simon.Nigel@epa.gov]
CC: Hilosky, Nick [Hilosky.Nick@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Sebring, Meridith [Sebring.Meridith@epa.gov]; Rubin, Howard [Rubin.Howard@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]
Subject: RE: Administrator's briefing book fact sheets for budget hearings
Attachments: FY19_BH_FFRRO_4_Oak Ridge.docx; FY19_BH_OEM_4_CA_Wildfires_ARMSv2.docx; FY19_BH_OEM_6_CERCLA_EPCRA_Reporting_ARMS_v3.docx; FY19_BH_ORCR_1_CCR_v2.docx; FY19_BH_OUST_1_LUST_Backlog_v2.docx; FY19_BH_FFRRO_2_Hanford.docx

A few more for your review and please use this version for CA Wildfires. Thanks

Jen

From: Wilbur, Jennifer
Sent: Wednesday, March 28, 2018 1:12 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Sebring, Meridith <Sebring.Meridith@epa.gov>; Rubin, Howard <Rubin.Howard@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: Administrator's briefing book fact sheets for budget hearings

Barry, Steven, Nigel,

Attached is the *initial* group of hearing fact sheets for your review. These are for the Administrator's briefing book for the upcoming budget hearings. These follow the OCFO/OCIR format, kept to minimal bullets and one page. All should have gone through Office Director/Deputy clearance. Please send any edits to Meridith Sebring and me.

We coordinated with OCIR and OCFO late this morning on how we would handle the site-specific fact sheets (e.g., the Hudson River type fact sheets). We will be sending all the site-specific fact sheets that we have developed, in coordination with the regions, up through our normal process. If a region has a fact sheet that is not on our list (we provided OCIR with our list), they will be sending in the additional fact sheets to OCIR, who will, in turn, send them for NPM review (if OCIR determines they are appropriate for inclusion in the briefing book).

All of this is due to OCFO on 4th. Special note, Meridith is only in the office on the 4th next week and I am out all next week. ***If we can get these back by morning of the 4th*** (or sooner) that will give her time to upload in OCFO's new fancy system (that is really slow). Howard Rubin will be acting back up and will be coordinating with OCFO/OCIR on Thursday and Friday, as needed.

Current Hearing Schedule:

HAC: Potentially April 23rd
SAC: April 25th
HEC: April 26th

As always, any questions, please let us know.

Thanks

jennifer

Jennifer M. Wilbur

Senior Budget Officer and Director, Acquisition and Resources Management Staff
Office of Program Management
Office of Land and Emergency Management
U.S. Environmental Protection Agency

Wilbur.jennifer@epa.gov
(202) 566-2756

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/4/2017 7:32:14 PM
To: Noggle, William [Noggle.William@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Breen, Barry [Breen.Barry@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Prins, Christopher [Prins.Christopher@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]
Subject: OMB Briefing Materials for EPCRA CERCLA response to court vacatur
Attachments: CERCLA-EPCRA OMB Briefing 10-4-17.pptx; 2008_12_18_73FR76948_CAFO FR.pdf

Attached is a short slide deck to provide history on the CERCLA EPCRA rule that exempted reporting of emissions from animal wastes at farms. I also attached the FR notice of the final rule action from 2008.
Please elevate showstopper issues quickly.
Thanks!

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Update on CERCLA/EPCRA Administrative Reporting Exemption Rule

OCTOBER 5, 2017

CERCLA/EPCRA Administrative Reporting Exemption

Final rule published December 18, 2008 and provided an exemption for the existing CERCLA 103 and EPCRA 304 reporting requirements to:

- All farms the release hazardous substances from animal waste to the air that meet or exceed their reportable quantities from reporting under CERCLA Section 103 and
- Farms that release hazardous substances from animal waste to the air that meet or exceed their RQ from reporting under EPCRA section 304 if they stable or confine fewer than the identified number of animal species (all but large CAFOs).

CERCLA/EPCRA Administrative Reporting Exemption

- In 2009, environmentalist petitioned the D.C. Circuit court to review the exemption rule, arguing it violated CERCLA and EPCRA.
- Suit was stayed when EPA sought to resolve the litigation by agreeing to a voluntary remand of the rule without vacatur, while the agency gathered more data before creating mandatory reporting requirements for CAFOs
- In September 2015, the DC Circuit granted a motion by the environmentalist petitioners to recall the voluntary mandate of the rule without vacatur, triggering briefing on the legality of the 2008 rule.
- In December 2016, oral arguments were hear by the U.S. Court of Appeals for the DC Circuit.
- On April 11, 2017, the U.S. Court of Appeals for the DC Circuit vacate the 2008 rule for being neither a reasonable interpretation of statutory ambiguity or use of an implied authority to create exceptions to statutory mandates.
- At EPA's request, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.

CERCLA/EPCRA Administrative Reporting Exemption

Deliberative Process / Ex. 5

CERCLA/EPCRA Administrative Reporting Exemption

Deliberative Process / Ex. 5

CERCLA/EPCRA Administrative Reporting Exemption

Deliberative Process / Ex. 5

Brooks, Becky

From: Gioffre, Patricia
Sent: Thursday, October 26, 2017 8:57 AM
To: Davis, Patrick
Cc: Jennings, Kim
Subject: RE: EPCRA CERCLA Ag Guidance is now available

Categories: EZ Record - Shared

We had originally planned to brief them at the Animal Ag. Discussion Group meeting but the timing didn't work out. Since many of those individuals may be travelling today, we will work to set up a separate briefing next week.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Davis, Patrick
Sent: Thursday, October 26, 2017 8:50 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>
Subject: Re: EPCRA CERCLA Ag Guidance is now available

Thank you. Please tell what I can do to help you. When will we brief the ag advisors in the regions and regional administrators?

Patrick Davis
Environmental Protection Agency
Senior Advisor to the Regional Administrator for Public Engagement (Region 8)
303-312-6855 office
720-607-9055 cell

Emails sent to this address may be subject to FOIA.

Sent from my iPhone

On Oct 26, 2017, at 5:57 AM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Absolutely. We have had conversations with ag. stakeholders and Michael has been part of those conversations. We plan to share this information with that entire group today.
>
> ---
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972
> 202-748-7139 (cell)
> ---
> Follow OLEM on Twitter @EPALand

From: Davis, Patrick
Sent: Thursday, October 26, 2017 7:10 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: Re: EPCRA CERCLA Ag Guidance is now available

Thank you. Will you please send this link to Michael at the Pork producers?

Thanks,

Patrick Davis
Environmental Protection Agency
Senior Advisor to the Regional Administrator for Public Engagement (Region 8)
303-312-6855 office
720-607-9055 cell

Emails sent to this address may be subject to FOIA.

Sent from my iPhone

On Oct 25, 2017, at 7:30 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> I am pleased to announce that the EPCRA/CERCLA ag guidance is live on the EPA website. To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste, see: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms
>
> Thank you all for your assistance developing this guidance and for your support through the interagency review process. It was a lot of work and we couldn't have done it without your expertise!
>
> Best wishes!
> ---
> Patty Gioffre
> Acting Deputy Division Director
> USEPA (OLEM/OEM/RID)
> 1200 Pennsylvania Ave. NW (5104A)
> Washington, DC 20460
> 202-564-1972
> 202-748-7139 (cell)

Consolidated Report to the Assistant Administrator
Office of Land and Emergency Management
Office of Emergency Management
For the Week of August 17, 2017

Items Requiring AA Signature/Approval/Concurrence

PROD-Request for approval of the conference-related activities spending request for the Emergency Response Technical Group Face to Face Meeting to be held in the Region 5 offices in Chicago, IL on October 16-20, 2017.

CMAD – Request for approval of the conference-related activities spending request for the Emergency Support Function 10 National Radiological Preparedness Group meeting in Chicago, IL on September 12-14, 2017.

AA Level Hot Topics

RID-**Planning Session for Upcoming Meeting with Animal Agriculture Representatives.** On August 16, 2017 OEM staff met with the OLEM Deputy AA and representatives of the U.S. Poultry & Egg Association to identify agenda topics for an upcoming meeting with animal agriculture representatives. The purpose of that meeting is to discuss Environmental Planning and Community Right-to-Know/Comprehensive Environmental Response, Compensation, and Liability Act (EPCRA/CERCLA) reporting compliance concerns following vacatur of the EPA's 2008 final rule EPCRA/CERCLA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms. The wider meeting is scheduled for August 24, 2017 at 11:00 am.

Enforcement/Investigatory / Ex. 7(a)

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00014666-00001

Last Week Highlights (No Action Required)

Resource Management Division (RMD) – *nothing to report*

Regulations Implementation Division (RID)

2017 Tribal Lands & Environment Forum
On August 14, OEM RID staff attended the 2017 Tribal Lands & Environment Forum, in Tulsa, Oklahoma to present a Spill Prevention Control and Countermeasure (SPCC) short course. The four-hour short course provided our tribal partners with information on the SPCC Program that addressed regulations and agency guidance focused on the upstream and downstream petroleum sectors. In addition to the SPCC short course, the forum featured special trainings, field trips, and breakout sessions focused on solid/hazardous waste management, brownfields, underground storage tanks/leaking underground storage tanks, aboveground storage tanks, and Superfund sites, water program topics, and emergency response. OEM's tribal coordinator also attended the forum to provide information on OEM's regulatory and emergency response programs. For more information, contact Mark Howard, 202-564-1964 or Nick Nichols, 202-564-1970.

NFPA 400 Hazardous Materials Code, Ammonium Nitrate Task Group
On August 16, RID staff participated in a teleconference with the Ammonium Nitrate (AN) task group of the National Fire Protection Association's (NFPA) 400 Hazardous Materials Committee. OSHA staff are also participating in this AN task group. The task group discussed issues regarding the detonation potential of calcium ammonium nitrate (CAN), a fertilizer, as compared to fertilizer grade AN. Discussion focused on a paper by a CAN fertilizer manufacturer on the safety advantages of CAN and technical literature involving heating and decomposition tests of CAN. The AN task group will use the information to determine whether CAN should be subject to the same NFPA 400 Hazardous Material code requirements as AN in Chapter 11 of the code. Further discussion will occur at the upcoming NFPA 400 committee meeting in September that will address revisions for the next version of the NFPA 400 code. For more information, contact Kathy Franklin, 202-564-7987.

OIG Exit Meeting on Toxic Release Inventory (TRI) Non-Filer Evaluation
On Thursday, August 17, representatives of OLEM, OECA, and OCSPP met with the Office of Inspector General (OIG) to discuss each office's response to the OIG draft report entitled: "EPA Could Better Use Toxic Release Inventory Data to Identify Potentially Unregulated Facilities and Protect Human Health." The report discusses the OIG's evaluation of how EPA uses TRI data to identify potentially unregulated facilities in its major media programs. In the draft report, among other findings, the OIG claims to have identified "Hundreds of Potential RMP Non-Filers with Millions of Pounds of Potentially Unreported Chemicals." With respect to this finding, the OIG report recommends that OLEM and OCSPP develop an automated mechanism to annually compare Risk Management Program (RMP) and TRI data to identify RMP non-filers. OLEM has non-concurred with the OIG recommendation, as OLEM already has a policy in place to perform a triennial RMP non-filer review using TRI data (or other available data sources), and historically has had very little success in identifying actual RMP non-filers using TRI data (i.e., almost all "potential" RMP non-filers identified by comparing the TRI and RMP databases are

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00014666-00002

not actually RMP non-filers, but rather are facilities that are not subject to the RMP rule). For more information, contact Jim Belke, 202-564-8023.

Preparedness and Response Division (PROD)

Emergency Operations Center (EOC) Hardware Refresh Training
On August 15, select PROD management and staff and EOC Information Technology Contract support received user and admin training, respectively, on the audio/visual upgrades in the HQ EOC. Training was provided by the Office of Environmental Information (OEI) Contractors and focused on an overview of the new equipment and setting up calls and content sharing among the rooms in the EOC. OEI will continue with testing of the new equipment, which will be followed by PROD staff testing and training of the remainder of PROD staff

EPA Participation in the DOT Transportation Rail Incident Preparedness and Response (TRIPR) Training Committee
On August 17, 2017, PROD-PRT and EPA Region 5 participated in a TRIPR call to update training on rail transportation involving crude and flammable liquids. EPA Region 5 has provided a number of workshops involving local response personnel, OSCs and the USCG based on the training tools and information developed by TRIPR. All the information is provided online, including instructor guides, student manuals, scenarios, commodities transported, foam application, incident command, etc. There has been interest from several other regions for the training which would be no cost, but experienced OSCs would have to present the material. POC: Roberta Runge, 202-564-1973.

Chemical, Biological, Radiological, Nuclear (CBRN) Consequence Management Advisory Division (CMAD)

CMAD Coordinating with the National Aeronautics and Space Administration (NASA) on iTech Forum
NASA has approached CMAD to team up on an innovative project known as the iTech Forum. The forum is a way for NASA to highlight work being done by inventors and startups in areas that NASA has unfunded science gaps. Structured as a competition, inventors and startups submit technological solutions to issues related to five broad categories related to persistent science gaps in their missions. While NASA does not provide funding or any sort of commitment to the forum winners, the startups gain recognition for the work they are doing that may be leverage to gain funding from investors to further the technology. Additionally, the forum provides NASA researchers with a fresh perspective on how to address ongoing science gaps in their program. NASA approached CMAD to team up on their upcoming cycle to address gaps shared by both agencies, specifically in areas related to remote detection, biological agent identification and decontamination, and waste minimization. As part of the process, NASA has asked CMAD to co-present at the Space Technology & Investment Forum on August 30-31 to discuss how NASA and EPA may be able to leverage the partnership to find innovative solutions to issues in a resource-limited environment. POC: Francisco J. Cruz, 202-564-4794

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00014666-00003

Update on the National Biodefense Strategy
CMAD continues to provide comment to the Office of Homeland Security and the National Security Council on the National Biodefense Strategy (NBS). The goal of the NBS is to harmonize the government's biodefense enterprise to reduce redundancies and leverage resources in order to efficiently meet the nation's biodefense needs. Currently, the work is being completed at the interagency level to agree upon sub objectives for the six goals in the NBS, as well as create a governance structure for the strategy. In addition to a strategy, there will be an effort to have national biodefense budget that would fund various biodefense activities, ranging from research to training and capacity building. POC: Francisco J. Cruz, 202-564-4794

CMAD to Participate in iGem
CMAD was asked to be a judge during the International Genetically Engineered Machine (iGem) competition. iGem is an international synthetic biology competition where teams of students all using the same basic kits create biological systems that operate in living cells. As part of the competition, teams need to address potential security issues related to their work. CMAD, as well as NHSRC and counterparts in DHS and FBI, have been asked to judge teams related the security issues related to their work. CMAD and NHSRC will also take the opportunity to meet with counterparts at DHS and FBI working on synthetic biology issues to establish a working relationship to gauge potential impacts of the technology on EPA's emergency response mission. EPA has been tasked to examine the impacts of synthetic biology to the agency's mission, and participation in iGem will allow for greater understanding of the technology while discussing critical issues with partners at DHS and FBI. POC: Francisco J. Cruz, 202-564-4794

Continuous Recovery Efforts in the Aftermath of an Accident Involving Portable High-throughput Integrated Laboratory Identification System (PHILIS) Mobile Lab APL02
Two gas chromatography/electron capture detector (GC/ECD) units used for polychlorinated biphenyls (PCBs) analysis are now operational, calibrated and ready for use. CMAD's PHILIS mobile PCBs capability are fully restored. One GC/mass spectrometry (GC/MS) system has been setup and calibrated for mobile semi-volatile (SVOCs) analysis. The NJ PHILIS is now at 50% of pre incident capacity. Full recovery of mobile SVOCs capacity is expected within 1-2 weeks. The remaining 4 GC/MS systems from APL02 have been salvaged, and instrument service and repair work is underway in Edison. An evaluation as to when the units will be returned to service is ongoing. POC Larry Kaelin; 732-321-6625

CMAD Fixed Lab support of the EPA's PFC Methods Work Group
EPA's PFC (perfluro-alkyl compounds) Methods Development Work Group, is currently developing methods to determine PFC in drinking water, at health-risk levels. CMAD chemists are participating in the Work Group to review currently available and proposed and test novel PFC methods. The CMAD liquid chromatography/tandem mass spectrometry fixed lab located in NJ, is currently running PFC standards to develop sample prep and analytical methods appropriate for their current instrumentation and hardware, that will be shared with and evaluated by, the EPA PFC Methods Development Work Group. CMAD is also providing logistical support to the group. POCs: David Bright, 913-551-7897 and Larry Kaelin, 732-321-6625

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00014666-00004

CMAD Fixed and Mobile Lab Support for EPA's Chemical Responses Capabilities
CMAD is participating in an inter-agency laboratory response exercises as a member of the Integrated Consortium of laboratory Networks (ICLN). The EPA is a member of the ICLN, under their Environmental Response Laboratory Network (ERLN) network of labs. CMAD is supporting another ICLN exercise focusing on an "Mixed Agent" incident response that will address issues regarding the handling and analysis of samples and wastes containing both chemical and radiological contaminants (mixed agent). CMAD will present the EPA's ERLN lab capabilities. The scope of the exercise, choice of scenarios and selection of labs are all still in devolvement. CMAD has already participated in several conference calls, webinars and document development in support of the ICLN exercise, with numerous meetings into September 2017. POCs: David Bright, 913-551-7897

PHILIS Analytical Support to Region 2: General Motors RACER and Mackenzie National Priority List (NPL) Sites
CMAD's PHILIS labs assets in Edison, NJ will provide analytical support for the General Motors (Revitalizing Auto Communities Environmental Response Trust) NPL site in Massena, NY by conducting soil PCB analysis. Approximately 100 soil samples will be delivered to Edison during a two-week period starting in mid-August. Samples from the Mackenzie Chemical Works NPL site in Central Islip, NY, are expected to arrive in mid-September and will consist of approximately 30 soil samples being analyzed for volatile organic compounds (VOCs).

PHILIS Analytical Support Region 5
The NJ PHILS laboratory will analyze approximately 10-20 residential well water samples for VOCs in support of a removal assessment starting the week of August 14th. A characteristic leachate procedure-like data package will be provided to the on-scene coordinator in order to determine if a removal action is warranted. CMAD is analyzing these samples as part of the offer to the Regions to run 200 samples/region at no cost. POC: Larry Kaelin, 732-321-6625.

CMAD *Bacillus* Outdoor Sampling Study (BOSS) Region 6
Last week CMAD and ORD/NHSRC personnel took background samples of various matrices (grass, leaves, surfaces, soil, and airborne particulates) at a test facility near Ponca City, OK where DHS has two planned releases of *Bacillus thuringiensis kurstaki* (*Btk*), one during winter (January or February) and one during summer 2018. Samples were sent to the CMAD BSL 2+ lab at the Denver Federal Center so that the microbiologist can analyze *Btk* in the native matrices. The goal of the BOSS project is twofold: to better understand sampling for *Bacillus* spores in outdoor environments and to better understand the fate and transport of *Bacillus* spores in the environment. POC Shannon Serre, (919)541-3817

Upcoming External Engagements (next 14 days)

OEM IO – August 30, 2017 meeting with OMB on the Homeland Security budget; OHS is coordinating. The focus is ASPECT and PHILIS.

RID - Meeting with animal agriculture representatives on August 24, 2017 at 11:00 am to discuss Environmental Protection and Community Right to Know Act/Comprehensive Environmental Response, Compensation and Liability Act (EPCRA/CERCLA) reporting compliance concerns

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00014666-00005

following vacatur of EPA's 2008 final rule CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms.

CMAD - **Mobile Asset Open House**
CMAD will host an Open House for PHILIS and Airborne Spectral Photometric Environmental Collection Technology (ASPECT) in Denver, CO on 31 August. The PHILIS Open House will take place at the Denver Federal Center while the ASPECT Open House will take place at the Rocky Mountain Regional Airport. The purpose of the Open House is to offer hands on description of the assets' capabilities to better understand how they support the homeland security and day-to-day mission of the Agency. The OEM IO and OMB staff will be in attendance for this Open House. POC: Paul Kudarauskas, 202-564-2415

CMAD - **Joint Task Force-Civil Support (JTF-CS) Interagency Bio Workshop**
The purpose of the workshop, on 29 August at Fort Eustis, is to generate increased situational awareness of the current research, modeling, and threat assessment through some of the leading programs in DHS and the Defense Threat Reduction Agency. The expected outcome is a better understanding of current bio threats to support operational decision making and planning efforts. Additionally, it will bring together bio experts from DHS and the DoD to improve integration across the biological component of the domestic CBRN response mission space. CMAD will brief on the Operational Tech Demo Field test which evaluated decon options for a biological release in a subway that was conducted at Fort AP Hill last fall. POC: Paul Kudarauskas, 202-564-2415

CMAD - **Coordinating with NASA on iTech Forum**
NASA has approached CMAD to team up on an innovative project known as the iTech Forum. The forum is a way for NASA to highlight work being done by inventors and startups in areas that NASA has unfunded science gaps. Structured as a competition, inventors and startups submit technological solutions to issues related to five broad categories related to persistent science gaps in their missions. While NASA does not provide funding or any sort of commitment to the forum winners, the startups gain recognition for the work they are doing that may be leverage to gain funding from investors to further the technology. Additionally, the forum provides NASA researchers with a fresh perspective on how to address ongoing science gaps in their program. NASA approached CMAD to team up on their upcoming cycle to address gaps shared by both agencies, specifically in areas related to remote detection, biological agent identification and decontamination, and waste minimization. As part of the process, NASA has asked CMAD to co-present at the Space Technology & Investment Forum on August 30-31 to discuss how NASA and EPA may be able to leverage the partnership to find innovative solutions to issues in a resource-limited environment. POC: Francisco J. Cruz, 202-564-4794

CMAD - **Staff to Visit HHS' Center for Disease Control (CDC)**
On August 24th CMAD and NHSRC staff will be meeting with representatives from CDC and National Institute for Occupational Health and Safety to discuss clean up levels for biological contaminants. The lessons learned from the DHS sponsored Underground Transportation Restoration project regarding site and agent specific information may be considered as a factor modifying the current clean up definition of "no live spores using validated sampling and culture analysis". POC: Mike Nalipinski, 617-680-5468

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00014666-00006

Update on CERCLA/EPCRA Administrative Reporting Exemption Rule

OCTOBER 5, 2017

CERCLA/EPCRA Administrative Reporting Exemption

Final rule published December 18, 2008 and provided an exemption for the existing CERCLA 103 and EPCRA 304 reporting requirements to:

- All farms that release hazardous substances from animal waste to the air that meet or exceed their reportable quantities from reporting under CERCLA Section 103 and
- Farms that release hazardous substances from animal waste to the air that meet or exceed their RQ from reporting under EPCRA section 304 if they stable or confine fewer than the identified number of animal species (all but large concentrated animal feeding operations (CAFOs)).

CERCLA/EPCRA Administrative Reporting Exemption

- In 2009, a coalition of environmental groups petitioned the D.C. Circuit court to review the exemption rule, arguing it violated CERCLA and EPCRA.
- Suit was stayed when EPA sought to resolve the litigation by agreeing to a voluntary remand of the rule without vacatur, while the agency gathered more data before creating mandatory reporting requirements for CAFOs
- In September 2015, the DC Circuit granted a motion by the environmentalist petitioners to recall the voluntary mandate of the rule without vacatur, triggering briefing on the legality of the 2008 rule.
- In December 2016, oral arguments were heard by the U.S. Court of Appeals for the DC Circuit.
- On April 11, 2017, the U.S. Court of Appeals for the DC Circuit vacated the 2008 rule for being neither a reasonable interpretation of statutory ambiguity nor a use of implied authority to create exceptions to statutory mandates.
- At EPA's request, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.

CERCLA/EPCRA Administrative Reporting Exemption

Deliberative Process / Ex. 5

CERCLA/EPCRA Continuous Release Reporting

Deliberative Process / Ex. 5

CERCLA/EPCRA Administrative Reporting Exemption

Deliberative Process / Ex. 5

CERCLA/EPCRA Administrative Reporting Exemption

Deliberative Process / Ex. 5

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 1/23/2018 11:39:12 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]
CC: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: Re: Agenda for CERCLA/ EPCRA meeting on 1/24/18

I agree with Reggie. This came up at the meeting with Ryan and it will be a big issue when the mandate is issued. So let's add it. I don't have any other additions or comments.

Thanks,
Kim

On Jan 23, 2018, at 6:11 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

> Looks good. Should there be anything on the NRC and our associated efforts to support?
>
> Reggie Cheatham, Director
> Office of Emergency Management, USEPA
> 202/564-8003(o)/202/689-9400
> Doris Williams, Executive Assistant
> 202/564-0053
>
> On Jan 23, 2018, at 5:42 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:
>
>> As requested, here is a draft agenda for tomorrow's meeting.
>> Kim may have some suggested edits in the morning.
>>
>> Agenda
>> Provide update on:
>> - <!--[if !supportLists]--><!--[endif]-->Court mandate- OGC
>> - <!--[if !supportLists]--><!--[endif]-->Outreach –Jeff/ Tate/ OEM
>> - <!--[if !supportLists]--><!--[endif]-->Stakeholder calls
>> - <!--[if !supportLists]--><!--[endif]-->Guidance updates
>> - <!--[if !supportLists]--><!--[endif]-->Addressing digital divide- USCG NRC, Information center
>> - <!--[if !supportLists]--><!--[endif]-->Legislation- OCIR
>> - <!--[if !supportLists]--><!--[endif]-->ICR- streamlined continuous release form for farmers-OEM
>> - <!--[if !supportLists]--><!--[endif]-->Rulemakings -OEM/OGC
>> - <!--[if !supportLists]--><!--[endif]-->EPCRA legislative rule
>> - <!--[if !supportLists]--><!--[endif]-->Vacatur rule
>> - <!--[if !supportLists]--><!--[endif]-->RQs
>>
>> ----------
>> Patty Gioffre
>> USEPA (OLEM/OEM)
>> 1200 Pennsylvania Ave. NW (5104A)
>> Washington, DC 20460
>> 202-564-1972
>> 202-748-7139 (cell)

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Message

From: Hilosky, Nick [Hilosky.Nick@epa.gov]
Sent: 8/11/2017 5:58:09 PM
To: Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Sure will tee it up Monday AM.

From: Brooks, Becky
Sent: Friday, August 11, 2017 1:54 PM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: FW: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Nick -- I haven't heard back from Patrick on this yet. I will keep an eye out on the emails. If it is still pending on Monday, can you please ask him about it? I just need to know if he is ok w/doing a call w/Christian and a couple of others (along w/OEM) on August 16 and then an in-person meeting w/Christian and the larger group (along w/OEM) on August 24 (folks will be flying in.) There are meeting holds on the calendar for both the call on Wednesday and the in-person meeting on August 24, but I need to close with Christian Richter to let him know that everything is confirmed.

I will let Christian know that it may be Monday before I can get back to him. Thanks. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Brooks, Becky
Sent: Wednesday, August 09, 2017 11:50 AM
To: Davis, Patrick <davis.patrick@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Hill, Teresa <Hill.Teresa@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Christian and I were able to talk today. He would like to propose a brief phone call w/Patrick and Reggie (or OEM representative), himself, and a couple of others on his end on August 16 at 3:00, followed by an in-person meeting w/the larger group of folks on August 24 at 11:00. The in-person meeting would be with many of the people that were here for the July 11 meeting. In addition, he mentioned that Tim Gablehouse of the National Association of SARA Title III Program Officials (NASTTPO) was interested in being part of that meeting.

Please let me know if there are concerns w/doing a brief phone call w/a small group next week and then an in-person meeting w/the larger group the following week. Also, please let me know if others want to be included on the phone call. Thanks. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Davis, Patrick
Sent: Friday, August 04, 2017 9:24 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Fotouhi, David <fotouhi.david@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Hill, Teresa <Hill.Teresa@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: Re: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Please ask Christian for a date to meet these folks during the week of August 14.

Thanks,

Patrick Davis
Environmental Protection Agency
Deputy Associate Administrator, Office of Land and Emergency Management

Personal Phone / Ex. 6

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Aug 4, 2017, at 7:03 AM, Brooks, Becky <Brooks.Becky@epa.gov> wrote:

> I just wanted to let folks know that Christian reached out to our office again via email this morning about meeting with Patrick next week. I indicated back to him that we are coordinating with the other offices that he has reached out to and someone will get back to him soon. I also let him know that Patrick will be on travel August 10 and 11, the dates they were suggesting to meet. Please let us know how you would like to proceed. Thanks. Becky
>
> Sent from my iPhone
>
> On Aug 3, 2017, at 1:11 PM, Davis, Patrick <davis.patrick@epa.gov> wrote:
>
>> Thank you
>>
>> Patrick Davis
>> Environmental Protection Agency
>> Deputy Associate Director, Office of Land and Emergency Management
>>
>> **Personal Phone / Ex. 6**
>>
>> Emails sent to this address may be subject to FOIA.
>>
>> Sent from my iPhone
>>
>> On Aug 3, 2017, at 11:03 AM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Attorney Client / Ex. 5

Sent from my iPhone

On Aug 1, 2017, at 9:03 PM, Bennett, Tate <Bennett.Tate@epa.gov> wrote:

> Hey- I need to touch base with these folks at some point regardless and it can be within this context or another. Is there much of an update?
>
> Sent from my iPhone
>
> On Aug 1, 2017, at 8:19 PM, Davis, Patrick <davis.patrick@epa.gov> wrote:
>
>> Reggie, David and Tate,
>>
>> Are we ready to meet with these groups, yet to discuss the EPCRA reporting compliance guidance?
>>
>> Thanks,
>>
>> Patrick Davis
>> Environmental Protection Agency
>> Deputy Associate Administrator,
>> Office of Land and Emergency Management
>>
>> **Personal Phone / Ex. 6**
>>
>> Information sent to this email address may be subject to FOIA.
>>
>> Sent from my iPad
>>
>> On Aug 1, 2017, at 1:37 PM, Brooks, Becky <Brooks.Becky@epa.gov> wrote:
>>
>>> Patrick/Reggie – Please see the email trail below. Was a commitment made at the July 11 meeting w/these folks to meet again in August?
>>>
>>> *Becky Brooks*
>>> *Special Assistant*
>>> *Office of Land and Emergency Management*

U.S. Environmental Protection Agency
ph. 202-566-2762

From: Hill, Teresa
Sent: Tuesday, August 01, 2017 3:25 PM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>; Patrick, Monique <Patrick.Monique@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Thanks Alexander

Looping in the special assistant in OLEM

From: Dominguez, Alexander
Sent: Tuesday, August 01, 2017 3:23 PM
To: Hill, Teresa <Hill.Teresa@epa.gov>; Patrick, Monique <Patrick.Monique@epa.gov>
Subject: FW: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Hey all – As the email chain motions, there was a previous meeting on this issue Tuesday, July 11 at 1:00PM that both Justin and David attended. Mandy was also at the meeting but asked me to forward

this request to you all since it is more in Justin and David's wheelhouse and she will not be injecting herself into this issue. Any questions just let me know.

Alex

Alex Dominguez
Policy Analyst to the Senior Advisors to the Administrator for Air and Water
U.S. Environmental Protection Agency

From: Christian Richter [mailto:crichter@thepolicygroup.com]
Sent: Tuesday, August 1, 2017 12:47 PM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Follow up Meeting with Animal Agriculture Group on EPCRA / CERCLA

Hello Alex:

Hope you're well lately. I wanted to follow up on our earlier discussions and see if we might consider a date for next meeting with animal agriculture representatives.

Would next week either August 10th or 11th be workable?

Best,

Christian

From: Christian Richter
Sent: Monday, July 10, 2017 6:44 AM
To: Dominguez, Alexander
Cc: Christian Richter
Subject: 2 additional attendees | Re: Preparation for Animal Agriculture Meeting on July 11 @ 1:00 pm ET at EPA

Alex:

in addition to those names I have already sent over, we will have two additional industry participants for tomorrow's meeting (July 11th at 1:00 pm @ EPA):

Jamie Jonker, National Milk Producers Federation
Lisa Van Doren, National Council of Farmer Cooperatives

Thanks very much.

Best regards,

Christian

From: Christian Richter
Sent: Friday, July 7, 2017 7:23:54 AM
To: Dominguez,

Alexander
Subject: Re: Preparation for Animal Agriculture Meeting on July 11 @ 1:00 pm ET at EPA

Hello Alex:

Please see list of attendees for next Tuesday's meeting:

Paul Bredwell, US Poultry & Egg Association
Michael Formica, National Pork Producers Council
Tom Hebert, United Egg Producers
Christian Richter, US Poultry & Egg Association / National Turkey Federation
Andrew Walmsley, American Farm Bureau Federation
Scott Yager, National Cattlemen's Beef Association

We may have one other colleague joining from the the National Milk Producers Federation, and will confirm shortly.

Best regards,

Christian
U.S. Poultry & Egg Association
National Turkey Federation

The Policy Group

1800 M Street NW
Suite 400 South
Washington, DC
20036
(202) 257-0250 direct
crichter@thepolicygroup.com

From: Dominguez, Alexander <dominguez.alexander@epa.gov>
Sent: Thursday, July 6, 2017 7:30:57 AM
To: Christian Richter
Subject: RE: Preparation for Animal Agriculture Meeting on July 11 @ 1:00 pm ET at EPA

Thank you for the document Christian. You should have just received the calendar invite. Once you get the attendees just send that over and we'll be all set.

Alex

Alex Dominguez
Policy Analyst to the Senior Advisors to the Administrator for Air and Water
U.S. Environmental Protection Agency

From: Christian Richter [mailto:crichter@thepolicygroup.com]
Sent: Wednesday, July 5, 2017 10:01 AM
To: Dominguez, Alexander <dominguez.alexander@epa.gov>
Subject: Preparation for

Animal Agriculture Meeting on July 11 @ 1:00 pm ET at EPA

Hello Alex:

In preparation for our meeting with Mandy and others next Tuesday, July 11, we will send over by later this afternoon or tomorrow morning a list of attendees and materials.

One highly pertinent and timely item of which Mandy should be aware is Tuesday's (July 3) DC Circuit's denial of the industry's petition for a rehearing of the court's earlier decision on the agency's EPCRA/CERCLA reporting exemption. The 1-page order is attached for reference.

We will send along agenda items along with participant names in the meantime and confirm final details.

If you or Mandy have any questions in the meantime, please reach me.

Best regards,

Christian Richter

U.S. Poultry & Egg Association
National Turkey Federation

The Policy Group
1800 M Street NW
Suite 400 South
Washington, DC
20036
(202) 257-0250 direct
crichter@thepolicygroup.com

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 10/16/2017 8:56:18 PM
To: Benjamin, Kent [Benjamin.Kent@epa.gov]
CC: Taylor, Trish [Taylor.Trish@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: CERCLA/EPCRA revised Comms Plan and Desk Statement

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Benjamin, Kent
Sent: Monday, October 16, 2017 4:29 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Taylor, Trish <Taylor.Trish@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: CERCLA/EPCRA revised Comms Plan and Desk Statement

FYI: per my voicemail
Here is a draft revised comms plan that takes into account the actions occurring today and the necessarily revised posting date. The CERCLA/EPCRA package can't get posted on the web until OMB receives all materials in ROCIS and gets Interagency comments – which they want up to a work week to do starting today. Changes are in red.

Highlights in the revised draft Comms Plan:

- Press coverage wanted (*National Release) per instructions by Administrator Pruitt today

Deliberative Process / Ex. 5

- Pre and Post publication desk statements

Deliberative Process / Ex. 5

Call if you have questions.

Kent A. Benjamin, M.S., Acting Director
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management
Tel. 202-564-9095; Mobile: 202-480-4927
Email: *benjamin.kent@epa.gov*
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

Message (Digitally Signed)

From: Benjamin, Kent [Benjamin.Kent@epa.gov]
Sent: 10/16/2017 8:28:31 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]
CC: Taylor, Trish [Taylor.Trish@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: CERCLA/EPCRA revised Comms Plan and Desk Statement
Attachments: DRAFT Comm Plan for Animal Waste Emissions Guidance 10-16-17 (v.4).docx; smime.p7s

FYI: per my voicemail
Here is a draft revised comms plan that takes into account the actions occurring today and the necessarily revised posting date. The CERCLA/EPCRA package can't get posted on the web until OMB receives all materials in ROCIS and gets Interagency comments – which they want up to a work week to do starting today. Changes are in red.

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- Press coverage wanted (*National Release) per instructions by Administrator Pruitt today

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

Call if you have questions.

Kent A. Benjamin, M.S., Acting Director
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management
Tel. 202-564-9095; Mobile: 202-480-4927
Email: *benjamin.kent@epa.gov*
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/13/2017 2:19:36 PM
To: Taylor, Trish [Taylor.Trish@epa.gov]
CC: Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Hull, George [Hull.George@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hilosky, Nick [Hilosky.Nick@epa.gov]
Subject: RE: CERCLA EPCRA Update

Thanks for the update Trish.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Taylor, Trish
Sent: Friday, October 13, 2017 10:00 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: CERCLA EPCRA Update

Hi all,

We'll proceed with the comms plan as is for now.
However, if there's an occasion within the 30 days between Oct 16 and Nov 15, to invite Brownfield Ag News to conduct a longer interview with EPA, we'll revisit the idea then.

Thanks,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

From: Gioffre, Patricia
Sent: Friday, October 13, 2017 9:30 AM

To: Taylor, Trish <Taylor.Trish@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Re: CERCLA EPCRA Update

OK. Thanks.

Sent from my iPhone

On Oct 13, 2017, at 9:23 AM, Taylor, Trish <Taylor.Trish@epa.gov> wrote:

> Hi Patty,
>
> The interview suggestion is being discussed. I'll get back to you and George asap.
>
> Thx,
> Trish
>
> ---
>
> **From:** Gioffre, Patricia
> **Sent:** Thursday, October 12, 2017 6:54 PM
> **To:** Clark, Becki <Clark.Becki@epa.gov>
> **Cc:** Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
> **Subject:** Re: CERCLA EPCRA Update
>
> No decisions have been made. I am available on Monday. If it is scheduled on Tuesday, Kim will be in the office.
>
> If you or Reggie prefer to handle it, then we can always provide support.
>
> Let me know if you have a preference.
>
> Sent from my iPhone
>
> On Oct 12, 2017, at 6:26 PM, Clark, Becki <Clark.Becki@epa.gov> wrote:
>
>> Got it, thanks Patty. Who will sit for the interview?
>>
>> Sent from my iPhone
>>
>> On Oct 12, 2017, at 5:46 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:
>>
>>> Reggie/Becki-
>>> This email is to provide a status update on the EPCRA/CERCLA guidance in preparation for publishing something on our website on Monday 10/16. (OGC/PARMS-If I've captured anything wrong, please feel free to correct me)
>>>
>>> **EPCRA 304 Q&A**
>>>
>>> Deliberative Process / Ex. 5
>>>
>>> **Attorney Client / Ex. 5**

Attorney Client / Ex. 5

- Planning for another call at noon tomorrow. Hoping to wrap up interagency review with the next draft Q&A.

CERCLA 103 web text

Attorney Client / Ex. 5

- **Still waiting on feedback from senior leaders**

Communications

- George and Trish have the communications plan ready and are working with OPA
- Patrick Davis would like to invite Brownfield Ag News (who submitted a recent press inquiry on this topic) to conduct a longer interview with EPA next week as part of the communication rollout.
    - I will be in the office on Monday to provide support and can do the interview.

ICR issues

Deliberative Process / Ex. 5

    - We have a version previously developed to use as a starting point.
    - RID will focus on this work next week (though some staff are out of the office at the NASTTPO meeting)

Deliberative Process / Ex. 5

This is all moving rapidly. Although tomorrow is my Comp Day, I will remain actively involved, monitor email and participate in interagency calls. Kathy Franklin will be in the office tomorrow and serve as Acting Director for RID. Please copy her on all emails on this subject. Thanks!

Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

<EPCRA routine ag Draft 10.12.17_OEM.docx>
<Guidance for Farms DRAFT 10122017 .docx>

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 10/13/2017 1:32:39 PM
To: Brooks, Becky [Brooks.Becky@epa.gov]
CC: Hilosky, Nick [Hilosky.Nick@epa.gov]
Subject: FW: CERCLA EPCRA Update

Hi Becky,

Is Patrick available this a.m. to talk about this potential interview?

Thanks,
Trish

From: Taylor, Trish
Sent: Friday, October 13, 2017 9:23 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA EPCRA Update

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Trish

From: Gioffre, Patricia
Sent: Thursday, October 12, 2017 6:54 PM
To: Clark, Becki <Clark.Becki@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
Subject: Re: CERCLA EPCRA Update

No decisions have been made. I am available on Monday. If it is scheduled on Tuesday, Kim will be in the office.

If you or Reggie prefer to handle it, then we can always provide support.

Let me know if you have a preference.

Sent from my iPhone

On Oct 12, 2017, at 6:26 PM, Clark, Becki <Clark.Becki@epa.gov> wrote:

> Got it, thanks Patty. Who will sit for the interview?
>
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>
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EPCRA 304 Q&A

Deliberative Process / Ex. 5

Attorney Client / Ex. 5

CERCLA 103 web text

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ICR issues

Deliberative Process / Ex. 5

- We have a version previously developed to use as a starting point.
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Deliberative Process / Ex. 5

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Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)

Washington, DC 20460
202-564-1972
202-748-7139 (cell)

<EPCRA routine ag Draft 10.12.17_OEM.docx>

<Guidance for Farms DRAFT 10122017 .docx>

Message

From: Noggle, William [Noggle.William@epa.gov]
Sent: 10/13/2017 1:24:53 PM
To: Lewis, Jen [Lewis.Jen@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Clark, Becki [Clark.Becki@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Hull, George [Hull.George@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: CERCLA EPCRA Update

Checking with OMB on pushing the meeting back to 3:30.

From: Lewis, Jen
Sent: Friday, October 13, 2017 9:07 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: CERCLA EPCRA Update

Hi folks –

Attorney Work Product / Ex. 5

Thanks, Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Cheatham, Reggie
Sent: Thursday, October 12, 2017 7:20 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Re: CERCLA EPCRA Update

Thanks Patty from my view it looks good

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

On Oct 12, 2017, at 5:46 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

Reggie/Becki-
This email is to provide a status update on the EPCRA/CERCLA guidance in preparation for publishing something on our website on Monday 10/16. (OGC/PARMS-If I've captured anything wrong, please feel free to correct me)

EPCRA 304 Q&A

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

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CERCLA 103 web text

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

<EPCRA routine ag Draft 10.12.17_OEM.docx>

<Guidance for Farms DRAFT 10122017 .docx>

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 10/24/2017 9:26:19 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Hull, George [Hull.George@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
CC: Benjamin, Kent [Benjamin.Kent@epa.gov]; Klinger, Adam [Klinger.Adam@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: CERCLA/EPCRA Ag Comms piece-Administrator quote

Got it. If we post tomorrow, 30 days out is Thanksgiving Day.

From: Gioffre, Patricia
Sent: Tuesday, October 24, 2017 5:23 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Hull, George <Hull.George@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: CERCLA/EPCRA Ag Comms piece-Administrator quote

Thanks for raising!

The plan is to insert a date 30-days from web posting (which will hopefully coincide with OMB clearance).

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Taylor, Trish
Sent: Tuesday, October 24, 2017 5:08 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hull, George <Hull.George@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: CERCLA/EPCRA Ag Comms piece-Administrator quote

Great. Thanks so much. Barry has reviewed/approved with the following edit:

Deliberative Process / Ex. 5

Attorney Client / Ex. 5

From: Taylor, Trish
Sent: Tuesday, October 24, 2017 4:52 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>
Subject: FW: CERCLA/EPCRA Ag Comms piece-Administrator quote

Attached is the draft press release with quote below.

From: Gioffre, Patricia
Sent: Tuesday, October 24, 2017 4:48 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Hull, George <Hull.George@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>
Subject: FW: CERCLA/EPCRA Ag Comms piece-Administrator quote

Patty,
Here is a draft Administrator quote. Please edit as you think appropriate.

Deliberative Process / Ex. 5

Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 3/8/2018 7:42:46 PM
To: Indermark, Michele [Indermark.Michele@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]
Subject: RE: CERCLA/EPCRA speaking requests

Thank you, yes I will ask the folks handling this meeting to add Reggie to the calendar invite. It will be from 2:30-3:30 on the 20th.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Indermark, Michele
Sent: Thursday, March 08, 2018 2:31 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Hi Hema and Becky,

Reggie can attend. I will block his calendar for that time. Will someone be sending an official invite?

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Brooks, Becky
Sent: Wednesday, March 07, 2018 10:03 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Re: CERCLA/EPCRA speaking requests

Michele, can you please see if Reggie or Becki are available to attend for OLEM? Steven will be at the ECOS meeting. Thanks.

Sent from my iPhone

On Mar 6, 2018, at 11:18 AM, Subramanian, Hema <Subramanian.Hema@epa.gov> wrote:

> Yes, we are trying to pull David Ross or Lee Forsgren in for WOTUS. Tate Bennett will be there. Confidentially, there is a possibility the Administrator may drop by.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Brooks, Becky
Sent: Tuesday, March 06, 2018 11:15 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Hi Hema – Do you know who from EPA is planning to attend? Are there other topics being covered during the hour? Thanks. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Subramanian, Hema
Sent: Tuesday, March 06, 2018 9:35 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Becky and Michele, we have confirmed that Wisconsin Farm Bureau will be here at EPA on 3/20 from 2:30-3:30. It will likely be in the bullet room or green room, and is high level. Could Steve Cook or another OLEM speaker attend for CERCLA/EPCRA? There will likely only be room for one person.

Thank you!
---Hema.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Subramanian, Hema
Sent: Monday, March 05, 2018 10:28 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Apologies for the delay (and typo). Wisconsin Farm Bureau was originally being planned for March 20th (around 3 pm), but may now be folded into a larger multi-state event on March 14th. I will keep you posted on this as well as other meetings.

Thank you,
---Hema.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Brooks, Becky
Sent: Monday, March 05, 2018 10:22 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Hema – If you can keep us looped in on the meeting requests (regardless of OLEM participation), that would be appreciated. Thank you. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Indermark, Michele
Sent: Thursday, March 01, 2018 4:52 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Yes Hema, I can help coordinate calendars if you need technical staff and/or Reggie/Becki's attendance. It would be helpful if you would also include Becky Brooks on any requests. She can help with the OLEM IO calendars and we can coordinate OLEM attendance. Is there a date for the WI delegation?

I had not heard about Jeff. Glad you are staying on.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Subramanian, Hema
Sent: Thursday, March 01, 2018 4:43 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: CERCLA/EPCRA speaking requests

Michele,

You may have heard Jeff Sands is leaving EPA, effective tomorrow. I will, however, remain here for a while to continue running the trains and help coordinate internally and externally on ag issues.

Due to March being Ag fly-in season in DC, there will be numerous meeting and speaking requests that highlight CERCLA/EPCRA, along with other issues. Various politicals and I (and in some cases, the Administrator) can handle many of these meetings, but there may be some which could use program office expertise in the room, especially after the proposed rule is out and there could be technical questions. For other programs, the AA or DAA and/or sometimes the technical staff attend. Can I send these requests to you, to figure out who in OLEM can attend?

One high level meeting I know of as of now will be on March at either 2:30 or 3:00 pm – Wisconsin Farm Bureau.

Thank you,
---Hema.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 10/3/2017 11:45:05 PM
To: Taylor, Trish [Taylor.Trish@epa.gov]
Subject: Re: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Got it. Thank you,Trish.

Sent from my iPhone

On Oct 3, 2017, at 5:02 PM, Taylor, Trish <Taylor.Trish@epa.gov> wrote:

> Hi Becky,
> Once OEM confirms my edits, I'll send a clean copy to you and Barry/Patrick for review/approval.
>
> Thanks,
> Trish
>
> **From:** Taylor, Trish
> **Sent:** Tuesday, October 03, 2017 4:54 PM
> **To:** Hull, George <Hull.George@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
> **Cc:** Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
> **Subject:** RE: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc
>
> Hi George,
>
> Thanks for putting this together. I made some edits, - basically taking out reference to Social Media outreach, since the planning tool notes that we are *not* using social media platforms for this. Unless something has changed?
> If you're OK with the edits, I'll move it forward to OLEM IO for review/approval.
>
> **From:** Hull, George
> **Sent:** Tuesday, October 03, 2017 4:32 PM
> **To:** Taylor, Trish <Taylor.Trish@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
> **Cc:** Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
> **Subject:** RE: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc
>
> Trish,

Deliberative Process / Ex. 5

From: Taylor, Trish
Sent: Monday, October 02, 2017 4:23 PM
To: Hull, George <Hull.George@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: FW: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Hi George and Michele,

The planning tool for the CERCLA EPCRA reporting requirements is with OPA.
We're 2 weeks out from the roll-out target date.

Deliberative Process / Ex. 5

Thanks so much,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

From: Taylor, Trish
Sent: Monday, October 02, 2017 11:54 AM
To: StClair, Christie <StClair.Christie@epa.gov>
Cc: Valentine, Julia <Valentine.Julia@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Hi Christie, Julia and Nancy,

I attached this draft comms planning tool to your OPA Calendar for Monday, October 16, 2017.
It's the short, planning tool showing the programs planned approach for outreach. I hope to have the more detailed draft communications strategy and materials very soon. Please let me know if you have any questions/comments on the 1-pager planning tool.

Thank you,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 9/14/2017 1:57:28 PM
To: Salo, Earl [Salo.Earl@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]
Subject: RE: REVISED: EPCRA/CERCLA website announcement

For awareness, we have been told that the website/press on this will hold off for now. Patty/Kim, I will give you a call.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Salo, Earl
Sent: Thursday, September 14, 2017 9:33 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
Subject: RE: REVISED: EPCRA/CERCLA website announcement

Attorney Client / Ex. 5

From: Gioffre, Patricia
Sent: Thursday, September 14, 2017 8:26 AM
To: Davis, Patrick <davis.patrick@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: REVISED: EPCRA/CERCLA website announcement

I've attached updated versions of the document with the October 16th target date.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Davis, Patrick
Sent: Wednesday, September 13, 2017 5:29 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Re: EPCRA/CERCLA website announcement

Hi Patty,

Once you insert October 16, 2017 into both of these documents I will circulate with the political team.

Thanks,

Patrick Davis
Environmental Protection Agency
Deputy Associate Administrator, Office of Land and Emergency Management
Personal Phone / Ex. 6

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Sep 13, 2017, at 1:18 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Patrick,
> In follow-up to today's meeting, I am sending you the draft website announcement that OEM forwarded to OGC. I have also attached a clean version of the document. Please feel free to send this around for review at your level. We will follow-up with feedback from OGC on the attached document.
>
> **Deliberative Process / Ex. 5**
>
> If you have any questions or concerns, please don't hesitate to call.
>
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972
> 202-748-7139 (cell)
>
> Follow OLEM on Twitter @EPALand
>
> **From:** Gioffre, Patricia
> **Sent:** Tuesday, September 12, 2017 2:29 PM
> **To:** Earl Salo <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
> **Cc:** Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>
> **Subject:** OGC Review requested: Updated EPCRA/CERCLA action summary
> **Importance:** High
>
> **Deliberative Process / Ex. 5**
>
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972

202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

<draft webpage udate CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste at Farms.docx>

<draft webpage CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste_clean.docx>

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 3/28/2018 5:31:55 PM
To: Taylor, Trish [Taylor.Trish@epa.gov]
Subject: RE: ACTION Required: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

Missing an E in "Requirements" in the heading.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Taylor, Trish
Sent: Wednesday, March 28, 2018 1:23 PM
To: Breen, Barry <Breen.Barry@epa.gov>; Cook, Steven <cook.steven@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: FW: ACTION Required: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

Hi Barry and Steven,

Below are draft talking points regarding the CERCLA/EPCRA reporting rule. Do you have any questions or edits, before OPA sends them to RA Anne Idsal? This is something they're looking for right away.

Thank you,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

On Mar 28, 2018, at 1:16 PM, Thomas, Latosha <Thomas.Latosha@epa.gov> wrote:

> Hi,
>
> Here are the latest TPs for CERCLA/EPCRA reporting. OEM + OGC just finished reviewing. I wanted OLEM to weigh in quickly, since these are for the R6 Administrator. Thanks!

CERCLA/EPCRA REPORTING REQUIRMENTS FOR FARMS

TALKING POINTS:

- On March 23, 2018, the Consolidated Appropriations Act, 2018 (Omnibus Bill), was signed into law. Title XI of the Omnibus Bill, called the "Fair Agricultural Reporting Method Act" or "FARM Act", exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.
    - When the D.C. Circuit Court of Appeals issues its mandate vacating the 2008 final rule (expected as soon as May 1, 2018), farms will remain exempt from the CERCLA reporting requirements as a result of the Omnibus Bill.

Deliberative Process / Ex. 5

BACKGROUND:

- In 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to reporting under section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA). For EPCRA reporting, the rule exempted farms that contained fewer than a certain number of animals from reporting.

- Citizen groups challenged the 2008 final rule, and on April 11, 2017, the rule was vacated by the D.C. Circuit Court of Appeals.

- The D.C. Circuit has stayed issuance of a mandate vacating the 2008 final rule until May 1, 2018. Once the court issues the mandate, the reporting requirements will go back into effect for air releases of hazardous substances from animal waste at farms.

- The "FARM Act", passed by Congress as part of the Omnibus Bill on March 23, 2018, exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.

- EPA is revising the CERCLA/EPCRA guidance for reporting air releases from animal waste at farms and the frequently asked questions (FAQs) at www.epa.gov/animalwaste to reflect the recent passage of the "FARM Act".

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
lthomas.latosha@epa.gov

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 3/28/2018 3:16:49 PM
To: Cook, Steven [cook.steven@epa.gov]
CC: Hilosky, Nick [hilosky.nick@epa.gov]
Subject: FW: 4/19, 2:30 pm - Oklahoma Farm Bureau visit

Importance: High

Steven – Per our discussion this morning, please let me know if you want to attend this or if you would like OEM to cover it for OLEM. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Subramanian, Hema
Sent: Monday, March 26, 2018 1:25 PM
To: Letendre, Daisy <letendre.daisy@epa.gov>; Sisco, Debby <Sisco.Debby@epa.gov>; Dinkins, Darlene <Dinkins.Darlene@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: 4/19, 2:30 pm - Oklahoma Farm Bureau visit
Importance: High

Hello all,

The Oklahoma Farm Bureau is visiting EPA on April 19th at 2:30 pm. Unfortunately the Administrator, Tate, and Stephen Gordon will be away on travel during this meeting, and I will be setting it up. I am checking if Ryan Jackson can lead the meeting, and wanted to see if we could get representation to discuss the following topics:

Smart Sectors (Daisy?)
WOTUS (Lee/Dave?)
Pesticide hot topics (Nancy?)
EPCRA/CERCLA (Steve?)
RFS (Mandy?)

Please let me know availability? Thank you for your help,
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

Message

From: Brooks, Becky [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6F369A2EF33E4A87AF349210A3915A57-BBROOKS]
Sent: 3/27/2018 6:05:27 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
CC: Wall, Tom [Wall.Tom@epa.gov]
Subject: RE: CORRECTED DATES Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

It's looking like Barry and Steven will be on travel those dates. If OEM can cover, that would be great. Thanks.

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Subramanian, Hema
Sent: Tuesday, March 27, 2018 1:58 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Cc: Wall, Tom <Wall.Tom@epa.gov>
Subject: RE: CORRECTED DATES Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

Becky and Michele, any word on availability from OLEM or OEM for this meeting? This one will be staff level, so Reggie, Kim, or Patty would be fine…

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

From: Subramanian, Hema
Sent: Tuesday, March 20, 2018 3:52 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Cc: Wall, Tom <Wall.Tom@epa.gov>
Subject: FW: CORRECTED DATES Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

Becky and Michele,

Could someone from OEM speak at this Oregon Dairy Farmers Assoc. meeting in April on CERCLA/EPCRA?

Tom Wall, Director of the Watershed Restoration, Assessment and Protection Division in OW is coordinating, and the windows for the meeting are:

Tue. 4/24: 12-1:30 or 3-5 pm
Wed. 4/25: afternoon.

Tom: Those times on either date work for me to attend.

Thank you,
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

From: Wall, Tom
Sent: Thursday, March 15, 2018 6:49 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Cc: Flahive, Katie <Flahive.Katie@epa.gov>; Larsen, Erika <Larsen.Erika@epa.gov>
Subject: CORRECTED DATES Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

Sorry about that, they would like to meet on Tues or Wed afternoon.

For me 12-1:30 and 3-5 work on Tues, Wed afternoon is also good

Tom Wall, Director
Watershed Restoration, Assessment and Protection Division
Office of Wetlands, Oceans and Watersheds
U.S. EPA
Wall.tom@epa.gov
202/564-4179

From: Wall, Tom
Sent: Thursday, March 15, 2018 5:48 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Cc: Flahive, Katie <Flahive.Katie@epa.gov>; Larsen, Erika <Larsen.Erika@epa.gov>
Subject: FW: Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

Assume OWM would want to participate. I'm available 10-noon and 1-2pm on the 23rd. How about OWM.

Any idea of a good CERCLA/EPCRA contact? Might you see if they can participate too? Thank you,

Tom Wall, Director
Watershed Restoration, Assessment and Protection Division
Office of Wetlands, Oceans and Watersheds
U.S. EPA
Wall.tom@epa.gov
202/564-4179

From: Wall, Tom
Sent: Thursday, March 15, 2018 5:46 PM
To: 'Tammy Dennee' <tammy.dennee@oregondairyfarmers.org>
Cc: Subramanian, Hema <Subramanian.Hema@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Flahive, Katie <Flahive.Katie@epa.gov>; Larsen, Erika <Larsen.Erika@epa.gov>
Subject: RE: Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

Tammy, happy to meet with you and your Directors on the 23rd. I'll reach out to folks who know the CERCLA/EPCRA folks, see if we can get them there too. Best regards,

Tom Wall, Director
Watershed Restoration, Assessment and Protection Division
Office of Wetlands, Oceans and Watersheds
U.S. EPA
Wall.tom@epa.gov
202/564-4179

From: Tammy Dennee [mailto:tammy.dennee@oregondairyfarmers.org]
Sent: Thursday, March 15, 2018 1:30 PM
To: Wall, Tom <Wall.Tom@epa.gov>
Subject: Oregon Dairy Farmers Association Mission to DC Week of April 23 - Request for an Appointment

Tom,

I hope this email finds you well.

I will be leading a delegation comprised of our Board of Directors to DC the week of April 23. I am respectfully requesting an appointment with you and your colleagues who may be working on the CERCLA/EPCRA issues as well as Air Quality/Water Quality and Livestock Agriculture? Would Thursday before 2:00 pm (we are on the 5:00 pm flight out of Reagan) work for you and your Colleagues?

Our Delegation will include: Chad Allen (ODFA President - Tillamook Dairy Farmer), Chris Eggert (ODFA Treasurer - Tualatin Dairy Farmer), Bobbi Harrold Frost (ODFA Board - Cottage Grove Dairy Farmer), Tami Kerr, ODFA Executive Director, Tammy Dennee, ODFA Legislative Director

Thank you, in advance, for your kind response.

Tammy L. Dennee, CMP, CAE
LEGISLATIVE DIRECTOR

OREGON DAIRY FARMERS ASSOCIATION
1320 Capitol Street NE, Suite 160
Salem, OR 97301

Phone: (971) 599-5269
Fax: (541) 647-6487
Cellular Phone / Ex. 6
E-Mail: tammy.dennee@oregondairyfarmers.org

www.oregondairyfarmers.org

"Proudly Serving Oregon's Dairy Farmers Since 1892"

Appointment

From: Breen, Barry [Breen.Barry@epa.gov]
Sent: 2/5/2018 3:01:30 PM
To: Breen, Barry [Breen.Barry@epa.gov]; Brown, Byron [brown.byron@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Fotouhi, David [Fotouhi.David@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Lyons, Troy [lyons.troy@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Darwin, Veronica [darwin.veronica@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Colip, Matthew [colip.matthew@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Prins, Christopher [Prins.Christopher@epa.gov]; Sullivan, Greg [Sullivan.Greg@epa.gov]; Fogarty, Johnpc [Fogarty.Johnpc@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Nickerson, William [Nickerson.William@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]; Davison, Jenny [davison.jenny@epa.gov]
CC: Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Curry, Bridgid [Curry.Bridgid@epa.gov]; Corrales, Mark [Corrales.Mark@epa.gov]

Subject: EPCRA/CERCLA - Conference Number / Ex. 6
Attachments: CERCLA EPCRA Milestones-Draft 020818.docx; DRAFT Outline of Proposal to Adjust RQs for Farms.SHORT_02.08.18.docx
Location: 3146 WJC West

Start: 2/9/2018 3:00:00 PM
End: 2/9/2018 3:45:00 PM
Show Time As: Tentative

POC: Becky Brooks - 566-2762
Caroline Kenely - 566-2762 (scheduler)

AGENDA-

- Reportable Quantity Rule Options – OGC
- Legislative Update – OCIR
- Enforcement – OECA
- Revised Matrix –OEM
  - Communications
  - FAQs
  - Other regulatory actions
  - Streamlined continuous release report form

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May15, 2017

U.S. Environmental Protection Agency
Washington, D.C. 20004

RE: Docket EPA-HQ-OA-2017-0190

American Farm Bureau Federation (AFBF), the nation's largest general farm organization, is pleased to submit these comments to the docket. AFBF represents agricultural producers in all 50 states and Puerto Rico; they are engaged in the production of crops and livestock and are directly affected by regulations promulgated and enforced by EPA. We commend the agency for inviting stakeholders to comment on regulations that can be modified, amended or repealed.

AFBF is signatory to a lengthy set of comments (appended to this letter) that are being filed today by a large number of agricultural organizations. We support those comments in their entirety. They address regulations that have an immediate, significant impact on farmers and we encourage the agency in the strongest terms to take up these matters swiftly. We are pleased that the agency is already addressing the 'waters of the US' (WOTUS) rule and we stand prepared to assist the agency in whatever way is appropriate in repealing the existing rule (80 Fed. Reg. 24043) and replacing it through a separate rulemaking. We also strongly emphasize the importance of the other initiatives highlighted by the agricultural community in these comments and wish to offer our assistance to the agency as it turns its attention to other policy areas that have a direct impact on farmers and ranchers – particularly its interpretation of the 'normal' farming exemptions in 404(f) of the Clean Water Act, the TMDL regulations and its interpretation of the prior converted crop (PCC) regulation.

We support Executive Order 13777, we commend EPA for its prompt efforts to implement the President's directive, and we offer our assistance to EPA in its efforts to remedy existing defects in its regulations.

Sincerely,

Dale W. Moore

Dale Moore
Executive Director
Public Policy

May 15, 2017

U.S. Environmental Protection Agency
Washington, D.C. 20004

RE: Docket EPA-HQ-OA-2017-0190

The undersigned organizations commend the Environmental Protection Agency [the agency] for opening this docket and are pleased to submit the attached comments in response to the agency's request.

Our organizations represent individuals engaged in agricultural production, both for crops and livestock. Requirements imposed by the agency through its regulations can have significant impacts on our members; many of these impacts can be felt in the areas outlined by the agency for review[1] In the attached comments, we have sought to meet the agency's request to be as specific as possible. In some instances, where information responsive to the agency's request for "supporting data or other information such as cost information" is not available, we have attempted to quantify the impact of the regulatory burden as concretely as possible and to "provide specific suggestions regarding repeal, replacement or modification." We welcome questions from your office or the Task Force if these comments need further amplification and will do our best to respond in as prompt and comprehensive a manner as possible. We greatly value this effort and hope the agency succeeds in alleviating unnecessary and costly regulatory burdens on the agriculture community.

[1] In its notice, EPA has specifically asked for recommendations that address regulations that, *inter alia,* "(i) eliminate jobs, or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; (iii) impose costs that exceed benefits; (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; (v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard or reproducibility…"

In this context, we wish to make a brief preparatory remark. As of mid-May, the docket exceeded 17,000 comments, the overwhelming majority of them anonymous. These are presumably submitted from well-intentioned individuals but they preponderantly assume that the agency's initiative is to undo, weaken, rescind or otherwise impair the nation's environmental safeguards. We see nothing in the Federal Register notice that supports such an inference. We wish to state for the record that the undersigned organizations are not requesting that the agency engage in, nor would we expect the agency to pursue, an effort to impair, rescind, weaken or in any way retreat from health or environmental safeguards that have been authorized by Congress. Nothing in Executive Order 13777 would have the agency ignore its statutory obligations to administer the environmental laws Congress has passed. We are not asking the agency to weaken its commitment to health and the environment.

We have identified regulatory obligations that can be modified or repealed consistent with the laws Congress has enacted and we strongly encourage the agency to consider these recommendations.

We appreciate your consideration of these comments. If you have questions or wish to discuss any specific issue in this submission, please contact Paul Schlegel at the American Farm Bureau Federation at (202) 406-3687 or pauls@fb.org.

Sincerely,

Agri-Mark Dairy Cooperative, Inc.
American Dairy Coalition
American Farm Bureau Federation
AmericanHort
American Soybean Association
American Sugarbeet Growers Association
American Sugar Cane League
California Specialty Crops Council
Dairy Cares
Dairy Farmers of America
Dairy Producers of New Mexico
Dairy Producers of Utah
Exotic Wildlife Association
Federal Forest Resource Coalition
GROWMARK, Inc.
Idaho Dairymen's Association
Missouri Dairy Association
National All-Jersey
National Aquaculture Association
National Association of State Departments of Agriculture
National Association of Wheat Growers
National Cattlemen's Beef Association
National Corn Growers Association
National Cotton Council
National Council of Agricultural Employers
National Council of Farmer Cooperatives
National Peach Council
National Pork Producers Council
National Milk Producers Federation
National Sorghum Producers
National Turkey Federation
Northeast Dairy Farmers Cooperatives
Panhandle Peanut Growers Association
Professional Dairy Managers of Pennsylvania
Select Milk Producers, Inc.
Society of American Florists
South East Dairy Farmers Association
Southwest Council of Agribusiness
St. Albans Cooperative Creamery

Upstate Niagara Cooperative, Inc.
US Apple Association
USA Rice
US Cattlemen's Association
Washington State Dairy Federation
Western Peanut Growers Association
Western United Dairymen

I. **'Waters of the US' (WOTUS) Rule (80 Fed. Reg. 37054, June 29, 2015)** On February 28, President Trump signed Executive Order 13778 directing EPA to review the WOTUS rule and to publish a proposal rescinding or revising it. We strongly support the President's EO and urge EPA to pursue this effort aggressively. *Recommendation:* We recommend that the agency:
(a) repeal the existing rule (80 Fed. Reg. 37054).
(b) in a separate rulemaking, propose a revised rule that more closely adheres to the language of the Clean Water Act and Supreme Court decisions in *Riverside Bayview*, *SWANCC* and *Rapanos*.
II. **Spill Prevention Control and Countermeasures (SPCC) Rule (40 CFR 112)** While EPA attempted to address concerns of the agriculture community raised by the SPCC rule, the program presents nearly insurmountable difficulties for agricultural producers. That assessment is borne out by the agency's own Regulatory Impact Analysis (RIA). EPA examined the Clean Water Act violation data from 2001 to 2006. In over 10,000 violations in that time period, only 292 involved oil spills of any type, and only **one** of those involved a farm. Many other estimates in the RIA were incorrect as well. EPA estimated an approximate figure of 152,000 affected farms based on USDA numbers. Nowhere did EPA mention the USDA numbers presented in the 2005 round of proposals that numbered potentially affected farms closer to 400,000. Yet despite these facts, EPA moved to place a costly and burdensome rule on the agricultural industry with no data to show a risk justifying the cost. EPA included other incorrect assumptions to bolster the cost-savings analysis. They estimated a savings of $3.6 million due to exempting pesticide application equipment but that cost was only based on a report from one state. They estimated $2,000+ savings from not regulating home heating oil tanks but those tanks were exempted in the original 1973 rule and no one has ever applied SPCC to those tanks anyway. While Congress granted the agency flexibility to address any concerns on farms, the agency rejected this approach and imposed the strictest limit possible.
Recommendation: The SPCC for farms should be repealed.

III. **CERCLA/EPCRA**
(a) On April 11, 2017 the US Court of Appeals for the DC Circuit issued a ruling in long running litigation that struck down a 2008 rule providing an exemption from federal reporting of emissions from livestock farms and providing a partial exemption from state/local reporting of such emissions. As a result of the DC Circuit ruling, in late May or early June 2017 livestock farmers will be responsible for calculating the rate of various chemical emissions associated with the storage of manure for use as a fertilizer, and treat and report these emissions as "emergency releases" to state and local authorities under 42 U.S.C. § 11004 (EPCRA § 304) and to the Coast Guards National

Response Center under 42 U.S.C. § 9603 (CERCLA § 103). These reports provide little emergency planning/response benefit to regulators or the public, and in fact could have a detrimental impact on emergency response programs (and the public's reliance on them) because the receipt of hundreds of thousands of reports of livestock odor will overwhelm a system designed for responding to true emergencies. Failure to file the reports will subject livestock farmers to expensive citizen suit litigation filed by eco and animal rights activists.

(b) In recent years, efforts have been made to extend the liability provisions of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980 and the Emergency Planning and Community Right-To-Know Act (EPCRA) of 1986 to livestock and poultry operations for emissions or discharges from manure produced in those operations. Animal agriculture operations are already regulated under the Clean Water Act, the Clean Air Act, and various state laws to protect the environment; these statutes provide for permitting, enforcement and, if needed, remediation. Manure is not a superfund waste and was not intended by Congress to be regulated as such.
Recommendation: EPA should promulgate regulations confirming that manure is not regulated under CERCLA or EPCRA.

IV. **Worker Protection Standards (WPS) rule (40 CFR Part 170)**

(a) Designated Representative. In the WPS rule promulgated November 2, 2015, EPA included a provision that permits anyone claiming to be a 'designated representative' (DR) to gain access to a farmer's proprietary records relating to pesticide use.[2] This provision provides farmers with no protection from fraudulent or counterfeit claims; does not assure that records released by the farmer will actually be shared with workers; and imposes no constraints on what DR's may do with documentation once it is obtained. EPA has never cited any data or facts that demonstrate that such a provision would improve worker safety. Thus, the regulation imposes an unnecessary regulatory burden and cost, while exposing farmers to legal liability, with no discernible benefit.
Recommendation: EPA should repeal 40 CFR § 170.311(b)(9) and related provisions.

(b) Application Exclusion Zone (AEZ). In the final WPS, EPA inserted a final articulation of the Application Exclusion Zone (AEZ) that unduly burdens state agencies and the regulated community.[3] As finalized, the AEZ goes beyond the Agency's stated intent

2 The specific requirement is at 40 CFR 170.311(b)(9).
3 WPS provision at 170.405(a)(1) establishes the applicable AEZ distances, and WPS provision 170.405(a)(2) establishes a requirement for the agricultural employer not to allow any worker or other person in the AEZ within the boundaries of the establishment until the application is complete. Provision at 170.505(b) establishes a requirement for the handler to suspend the application if any worker or other person is anywhere in the AEZ. Thus,

the AEZ goes beyond the boundaries of the establishment in question and applies to any area on or off the establishment within the AEZ while the application is ongoing.

[4] The Farm Regulatory Certainty Act would amend Section 1004(27) of the Solid Waste Disposal Act to codify EPA's existing regulations.

to create a one-hundred foot buffer surrounding the application equipment that, according to the regulations now in place, extends beyond the agricultural establishment, arguably jeopardizing a grower's ability to manage all his land and prohibiting appropriate pest mitigation activities if there is any kind of structure, permanent or otherwise, inhabited or vacant within one hundred feet of the agricultural establishment. Furthermore, any individual, structure, or a passing vehicle within one hundred feet of the property can effectively cease the grower's application activity. After the final rule was promulgated, EPA's Office of General Counsel (OGC) was working to issue interpretive guidance clarifying the Agency's intent under the final regulation; however, Agency guidance does not carry the weight and authority of a codified federal regulation and does not provide the necessary clarity to assist state regulatory agencies or the grower community with compliance and enforcement activities. In short, both EPA and the state regulatory agencies are still uncertain on how to enforce or deliver compliance assistance on the AEZ. *Recommendation:* EPA should revoke the Application Exclusion Zone (AEZ), which goes beyond EPA's original intent and creates an unworkable and unenforceable provision that does not provide any additional regulatory protections beyond those already required under law.

V. **Resource Conservation and Recovery Act** In 1979, EPA promulgated regulations that reflect Congress' intent that the agency not regulate manure or crop residue under the Solid Waste Disposal Act (42 U.S.C. § 6903(27)). Certain court decisions, however, have injected uncertainty in this area of the law. Legislation is now pending in Congress (the Farm Regulatory Certainty Act) to provide legal certainty for farmers.[4] The legislation would also amend Section 7002 of the Solid Waste Disposal Act (42 U.S.C. § 6972(b)(1)) to clarify that farmers are not to be targeted twice if they are engaged in legal action with a federal or state regulatory entity to address identified issues. *Recommendation*: EPA should continue its policy of not regulating agricultural nutrients under RCRA. The EPA also should vigorously defend existing regulatory actions should a farming operation be targeted with a third-party lawsuit for an alleged violation that is already being addressed by a federal or state legal or administrative proceeding.

VI. **"Normal farming" activities under § 404(f) of the Clean Water Act (33 CFR § 323.4)** Sec. 404(f)(1) of the Federal Water Pollution Control Act (33 U.S.C. § 1344(f)(1)) provides an exemption from 404 "dredge and fill" permitting for a wide range of normal farming,

ranching and silviculture activities, including plowing, seeding, cultivating, harvesting for the production of food, fiber, and forest products as well as construction or maintenance of farm or stock ponds or irrigation ditches and for the maintenance of drainage ditches. Even though this broad language is written in the statute, the Corps' regulation (33 CFR § 323.4) and EPA's and the Corps' guidance and information interpretations have narrowed the scope of 'normal' farming, ranching and silviculture activity.[5] Thus, even some explicitly exempt activities (i.e., plowing) have come under enforcement action. Congress has included appropriations riders directing EPA and the Corps to eliminate funding for the so-called "recapture" provision at Sec. 404(f)(2), which the agencies use to sweep otherwise exempt activities back into the regulatory program, yet EPA and the Corps have ignored Congress' directives. *Recommendation:* EPA and the Corps should undertake a rulemaking that supersedes the Corps' existing regulation as well as prior guidance from the agencies and codifies the normal farming, ranching and silviculture exemption under § 404(f)(1) of the Clean Water Act consistent with the text of the statute.

VII. **Total Maximum Daily Loads (TMDLs) (40 CFR Part 130)** EPA has used guidance and informal interpretation of sparse statutory text (Clean Water Act Sec. 303(d)) and ambiguous decades-old regulations to create a regulatory mechanism that puts EPA bureaucrats and technocrats in the role of land use planners. This has blurred the lines of authority between the Federal and state governments and robbed state environmental agencies of the ability to devise and adapt their own plans to most effectively and efficiently achieve water quality standards. This EPA overreaching raises the cost of achieving water quality goals, inhibits adaptive management and unlawfully puts EPA in the role of regulating farming practices. EPA's existing rules also fail to ensure that established water quality goals are in fact *achievable* before burdensome or even economy-breaking implementation measures are imposed. This is of particular concern where water quality impairment results largely from naturally occurring "pollutants.". *Recommendations*: EPA should revise its TMDL regulations to provide clarity and certainty to the regulated community and state and local governments by assuring that:
(a) States, not EPA, have the authority to set pollutant "allocations" for waters within their borders and incorporate the allocations into state implementation plans. This provides states and localities with the flexibility they need to change allocations when needed.
(b) EPA's TMDL authority is limited to approving or setting the *total* maximum load for a particular pollutant, as required by the statutory term "*total* maximum daily load."

[5] For example, while the Act itself does not restrict the exemption, the agency has seemingly used the recapture provision in 404(f)(2) to claim that the exemptions for normal activities only apply to 'established, ongoing' operations. It has further extended this interpretation to claim that changing an operation from one agricultural activity (e.g., grazing cattle) to another (e.g., planting, cultivating and harvesting crops) constitutes a 'change in use' and therefore negates the exemption provided in the law. See https://efotg.sc.egov.usda.gov/references/public/NM/CWA_404(f)_Ag._Exemptions.pdf

VIII. **Prior Converted Cropland (33 CFR § 328.3(b))** In 1993, EPA and the Army Corps of Engineers promulgated a regulation that clarified that wetlands converted before 1985 into farmland were 'prior converted croplands' (PCC) and therefore, not "waters of the US." The preamble to the rule clearly provided that land remains as PCC regardless of the use to which the land is put. Yet, in 2005, the Army Corps of Engineers issued guidance eroding this exemption by proclaiming that land is no longer PCC if it is put to a non-agricultural use. A federal court found the guidance is unlawful because it conflicts with the 1993 rule,[6] but the Corps ignored the court's decision and continues to implement the guidance in order to re-regulate land. *Recommendation:* EPA should undertake a rulemaking to clarify the 1993 rule that PCC lands are not subject to CWA regulation as jurisdictional wetlands regardless of the use to which the land is put.

IX. **Army Corps of Engineers 1987 Wetlands Delineation Manual and Regional Supplements** In 1993, Congress prohibited the U.S. Army Corps of Engineers from using appropriated funds to delineate wetlands under the 1989 Wetlands Delineation Manual.[7] Congress further stated that no funds shall be used to implement *any subsequent manual adopted without the public notice and comment* procedures of the Administrative Procedure Act (APA). In the meantime, Congress authorized the Corps to use the 1987 Wetlands Delineation Manual, but only until the adoption of a final delineation manual. Almost 25 years later, the Corps has failed to propose, much less adopt, a final wetlands delineation manual. Instead, the Corps continues to use the 1987 Manual, adding regional "supplements" to modify the very same delineation criteria Congress disallowed in 1993. Rather than placing the Manual and regional supplements through the rulemaking process, the Corps has used the supplements to avoid the Congressional directive to formally promulgate a final Manual. *Recommendation:* We recommend that EPA clarify that no regional supplements should be used in making determinations of what constitutes "navigable waters" and/or initiate a joint

[6] *New Hope Power Company and Okeelanta Corporation v. U.S. Army Corps of Engineers and Stockton* 2010 WL 3834991 (S.D. Fla. September 29, 2010)

[7] See Energy and Water Development Appropriations Act, Pub. L. No. 102-377, 106 Stat. 1315: "None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 or any subsequent manual adopted without notice and public comment. Furthermore, the Corps of Engineers will continue to use the Corps of Engineers 1987 Manual, as it has since August 17, 1991, until a final wetlands delineation manual is adopted. PUBLIC LAW 102-377—OCT. 2, 1992 106 STAT. 1325 None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990."

rulemaking with the Corps that subjects the wetlands delineation manual through the rigors and transparency of the APA's public notice and comment process.

X. **EPA's proposed revision regarding objection to administratively continued permits (40 CFR § 123.44) (Docket ID No. EPA-HQ-OW-2016-0145c)** EPA has proposed granting to itself the power to object to administratively continued permits by providing EPA Regional Administrators the discretion to change the status of an administratively continued permit to "proposed permit," an outcome that would trigger the robust federal review process outlined in 81 Fed. Reg. 31344, 31372 (May 18, 2016). This proposed revision marginalizes a valuable tool afforded to states with authorized NPDES permit programs – the ability to administratively continue an existing NPDES permit in lieu of permit reissuance. This tool is important because it allows states to prioritize limited resources and limited personnel to ensure the most efficient management of their state NPDES program. This revision, if finalized, further erodes State authority to manage their own programs and will discourage unauthorized states from assuming NPDES authority. Denial of an administratively continued permit, which this rule revision entails, would leave agricultural producers who hold NPDES permits without permit coverage and vulnerable to citizen lawsuits. It also raises a constitutional concern due to the lack of due process considerations given that there is no procedure to challenge the EPA's decision to change a permit's status to "proposed." The revision raises additional concern because it exceeds EPA's statutory authority. Clean Water Act § 402(d) grants EPA the authority to review proposed permits and to object to them, which if objected to prohibits the permit from issuing. The revision here would replicate this administrative power and apply it to administratively continued permits, a step that goes beyond the power Congress granted to EPA in the Clean Water Act. Finally, this effort by EPA is not needed because EPA already manages a largely successful effort that resolves the underlying issue. The Priority Permit Measure provides an avenue for EPA to target state-issued NPDES permits to undergo the reissuance process by designating them as "priority permits". *Recommended:* EPA withdraw its proposed revision regarding objection to administratively continued permits (40 CFR § 123.44) (Docket ID No. EPA-HQ-OW-2016-0145c)

XI. **National Ambient Air Quality Standards (NAAQS) for Coarse Particulate Matter (PM_{10})** The NAAQS and definition for coarse particulate matter are overly broad and do not take into account naturally occurring sources like dust found on farms.

Recommendation: EPA should clarify its NAAQS regulations to ensure that agricultural producers are not found to be in violation of the Clean Air Act for conditions beyond their control when operating under general farming practices.

Message

From: EPA Press Office [noreply-subscriptions@epa.gov]
Sent: 11/28/2017 8:41:41 PM
To: Brown, Byron [brown.byron@epa.gov]
Subject: DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions

U.S. ENVIRONMENTAL PROTECTION AGENCY

NEWS RELEASE

WWW.EPA.GOV/NEWSROOM

CONTACT: press@epa.gov

DC Circuit Court Grants Trump EPA Request to Extend Deadline for Farmers to Report Emissions from Livestock Operations

WASHINGTON (November 28, 2017) — On Wednesday, November 22, 2017, in response to a request from the Trump Administration EPA, the DC Circuit Court of Appeals effectively extended the deadline for farmers to report air releases of hazardous substances from animal waste at livestock operations until January 22, 2018. The decision postponed the effective date of the Court's April 2017 decision vacating an EPA rule that exempted these farms from certain statutory reporting obligations.

"EPA is committed to providing America's farmers and ranchers - people committed to conserving the land and the environment- the clarity needed in meeting their reporting obligations required by law," said **EPA Administrator Scott Pruitt**.

Under the Trump Administration, EPA sought this additional time in order to provide compliance assistance to farmers, update its guidance, and develop a more-streamlined reporting form. With the Court's decision, farmers are not required to report emissions from animal waste at these facilities until after the Court issues its mandate, expected no sooner than January 22, 2018.

Background:
On April 11, 2017, the DC Circuit Court vacated an EPA rule finalized on December 18, 2008, that exempted most farms from certain release reporting requirements in two statutes, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right to Know Act (EPCRA).

In response to a request from the Trump Administration EPA, the DC Circuit Court extended the effective date of its decision to vacate the 2008 rule to November 15, 2017. In response to a second request from the current administration EPA, the DC Circuit Court further extended that date to January 22, 2018. As such, farmers now do not need to report emissions under CERCLA until January 22, 2018 at the earliest when the D.C. Circuit Court is expected to issue its mandate.

EPA has prepared guidance that includes links to resources that farmers can consider when calculating emissions for specific species of livestock.

To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

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Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

Message

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 10/16/2017 10:53:15 AM
To: Brown, Byron [brown.byron@epa.gov]
Subject: RE: RE:

Thanks, Byron.

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Brown, Byron
Sent: Sunday, October 15, 2017 6:35 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: Fwd: RE:

The talking points in the farm emission issue are on second page and copied below. Do you me to send to Ray? If they are for public consumption will need to rework a bit.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Sent from my iPhone

Begin forwarded message:

From: "Brown, Byron" <brown.byron@epa.gov>
Date: October 12, 2017 at 6:29:15 PM EDT
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Fotouhi, David" <fotouhi.david@epa.gov>
Subject: RE:

Here they are.

-----Original Message-----
From: Jackson, Ryan
Sent: Thursday, October 12, 2017 11:38 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject:

Will you shoot me bullets on process for both CCR and CERCLA/EPCRA

Ryan Jackson
Chief of Staff
U.S. EPA
Personal Phone / Ex. 6

Message

From: Jackson, Ryan [jackson.ryan@epa.gov]
Sent: 10/15/2017 11:33:25 PM
To: Brown, Byron [brown.byron@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]
Subject: Re: Fwd: RE:

You have to figure that it is. But seems fine to me.

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Personal Phone / Ex. 6

On Oct 15, 2017, at 6:35 PM, Brown, Byron <brown.byron@epa.gov> wrote:

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Deliberative Process / Ex. 5

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Will you shoot me bullets on process for both CCR and CERCLA/EPCRA

_____
Ryan Jackson
Chief of Staff
U.S. EPA
Personal Phone / Ex. 6

<CCR and Farm Emissions Update-101217.docx>

Message

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 10/13/2017 7:56:18 PM
To: Brown, Byron [brown.byron@epa.gov]
Subject: FW: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc
Attachments: Draft News Brief on Animal Waste Emissions Guidance 10-11-17.docx; ATT00001.htm; DRAFT Desk Statement on Animal Waste Emissions Guidance 10-11-17.docx; ATT00002.htm

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Bowman, Liz
Sent: Friday, October 13, 2017 3:56 PM
To: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>
Subject: Fwd: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Have y'all seen this? Should we say more?

Sent from my iPhone

Begin forwarded message:

> **From:** "Grantham, Nancy" <Grantham.Nancy@epa.gov>
> **Date:** October 13, 2017 at 3:54:17 PM EDT
> **To:** "Bowman, Liz" <Bowman.Liz@epa.gov>
> **Subject: FW: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc**
>
> Liz , are you okay with the draft release below? It is slated to go Monday the 16th (per court order) It will be targeted to agricultural-focused outlets only.
>
> Thanks ng

DRAFT

EPA Releases Guidance on Reporting Air Emissions of Hazardous Substances from Animal Waste at Farms

10/16/2017

Contact Information: XXXX
(press@epa.gov)

WASHINGTON – Today, EPA is releasing guidance to assist farmers in estimating and reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting deadline of November 15, 2017.

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. Starting on this date, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must provide notification of such releases.

The EPA guidance information includes links to resources that farmers can use to calculate emissions tailored to specific species of livestock. To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: [placeholder for web address]

###

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Taylor, Trish
Sent: Wednesday, October 11, 2017 10:47 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>; StClair, Christie <StClair.Christie@epa.gov>; Valentine, Julia <Valentine.Julia@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Daguillard, Robert <Daguillard.Robert@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: RE: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Hi Liz,

Attached is the draft press release. Since it will be targeted to agricultural-focused outlets only, we drafted a desk statement as well. They provide similar information.
Planned release date is Monday, October 16, 2017.

Thanks,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

From: Bowman, Liz
Sent: Thursday, October 05, 2017 5:46 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; StClair, Christie <StClair.Christie@epa.gov>; Valentine, Julia <Valentine.Julia@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Daguillard, Robert <Daguillard.Robert@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: RE: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Hi Trish – Thank you for pulling together this detailed and thoughtful communications plan. It looks good to me. All the messages look good, but if you could just send us the press release a day bore you plan to send it out, that would be great. Thanks again – Liz

---

From: Taylor, Trish
Sent: Wednesday, October 4, 2017 1:51 PM
To: StClair, Christie <StClair.Christie@epa.gov>; Valentine, Julia <Valentine.Julia@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Brooks, Becky <Brooks.Becky@epa.gov>; Daguillard, Robert <Daguillard.Robert@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: RE: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Hi all,
+Looping in Liz

I've updated the calendar entry to include the draft communications strategy for the CERCLA / EPCRA reporting requirements for air releases of hazardous substances from animal waste at farms guidance.

The draft strategy is also attached here.
It has been reviewed/approved by Acting AA Barry Breen and DAA Patrick Davis.

OEM is currently working on the communications materials which will include a draft press release, desk statement, webpage update and Q&As.

- The press release mentioned in the plan will be targeted specifically to ag outlets only.

Attorney Client / Ex. 5

Please let me know if you have any questions or concerns about our planned approach.

Thank you,
Trish

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

From: Taylor, Trish
Sent: Monday, October 02, 2017 11:54 AM
To: StClair, Christie <StClair.Christie@epa.gov>
Cc: Valentine, Julia <Valentine.Julia@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: draft communications planning tool for CERCLA / EPCRA Reporting Requirement guidance doc

Hi Christie, Julia and Nancy,

I attached this draft comms planning tool to your OPA Calendar for Monday, October 16, 2017.
It's the short, planning tool showing the programs planned approach for outreach. I hope to have the more detailed draft communications strategy and materials very soon. Please let me know if you have any questions/comments on the 1-pager planning tool.

Thank you,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

Message

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 9/14/2017 8:57:28 PM
To: Brown, Byron [brown.byron@epa.gov]
Subject: FW: REVISED: EPCRA/CERCLA website announcement
Attachments: draft webpage CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste_redline.docx; ATT00001.htm; draft webpage CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste_clean.docx; ATT00002.htm

Attorney Client / Ex. 5

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

From: Jackson, Ryan
Sent: Thursday, September 14, 2017 9:54 AM
To: Fotouhi, David <Fotouhi.David@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Subject: FW: REVISED: EPCRA/CERCLA website announcement

Attorney Client / Ex. 5

From: Davis, Patrick
Sent: Thursday, September 14, 2017 8:56 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Bowman, Liz <Bowman.Liz@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: Fwd: REVISED: EPCRA/CERCLA website announcement

Hi Ryan,

Attached is the draft press release and draft website content for the EPCRA/CERCLA compliance.

Patrick Davis
Environmental Protection Agency
Deputy Associate Administrator, Office of Land and Emergency Management

Personal Phone / Ex. 6

Information sent to this email address may be subject to FOIA.

Sent from my iPad

Begin forwarded message:

> **From:** "Gioffre, Patricia" <Gioffre.Patricia@epa.gov>
> **Date:** September 14, 2017 at 8:25:54 AM EDT
> **To:** "Davis, Patrick" <davis.patrick@epa.gov>

Cc: "Jennings, Kim" <Jennings.Kim@epa.gov>, "Salo, Earl" <Salo.Earl@epa.gov>, "Swenson, Erik" <Swenson.Erik@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>, "Brooks, Becky" <Brooks.Becky@epa.gov>
Subject: REVISED: EPCRA/CERCLA website announcement

I've attached updated versions of the document with the October 16th target date.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Davis, Patrick
Sent: Wednesday, September 13, 2017 5:29 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Re: EPCRA/CERCLA website announcement

Hi Patty,

Once you insert October 16, 2017 into both of these documents I will circulate with the political team.

Thanks,

Patrick Davis
Environmental Protection Agency
Deputy Associate Administrator, Office of Land and Emergency Management
202-564-3103 office
202-380-8341 cell

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Sep 13, 2017, at 1:18 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Patrick,
> In follow-up to today's meeting, I am sending you the draft website announcement that OEM forwarded to OGC. I have also attached a clean version of the document. Please feel free to send this around for review at your level. We will follow-up with feedback from OGC on the attached document.
>
> One additional note, we will update the document to reflect the October 16th date that we discussed in today's meeting as the target for issuing guidance.
>
> If you have any questions or concerns, please don't hesitate to call.
> ---
> Patty Gioffre

US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Gioffre, Patricia
Sent: Tuesday, September 12, 2017 2:29 PM
To: Earl Salo <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
Cc: Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>
Subject: OGC Review requested: Updated EPCRA/CERCLA action summary
Importance: High

Attorney Client / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

<draft webpage udate CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste at Farms.docx>

<draft webpage CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste_clean.docx>

Briefing: Call with Senator Jerry Moran (R-KS)
Wednesday, October 11th, 2017
4:15pm-4:30pm – Admin's Office

Main Topics of Discussion:
RFS Pathway for Sorghum Oil
CERCLA/EPCRA emission reporting requirements
Region 7 Administrator

Background: This call stems from several conversations EPA staff and Senator Moran staff have had about expanding available RFS Pathways to include sorghum oil. He has requested this call in an effort to convey his interest in expanding the available pathways for which biofuels can qualify under the RFS. Further, the Senator will likely wish to discuss CERCLA/EPCRA emission reporting requirements following the D.C. Circuit Court ruling vacating the ag exemption.

- **RFS Pathways**

  In 2010, EPA established a process for companies to petition for new fuels pathways to qualify for RFS. A fuel pathway is a specific combination of three components: (1) feedstock, (2) production process and (3) fuel type. On July 29, 2016, a pathway petition was submitted to the EPA by the National Sorghum Producers for the production of biofuels from grain sorghum oil. Subsequently, a request for supplemental data was fulfilled on January 18, 2017

  - EPA is still reviewing requests for new pathways.

- **CERCLA/EPCRA Farm Emissions**

  On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA). On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017.

  - To assist farmers in meeting CERCLA and EPCRA reporting requirements, EPA is currently developing and working to have it available to farmers by October 16, 2017, to give them time to review the guidance and comply with the reporting requirements.~~The EPA Administrator signed the proposed rule, Financial Responsibility Requirements Under CERCLA Section 108(b) For Classes of Facilities in the Hardrock Mining Industry, on December 1, 2016 and it was published in the Federal Register on January 11, 2017. The comment period ended on July 11, 2017.~~
  - ~~The final rule is forthcoming and should be announced in the near future.~~

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Decision Points/Objectives: The goal is to alleviate Senator Moran's concerns about possible changes to the RFS and provide an update on near-term actions regarding the CERCLA final rule.

Attendees:
Ryan Jackson, Chief of Staff

Briefing: Call with Senator Jerry Moran (R-KS)
Wednesday, October 11th, 2017
4:15pm-4:30pm – Admin's Office

Mandy Gunasekara, Senior Policy Advisor
Troy Lyons, AA Office of Congressional and Intergovernmental Affairs
Christian Palich, DAA Office of Congressional and Intergovernmental Affairs

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Message

From: Brown, Byron [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9242D85C7DF343D287659F840D730E65-BROWN, BYRO]
Sent: 3/16/2018 8:45:23 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]
Subject: RE: draft TPs for Reportable Quantities (RQs)/Animal Waste

Sorry have been off campus at a meeting. A couple of edits below.

From: Grantham, Nancy
Sent: Friday, March 16, 2018 3:15 PM
To: Brown, Byron <brown.byron@epa.gov>
Subject: RE: draft TPs for Reportable Quantities (RQs)/Animal Waste

Have you had a chance to look at this? sorry to bug

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Grantham, Nancy
Sent: Friday, March 16, 2018 12:46 PM
To: Brown, Byron <brown.byron@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: draft TPs for Reportable Quantities (RQs)/Animal Waste

Byron,

See below. thanks ng

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Brown, Byron
Sent: Friday, March 16, 2018 12:26 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: draft TPs for Reportable Quantities (RQs)/Animal Waste

Sorry I am having trouble opening the file.

From: Grantham, Nancy
Sent: Friday, March 16, 2018 10:48 AM
To: Brown, Byron <brown.byron@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: draft TPs for Reportable Quantities (RQs)/Animal Waste

Byron,

I am not sure whether you have seen the attached talking points that are the result of our meeting yesterday. .

Can you take a look and let me know if you are comfortable with us sharing with the RAs to use?

Also, please see Jen Lewis' note below.

Deliberative Process / Ex. 5

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Lewis, Jen
Sent: Thursday, March 15, 2018 5:30 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: draft TPs for Reportable Quantities (RQs)/Animal Waste

Attorney Client / Ex. 5

Happy to chat about these if needed.

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Taylor, Trish
Sent: Thursday, March 15, 2018 5:19 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: draft TPs for Reportable Quantities (RQs)/Animal Waste

Hi Nancy,

Attached are the requested draft talking points for the proposed RQ rule, per today's 11:30 meeting. OGC and OLEM Acting AA Breen and DAA Steven Cook have reviewed.

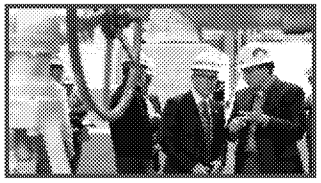
Please let me know if you have any questions. Thanks,
Trish

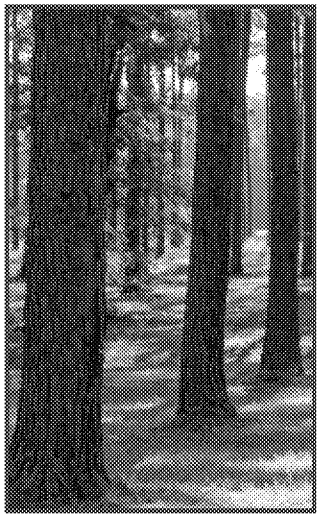
Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

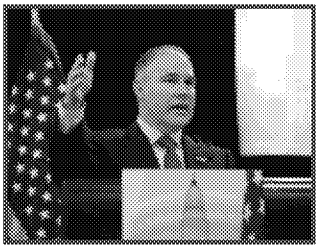
OLEM is on Twitter at @EPALand

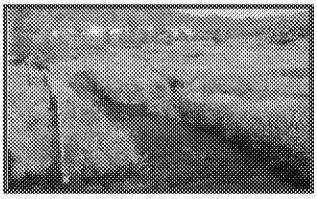
EPA Administrator Scott Pruitt: Year in Review

2017-2018









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Accomplishments

- ✓ Repealed Job-Killing, Burdensome, Duplicative Regulations
- ✓ Eliminated Agency Backlogs, Improved Efficiency and Effectiveness
- ✓ Increased Transparency, Accountability
- ✓ Returned to Cooperative Federalism
- ✓ Restored the Rule of Law, Process
- ✓ Improved Compliance and Assistance

In one year, EPA Administrator Scott Pruitt spearheaded **22 de-regulatory actions** that saved the American people more than **$1 billion** in regulatory

By the Numbers:

- ✓ AIR: 206 State Implementation Plans (SIPs) approved, clearing a backlog of 700+ unapproved SIPs; EPA has turned one Federal Implementation Plan (FIP) into a SIP each month, since March 1, 2017
- ✓ WATER: 3,000 Total Maximum Daily Loads (TMDLs) approved, focused on the priority water bodies selected by the states. EPA also cut the amount of time it took the Agency to approve state water quality standards in half (from 120 days to 60), and awarded $25 million in water infrastructure loans, disbursed $1.4 billion in State Revolving Funds to improve our nation's water quality, and awarded $100 million to Flint, Mich. for water infrastructure upgrades.
- ✓ LAND: Seven contaminated sites were eliminated, substantially or entirely, from the National Priority List of contaminated sites; only one site was removed the previous year. EPA also awarded $60 million in brownfield clean-up grants to local communities.
- ✓ CHEMICALS: 600 new-chemical submissions were stuck in the Agency's backlog as of January 2017; EPA cleared the backlog and ensured that all new chemicals coming to market received an affirmative safety determination within about 90 days.
- ✓ ENFORCEMENT: $1.6 billion in administrative and civil judicial penalties in FY17, higher than any of the previous 10 years, other than FY16, which included one $5.7 billion action taken. EPA also celebrated an increase in the value of commitments by private parties to clean up land to more than $1.2 billion, an increase in the total of criminal fines, restitution and mitigation to $2.98 billion and an increase in the value of actions to improve compliance to nearly $20 billion.
- ✓ OUTREACH: Administrator Pruitt consulted with 95 bipartisan Members of Congress, 30 bipartisan governors, visited 30 states and U.S. territories, and met with over 350 stakeholder groups.
- ✓ IMPLEMENTING EXECUTIVE ORDERS: EPA quickly acted on President Donald Trump's E.O. to review and rescind the 2015 definition of "Waters of the U.S."; President Trump's Energy Independence E.O. by proposing to repeal the so-called "Clean Power Plan"; and, President Trump's "Regulatory Reform" E.O. 13777 by finalizing two de-reg actions for each regulatory action – with ZERO net costs to the U.S. economy.
- ✓ REGULATORY REFORM: 22 deregulatory actions were finalized, saving more than $1 billion in regulatory costs; EPA also initiated work on an additional 44 deregulatory actions and announced the reconsideration of over a dozen overreaching and burdensome regulations.

Introduction

The U.S. Environmental Protection Agency (EPA) plays a vital role in American society. It is a role that is clearly defined by Congress, its statutes and, from time to time, the courts. EPA most-effectively protects the environment and human health when it operates within the bounds of its authority. However, when EPA strays outside that role, like it has in recent years, it encumbers both environmental protections and economic growth.

At the outset of Administrator Pruitt's tenure, he set forth a "back-to-basics agenda" centered on returning EPA to its proper Constitutional role via three objectives: 1) refocusing the Agency back to its core mission; (2) restoring power to the states through cooperative federalism; and (3) adhering to the rule of law and improving Agency processes. In one year we have made tremendous environmental progress in line with these goals. And, that progress shows that we can be both pro-environment, and pro-growth.

The combination of a refocused Agency, cooperative federalism and rule of law, like tributaries converging into a mighty river, has unleashed a new optimism throughout the nation. Americans can trust that environmental hazards will be addressed quickly and thoroughly; states and industry will be treated as partners, not opponents; and regulations will provide clarity, not confusion. The results are a cleaner, safer and stronger America for all.

Core Mission

The first of the three pillars of Administrator Pruitt's "back-to-basics agenda" is to refocus the Agency on its core mission: clean air, land and water. The EPA was founded in 1970 in order to consolidate the federal government's environmental efforts under one roof and better enforce the environmental laws passed by Congress. However, in recent years, EPA expanded its authority and jurisdiction into areas outside its core mission. In the process, central responsibilities of the Agency took a backseat to ideological crusades, allowing some environmental threats – like cleaning up toxic land – to go unaddressed. Administrator Pruitt returned the Agency to its core mission and prioritized issues at the heart of EPA's purpose: ensuring access to clean air and water, cleaning up contaminated lands and returning them to communities for reuse, improving water infrastructure, and ensuring chemicals entering the marketplace are reviewed for safety. In just one year, EPA made immense progress on these fronts, and the American people have seen real, tangible results.

AIR: Improve Air Quality

Clean Power Plan

The so-called Clean Power Plan not only exceeded the Agency's statutory authority – and the U.S. Supreme Court agreed – but it also imposed unnecessary regulatory burdens on affordable energy for hardworking American families. Implementing President Trump's Energy Independence Executive Order, Administrator Pruitt took steps to propose a repeal of the so-called Clean Power Plan (CPP) on October 10, 2017. EPA's action on CPP is estimated to save the U.S. economy up to $33 billion in avoided compliance costs.

As part of the on-going repeal process, the Agency heard directly from stakeholders and citizens most impacted by the rule, including a listening session in Charleston, West Virginia – the heart of coal country. Three additional listening sessions took place in Kansas City, Missouri; San Francisco, California; and Gillette, Wyoming.

In a separate, but related action, EPA issued an Advance Notice of Proposed Rulemaking (ANPRM) to solicit information from the public about a potential replacement to CPP that would be consistent with the Clean Air Act for regulating emissions from power plants.

Ozone

EPA is committed to prioritizing air quality improvements and partnering with states in the effort to ensure more Americans are living and working in areas that meet our nation's stringent air quality standards. Under current measurements, roughly 40 percent of the nation fails to meet attainment standards set under the National Ambient Air Quality Standards (NAAQS). Under Administrator Pruitt's leadership, EPA gave states more flexibility by extending the deadline to designate 2015 National Ambient Air Quality Standards (NAAQS) for ozone. EPA also worked with states to develop air quality plans, address underlying technical issues and ensure that more Americans are living and working in areas that meet NAAQS. Administrator Pruitt also established an Ozone Cooperative Compliance Task Force to develop additional flexibilities for states to comply with the ozone standard.

Consistent with Administrator Pruitt's pledge to be more responsive to local needs, on November 6, 2017, EPA announced it was moving forward with designations for 90 percent of the country.

State Implementation Plans

Rather than work cooperatively with states to implement clean air programs, President Obama's EPA imposed more than 50 Federal Implementation Plans (FIPs) – the equivalent of a top-down mandate -- on states. Under Pruitt's leadership, EPA has turned at least one FIP into a State Implementation Plan (SIP) approximately every month. Administrator Pruitt also inherited a backlog of over 700 unapproved SIPs upon taking office. Since March 2017, EPA has worked with states to approve 206 SIPs. EPA recognizes that states have an enormous role to play in environmental protection and we can improve outcomes through collaboration, not federal dictates.

- During the Obama Administration, more than 50 FIPs were imposed on states, including nearly 20 under the Regional Haze program
- Under the Trump Administration, with EPA Administrator Pruitt's leadership, EPA has turned at least one FIP into a SIP approximately every month
- Over 200 SIPs have been approved since March 1, 2017

Coal Ash

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EPA's core mission reflects the belief that states play an integral role in environmental protection. In keeping with this notion, Administrator Pruitt informed states that the Agency is committed to working with states to approve ~~working on guidance for implementing~~ state permitting programs to manage the safe disposal of coal combustion residuals (CCR), also known as "coal ash." The new ~~guidance~~ state permitting authority – included in the Water Infrastructure Improvements for the Nation Act (WIIN Act) – allows flexibility in individual CCR permits by enabling states to decide what works best for their environment and the continued beneficial use of coal ash.

EPA released interim guidance to help states develop and submit permit programs putting more states on track to obtain CCR authority. The interim guidance outlines ~~establishes~~ a framework ~~to outline~~ of EPA's expected approval process and also provides checklists to aid states as they develop their programs.

Renewable Fuels Standard

As directed by the Clean Air Act, EPA finalized volume requirements for the Renewable Fuel Standard (RFS) maintaining renewable fuel volumes at levels comparable to the 2017 standards, recognizing limits to the growth of cellulosic and advanced biofuels and understanding both market realities and consumer demand. The proposed standards will help stabilize the renewable fuels program and provide certainty for stakeholders.

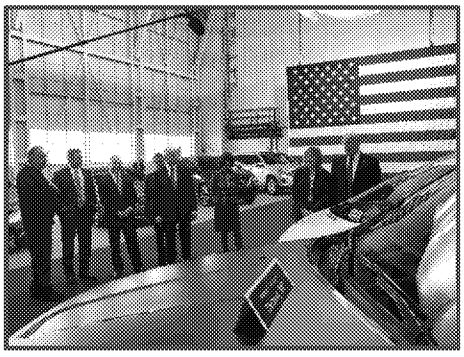
"Once In, Always In"

In a 1995 memo, EPA established a "once in always in" policy that determined that any facility subject to major source standards would always remain subject to those standards, even if production processes changed or controls were implemented that eliminated or permanently reduced that facility's potential to emit hazardous air pollutants. This policy is a disincentive to efforts to improve air quality and is also inconsistent with the Clean Air Act.

EPA issued a guidance memorandum in January 2018 withdrawing the "once in always in" policy. The memo from EPA's Office of Air and Radiation Assistant Administrator Bill Wehrum finds that EPA had no statutory authority under the Act to place a time limit on when a facility may be determined to be an area source and that a plain language reading of the Act must allow facilities to be reclassified as area sources once their potential to emit hazardous air pollutants falls below the levels that define major sources. This action represents another step by EPA to reduce burdens that deterred one of its core efforts: improving air quality.

Fuel Economy Standards

EPA has taken multiple steps over the past year to review the regulatory overreach of the previous administration on the transportation sector.



Administrator Pruitt traveled to Ypsilanti, MI with Transportation Secretary Chao and President Trump to discuss CAFE standards.

Alongside Department of Transportation (DOT) Secretary Elaine Chao, Administrator Pruitt announced the agencies intentions to reopen the public comment period for the previous administration's finalized standards on fuel economy for cars and light-duty trucks for Model Year 2025 to ensure that the program is beneficial for both consumers and the environment.

EPA also reviewed and then issued a proposal to undo the regulatory overreach of the Phase II Fuel Efficiency Standards for medium and heavy duty trucks.

Agriculture Emissions Reporting

EPA twice requested and the D.C. Circuit Court approved extensions for reporting air releases from animal waste. EPA sought and attained

additional time in order to provide compliance assistance to farmers, update its guidance and develop a more-streamlined reporting form.

Landfill Methane

EPA instituted a 90-day administrative stay for the August 2016 New Source Performance Standards and Emissions Guidelines for municipal solid waste landfills to reconsider portions of the standards and guidelines. EPA estimates that implementing these rules would cost businesses more than $100 million annually.

WATER: Provide for Clean and Safe Water

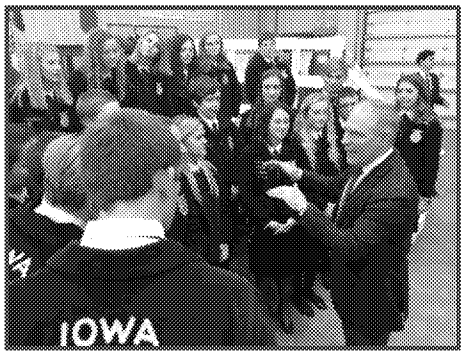
Waters of the United States (WOTUS)

One of the more egregious examples of EPA overstepping its authority occurred with the 2015 Clean Water Rule definition of a "Water of the United States." On February 28, 2017, President Donald Trump issued an Executive Order directing EPA and the U.S. Army Corps of Engineers to review and rescind (or revise) it. Within a few months, the agencies proposed a rule to rescind the 2015 WOTUS to provide regulatory certainty to American farmers, landowners and businesses and put an end to one-size-fits-all regulations from Washington.

> **"We are taking significant action to return power to the states and provide regulatory certainty to our nation's farmers and businesses. This is the first step in the two-step process to redefine 'waters of the U.S.' and we are committed to moving through this re-evaluation to quickly provide regulatory certainty, in a way that is thoughtful, transparent and collaborative with other agencies and the public."**
>
> **- EPA Administrator Scott Pruitt**

In the interim, EPA and Army Corps issued a second rulemaking to re-evaluate the definition. This will ensure any future proposed rule is implemented consistent with Supreme Court decisions, agency guidance, and longstanding practice.

Administrator Pruitt addresses members of the Tennessee Farm Bureau in Franklin.



Administrator Pruitt talks with members of Nevada, IA Future Farmers of America.

Water Infrastructure

Our nation's water infrastructure is in dire need of repair. Roughly 700 water main breaks occur across the United States every day -- over 200,000 per year. Not surprisingly, the American Society of Civil Engineers gave our nation's drinking water, wastewater and hazardous waste infrastructure a "D" grade. Then there's the problem of lead in our drinking water. The contamination in Flint,

Michigan awakened much of the nation to the harms of lead poisoning. EPA has taken important steps to aid Flint's recovery and improve water infrastructure across the nation.

Flint, Michigan

In March 2017, EPA awarded a $100 million grant to the Michigan Department of Environmental Quality to accelerate and expand its work to replace lead service lines and make other critical infrastructure improvements. Later in the year, EPA completed a period review of Michigan's drinking water program and released a report identifying key steps the state should take to ensure they are providing safe and clean drinking water.

In addition, EPA concurred with Michigan's plans to forgive Flint's past drinking water debt. Over the past year, EPA has worked in partnership with the State of Michigan and the City of Flint to ensure that water quality continues to improve. This partnership has produced one of the most robust drinking water data sets in the country and EPA remains committed to working closely with the state of Michigan, Flint and local partners to protect public health and ensure that Flint's water quality continues to remain safe to drink.

WHAT THEY'RE SAYING:

"The people of Flint and all Americans deserve a more responsive federal government," **said EPA Administrator Scott Pruitt.**

"We are excited and very grateful to receive these much needed funds," **said Flint Mayor Karen Weaver.** *"The City of Flint being awarded a grant of this magnitude in such a critical time of need will be a huge benefit. As we prepare to start the next phase of the FAST Start pipe replacement program, these funds will give us what we need to reach our goal of replacing 6,000 pipes this year and make other needed infrastructure improvements. We look forward to the continued support of the EPA and federal government."*

BY THE NUMBERS:

$100 Million grant to Michigan Department of Environmental Quality

$1 Billion leveraged from WIFIA loans for water infrastructure upgrades

$5.1 Billion in total water infrastructure investment spurred from EPA grants and loans

WIFIA

Critical to improving the nation's water infrastructure is the Water Infrastructure Finance and Innovation Act (WIFIA). This year's projects receiving WIFIA loans will leverage more than $1 billion in private capital and other funding sources, including EPA's State Revolving Fund (SRF) loans, to help finance a total of $5.1 billion in water infrastructure investments.

Effluent Limitations Guidelines

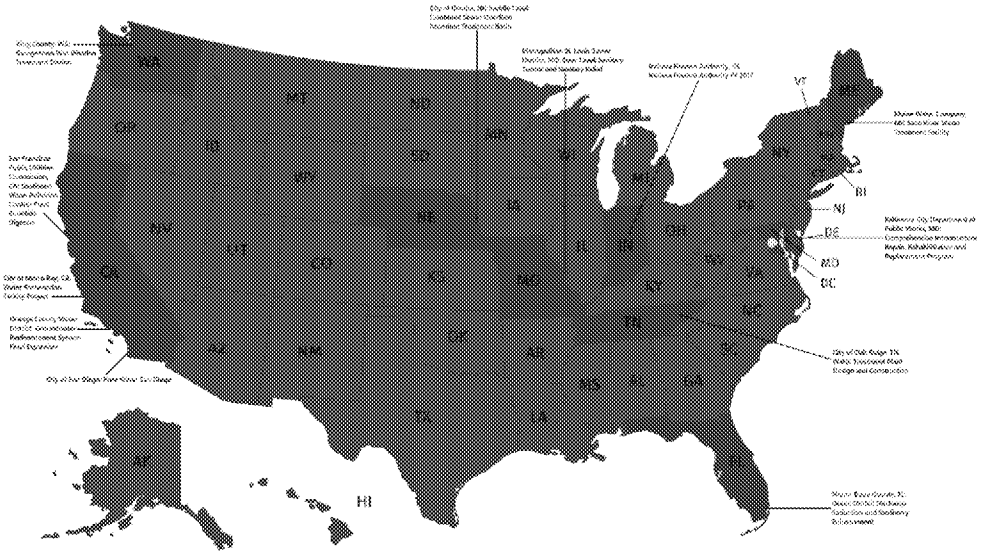
After careful reconsideration, EPA finalized a rule postponing certain compliance dates by two years for the effluent limitations guidelines and standards for steam electric power plants under the Clean Water Act (ELG Rule). It has been estimated to cost $480 million annually including $1.2 billion annually during the first five years of compliance.

LAND: Revitalize Land for Reuse

Superfund

The number of toxic sites being added to EPA's National Priorities List has increased under every administration since the first list was released under President Ronald Reagan. Administrator Pruitt is putting an end to this trend. By the end of 2018, EPA will be on track to close, in whole or part, 27 Superfund sites.

> **"I am making it a priority to ensure contaminated sites get cleaned up. We will be more hands-on to ensure proper oversight and attention to the Superfund program at the highest levels of the Agency, and to create consistency across states."**
>
> **- EPA Administrator Scott Pruitt**



From wastewater and drinking water to storm water and water recycling projects, WIFIA loans financed water infrastructure improvements across the country

Ensuring the Superfund program and EPA's land and water cleanup efforts operate effectively and efficiently is a cornerstone of the Agency's core mission. In elevating EPA's focus on Superfund cleanup, Administrator Pruitt created a Superfund Task Force -- comprised of Agency experts from the Office of Land and Emergency Management, Office of Enforcement and Compliance Assurance, Office of General Counsel, and Regional Offices -- to streamline and improve the program.

Within a few months, the Superfund Task Force released their report providing 42 specific and detailed recommendations under the following overarching goals:

1. Expediting Cleanup and Remediation
2. Re-invigorating Responsible Party Cleanup and Reuse
3. Encouraging Private Investment
4. Promoting Redevelopment and Community Revitalization
5. Engaging Partners and Stakeholders

Following the recommendations of the Superfund Task Force, Administrator Pruitt released two dynamic lists of Superfund sites on the National Priorities List (NPL) including those 21 sites targeted for immediate and intense attention and 31 sites with the greatest expected redevelopment and commercial potential.

The first list includes sites that will benefit from Administrator Pruitt's direct engagement and have identifiable actions to protect human health and the environment. These are sites requiring timely resolution of specific issues to expedite cleanup and redevelopment efforts. Ultimately, it is designed to spur

SUPERFUND SUCCESS

East Chicago

As one of his first acts in office, Administrator Pruitt visited the USS Lead Superfund Site in East Chicago, Indiana -- something no other EPA Administrator had done. This specific site was listed on both the NPL in 2009 and Administrator Pruitt's list of sites targeted for immediate and intense action. After visiting the site, EPA began taking public comment and Administrator Pruitt ordered potentially responsible parties to clean-up the site. In meeting with East Chicago residents, federal, state and local offices, he pledged improved coordination and communications as cleanup continues.

Years of Inaction Are Over: West Lake

On February 1, 2018, after decades of inaction, EPA put forth its plan to clean up the West Lake Landfill, a dumping ground for radioactive waste from the Manhattan Project. The plan will remove a majority of the dangerous radioactive material posing unacceptable risks to the public.

- ✓ "I can tell you that we are happy with this decision, and what this does for us is it gives us direction. We've gone without a decision at the site for 10 years, and it's time that we have direction," said Karen Nickel of the Just Moms STL advocacy group. (St. Louis' CBS Radio, 02/01/18)

San Jacinto:

The cleanup plan to address highly toxic dioxin contamination at the San Jacinto Waste Pits Superfund site in Harris County, Texas was approved by Administrator Pruitt in the fall of 2017. The plan provides certainty to both people living near the site -- by permanently addressing risk posed by the contamination -- and economic interests including the businesses that rely on the San Jacinto River for navigation and the Interstate-10 transportation corridor.

- ✓ "Not long after Hurricane Harvey battered Houston last summer, Environmental Protection Agency Administrator Scott Pruitt stood on the banks of the San Jacinto River and surveyed a decades-old toxic waste site as divers checked whether the storm had unearthed dangerous chemicals. Days later, he ordered two corporations to spend $115 million to excavate the contamination rather than leaving it covered." (Washington Post, 01/23/18)

action at sites where opportunities exist to act quickly and comprehensively.

Superfund redevelopment has helped countless communities reclaim and reuse thousands of acres of formerly contaminated land. The redevelopment list easily directs interested developers and potential owners to Superfund sites with redevelopment potential, but does not necessarily include all possible sites with similar potential.

In addition, EPA completed deletion activities at seven sites on the Superfund NPL in Administrator Pruitt's first year, up from two in 2016. These sites from Minnesota and Massachusetts to Wyoming and

> **"I urged then President-elect Trump to stop the EPA's overreach into state regulation harming Montana businesses. Instead of threatening the very industries that are a backbone of our Western economies, we need to support American families and American businesses to secure our mineral and energy independence. I am pleased the EPA has taken action."**
>
> **- U.S. Senate Western Caucus Chairman Steve Daines (R-MT)**

Nebraska reflect Administrator Pruitt's commitment to accelerating progress, reducing risks at Superfund site sans returning sites to productive use.

CERCLA Hardrock Mining

In ~~January 2017~~December 2016, the previous administration issued proposed regulations under section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) that would have imposed financial responsibility requirements on certain hardrock mining facilities. After careful analysis of nearly 11,000 public comments and the Agency's statutory authority, EPA announced in December 2017 that it would not issue the final rule. The risks associated with these facilities' operations are already addressed by existing federal and state programs and industry practice. This decision saved American businesses and the mining industry up to $171 million a year.

CHEMICALS: Ensure Safety of Chemicals

Implemented the Updated Toxic Substances Control Act (TSCA)

EPA is working diligently to implement TSCA, the first major update to an environmental statute in 20 years, and ensure that the most modern and safe chemicals get to market quickly in order to provide regulatory certainty for manufacturers and confidence for American consumers.

Under the 2016 Frank R. Lautenberg Chemical Safety for the 21st Century Act, which amended the Toxic Substances Control Act (TSCA), EPA is responsible for reviewing and approving the safety of new chemicals intent on entering the U.S. marketplace. When Administrator Pruitt was confirmed, over 600 new chemicals were stuck in review. Within four months of being confirmed, EPA halved the backlog of new chemical submissions being reviewed under TSCA, and by July, Administrator Pruitt effectively eliminated the backlog.

In addition, EPA exceeded expectations and met its statutory responsibilities under TSCA on the one-year anniversary of the Frank R. Lautenberg Chemical Safety for the 21st Century Act. This included issuing three new rules, providing a guidance document for

external parties and releasing the scoping documents for the first 10 risk evaluations.

Chlorpyrifos

In 2007, EPA received a petition asking the Agency to revoke the tolerances for the pesticide chlorpyrifos. Given that the Ninth Circuit would not provide additional time for a new administration to review the issue, EPA denied the petition, based on the lack of time, divergent views from the cabinet departments and the fact that the scheduled FIFRA review for all pesticides, including chlorpyrifos, allows for a public process that included more time to further evaluate the science and come to a clearer scientific resolution of the issues.

On July 18, 2017, the Ninth Circuit ruled in EPA's favor, refusing to short-circuit the process established by Congress to challenge a denial of a petition to revoke a tolerance, affording EPA additional time to conduct a proper evaluation under the law of the science and the studies on chlorpyrifos and provide clarity about the pesticides' safety to the American people.

Dicamba

On October 13, 2017, EPA reached an agreement with manufacturers on measures to further minimize the potential for dicamba drift to damage neighboring crops. New requirements for the use of dicamba "over the top" (application to growing plants) will allow farmers to make informed choices for seed purchases for the 2018 growing season. EPA worked cooperatively with states, land-grant universities and pesticide manufacturers to examine the underlying causes of recent crop damage in certain regions and reach an agreement.

Pesticide Applicators Rule

Informed by feedback from states and American people that more time and resources are needed to prepare for compliance with the rule, EPA issued a 12-month extension for the implementation of the revised final Certification and Training of Pesticide Applicators rule. The extended timeline enabled EPA to work with states and provide adequate compliance and training resources.

Cooperative Federalism

Under Administrator Pruitt, states are once again being treated as partners, in efforts to protect the environment. In his first year, Administrator Pruitt worked to empower state

and local partners to develop regulations that achieves positive environmental outcomes. Putting his words into action, Administrator Pruitt got out of Washington and heard directly from stakeholders in the states.

Enhanced Shared Accountability

Governor Steve Bullock (D-MT): "The change in the federal administration offers us as governors the opportunity to develop new relationships and to build stronger state and federal relationships."

Governor Rick Scott (R-FL): "It is great to have a partner in Administrator Pruitt and the Trump Administration and I am glad to see their focus on protecting Florida's environment for future generations."

Governor Mark Dayton (D-MN): "Gov. Mark Dayton described a meeting Wednesday with EPA Administrator Scott Pruitt as 'productive and cordial' and said he's hopeful the Trump administration will eliminate some of the federal government red tape dealt to state agencies. 'We don't believe we need to be micromanaged by Region 5 in Chicago,' Dayton said during a news conference following a meeting at the Capitol that lasted more than an hour."

Governor Kim Reynolds (R-IA): "The governor said Pruitt indicated the new regulations would define what areas are not under federal jurisdiction. A court suspended the "Waters of

the U.S." rules written by the Obama Administration before they took effect, but Reynolds said farmers delayed conservation measures and other land improvements because of the uncertainty about what might come next. 'Dramatically had an impact on our ability to move forward with conservation practices for not only water quality, for soil health,' she said."

Leader Mitch McConnell (R-KY): "It's great to have an administrator of the EPA," McConnell said as he introduced Pruitt, "who's not afraid to come to Kentucky."

Stakeholder Engagement

Smart Sectors

In 2017, EPA launched Smart Sectors, a partnership program between the Agency and regulated sectors that takes a collaborative approach to consider more forward-thinking ways to protect the environment and provide regulatory certainty.

From the program's official launch, the Smart Sectors team met with over 80 trade associations, companies, or stakeholder groups. The team conducted seven informational site visits with a variety of sectors including ports, iron and steel, oil and gas, chemical manufacturing, and agriculture and has many site visits planned for 2018. The Smart Sectors program maintains open dialogue with these partners and their environmental committees and developed reports that profile the impact of each sector on the environment and the economy.

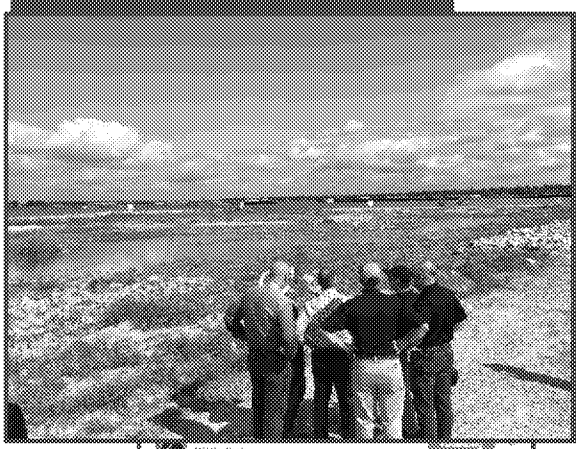
Grants

EPA awards over $4 billion grants annually to states, tribes and local communities. For example, in FY2017:

- Over $20.2 million was provided through National Estuary Program grants to 32 communities
- $56.8 million in Brownfields grants to 172 communities for revitalizing land

- Nearly $33.3 million Clean Diesel Program grants to 72 communities

As a result of the continuing impacts on Gulf Coast-area refineries and disruption to the fuel distri[redacted]



Administrator Pruitt visited Corpus Christi, TX, on August 30, 2017, to meet with responders and assess EPA relief efforts, and Houston, TX twice – on September 15, 2017, to review the Agency's response efforts and October 20, 2017 with stakeholders monitoring cleanup efforts at the San Jacinto Waste Pits Superfund site.

Natural Disaster Preparedness, Response and Recovery

Throughout 2017 EPA worked closely with states and territories to prepare for and respond to a number of natural disasters including Hurricanes Harvey, Irma, and Maria, and catastrophic wildfires in the West.

STATS AT A GLANCE

Harvey:

- ✓ Conducted on-site assessments at approximately 625 drinking water and 440 waste water treatment facilities
- ✓ Collected more than 1000 orphan containers, which included drums and tanks found floated in or washed up near waterways
- ✓ Safely disposed of over 20 million cubic yards of debris

Maria:

- ✓ Completed over 1,000 drinking water assessments in USVI
- ✓ Collected more than 225,000 items of household hazardous waste, goods and electronic waste in Puerto Rico and USVI
- ✓ Assessed close to 400 vessels in Puerto Rico and close to 500 in USVI with the U.S. Coast Guard

WHAT THEY'RE SAYING:

Rule of Law

Agency Reform

Sue and Settle

Over the years, outside the regulatory process, special interest groups have used lawsuits that seek to force federal agencies – especially EPA – to issue regulations that advance their interests and priorities, on their specified timeframe. EPA gets sued by an outside party that is asking the court to compel the Agency to take certain steps, either through change in a statutory duty or enforcing timelines set by the law, and then EPA will acquiesce through a consent decree or settlement agreement, affecting the Agency's obligations under the statute.

"Sue and settle" cases establish Agency obligations without participation by states and/or the regulated community; foreclose meaningful public participation in rulemaking; effectively force the Agency to reach certain regulatory outcomes; and, cost the American taxpayer millions of dollars.

In fulfilling his promise to end the practice of regulation through litigation that has harmed the American public, EPA Administrator Scott Pruitt issued an Agency-wide directive in October 2017 designed to end "sue and settle" practices within the Agency, providing an unprecedented level of public participation and transparency in EPA consent decrees and settlement agreements.

> **"The days of regulation through litigation are over."**
>
> **- EPA Administrator Scott Pruitt**

Advisory Boards

According to EPA calculations, in just three years, members of three of EPA's 22 Federal Advisory Committees – the Science Advisory Board, Clean Air Scientific Advisory Committee, and the Board of Scientific Counselors – received upwards of $77 million in direct EPA grant funding while concurrently serving on these committees.

Administrator Pruitt issued a new directive in the fall of 2017 to ensure that any advisors serving on an EPA Federal Advisory Committee are independent and free from any real, apparent or potential interference with their ability to objectively serve as a committee member. In addition, Administrator Pruitt increased the representation of EPA's science boards to include more geographic diversity, increasing past representation from 32 states to over 40.

ENFORCEMENT

Enforcement of environmental protection laws is sustained by collaborative efforts of states, businesses, private citizens, and federal agencies like EPA. Within the last year, Administrator Pruitt implemented a two-pronged approach to enforcement: 1) ensuring the regulated community understands and complies with the law, and 2) vigorously holding bad actors accountable. This was achieved through a wide range of enforcement tools, including: compliance assistance, civil actions, administrative actions, informal actions, work-sharing with states, and criminal fines and incarceration where appropriate.

Since January 20, 2017, through the end of Fiscal Year 2017, EPA imposed:

- More than $1.72 billion in civil penalties, cost recovery, natural resource damages, and other monetary recoveries;

- More than $2.91 billion in criminal fines, restitution, and other assessments; and
- More than $3.13 billion in injunctive relief and environmental mitigation projects.

Example Enforcement Actions Announced Since Close of FY17:

- ✓ ExxonMobil: $300M air pollution settlement with Exxon, 10/31/17
- ✓ PDC Energy: EPA, Colorado reach $21 million-plus settlement with PDC 10/31/17
- ✓ Macy's: EPA Settled with Macy's over Hazardous Waste Violations 10/25/17
- ✓ RIN Fraud: This individual defendant purchased renewable fuel with attached RINs, sold the fuel, and instead of retiring the RINs as required, sold the RINs separately and illegally for $31.8 million. He also committed tax fraud to the tune of $1.2 million by claiming renewable fuel tax credits to which he was not entitled, 10,23/17
- ✓ Superfunds: For one example, EPA held 40 parties responsible to finance and perform a $51.5 million EPA-approved cleanup 10/13/17

Media

NATIONAL TELEVISION & RADIO

Fox News: EPA moves to repeal Obama's Clean Power Plan coal regulations. "EPA Administrator Scott Pruitt announced Monday that the Trump administration is moving to scrap the Clean Power Plan, the Obama administration's signature regulatory program to curb emissions from coal-fired power plants... 'That rule really was about picking winners and losers,' Pruitt said. 'The past administration was unapologetic, they were using every bit of power, authority to use the EPA to pick winners and losers on how we pick electricity in this country. That is wrong.'"

MSNBC's Morning Joe: Pruitt said the Paris agreement put our economy at a disadvantage. "When you look at what was agreed to in Paris, it put this country, our country at a disadvantage economically."

ABC's This Week: Pruitt discussed how small businesses across the country are celebrating President Trump's decision to pull out of the Paris agreement. "Well, when you look at, even The New York Times had an article, I think, within the last couple of days that talked about small business celebrating, euphoria with respect to the president's decision."

Fox News Sunday: Pruitt explained how the U.S. is the energy technology leader of the world. "If China and India want to reduce their CO2 footprint, they should learn from us," Pruitt told Fox News' Chris Wallace."

CBS Evening News: Pruitt discussed the role of the EPA. "We should be about administering the statutes we're required to administer, but we shouldn't come in and say that the way forward in environmental protection is prohibition vs. stewardship. We can feed the world and we can power the world, and we should do that."

The New York Times' The Daily: Pruitt discussed how he's focused on protecting the environment and human health.

ABC News "Powerhouse Politics Podcast": Pruitt talked about Hurricane Irma recovery efforts.

EDITORIALS

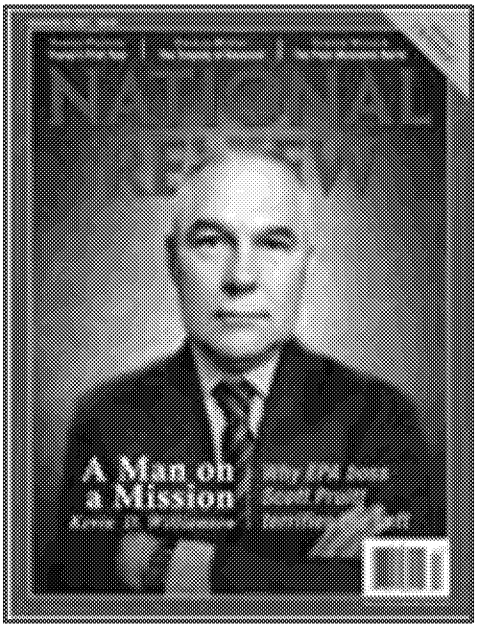
USA Today: Clean air, land and water: Time for the EPA to start keeping its promises. "A few months ago, I promised the people of Missouri that I would make a decision and propose a cleanup plan for the West Lake Landfill. Recently, I made good on that commitment. On Feb. 1, the Environmental Protection Agency put forth its plan to clean up the West Lake Landfill... In less than a year, this administration will solve a problem that previous administrations could not fix in the years since 1990, when the site was added to the Superfund priorities list."

The Wall Street Journal: Scott Pruitt's Back-to-Basics Agenda for the EPA. "You might call him an EPA originalist... When Mr. Pruitt sat down Thursday for his first interview since his November nomination, he spent most of the time waxing enthusiastic about all the good his agency can accomplish once he refocuses it on its statutorily defined mission: working cooperatively with the states to improve water and air quality."

Talking Points Memo: Pruitt Looks to Kneecap Environmental Groups With New Policy. "Pruitt pledged that the agency would no longer reimburse attorneys' fees in cases where it decides to avoid a lawsuit, arguing that both environmental and business groups had abused it to enrich themselves in the past. 'This is not particular to one type of plaintiff,' he said. 'There should be no attorneys' fees paid, period, no matter who the plaintiff is.'"

Wall Street Journal: Pruitt's ends sue and settle practices also known as "extortion by environmental lawsuit." "Scott Pruitt continues to press reform at the Environmental Protection Agency, this week issuing a directive to curb the collusive Washington game of "sue and settle" lawsuits. This is a victory for democratic consent over legal extortion."

Washington Examiner: Praise for Pruitt's commitment to the Agency's core mission. "We applaud Pruitt's mission of restoring the EPA to its proper shape and size. And we hope he has the humility, the diligence, and the skill to pull it off, for the sake of the Constitution, the economy, and the environment."



Wall Street Journal: Pruitt committed to cleaning up Superfunds sites. "One cost of making climate change a religion is that more immediate environmental problems have been ignored—not least by the Environmental Protection Agency. New EPA Administrator Scott Pruitt plans to address that in an underreported effort to clean up toxic waste sites under the so-called Superfund program."

Minneapolis Star Tribune: Pruitt Signals Welcome Support for Great Lakes Restoration Project. "Environmental Protection Agency Secretary Scott Pruitt's visit to Minnesota last week yielded an unexpected boon for those who care about clean water. In an interview with a Star Tribune reporter, Pruitt affirmed his support for federal funding of the Great Lakes Restoration Initiative, which provides landmark protections for Lakes Huron, Erie, Michigan, Ontario and, most treasured by Minnesotans, Superior."

Denver Post: Pruitt Right to Pursue Funds for Gold King Mine Victims. "Scott Pruitt, head of the Environmental Protection Agency, is doing the right thing in his efforts to make whole the victims of the Gold King Mine spill that spewed 3 million of gallons of toxic water into the Animas River and downstream to New Mexico."

GQ Magazine: The 50 Most Powerful People in Trump's Washington. "#5 EPA Administrator Scott Pruitt: In a Cabinet that doesn't get much done, Pruitt has been dangerously effective."

Bloomberg: Administrator Pruitt lands on the list of 50 people defining global business in 2017. "Pruitt, a former Oklahoma attorney general who built his career challenging what he termed the 'EPA's activist agenda,' says he's 'righting the wrongs of the Obama administration.' He's giving states a bigger role in environmental oversight, reopening a review

of fuel-efficiency standards, and delaying a rule to boost the safety of chemical facilities—work guided by almost-daily consultations with industry representatives."

Newsweek: How the EPA's Scott Pruitt became the most dangerous member of Trump's cabinet.

Ken Cuccinelli said Pruitt believes in clean water and clean air. "The previous administration weaponized this agency," Cuccinelli said. "They were assaulting America through the EPA. Scott believes in clean water and clean air. There's never been any doubt about that. But all of the other creative stuff is the kind of stuff that political elites want to spend their time on and if it affects Americans all it does is reduce their opportunities."

NATIONAL PRINT

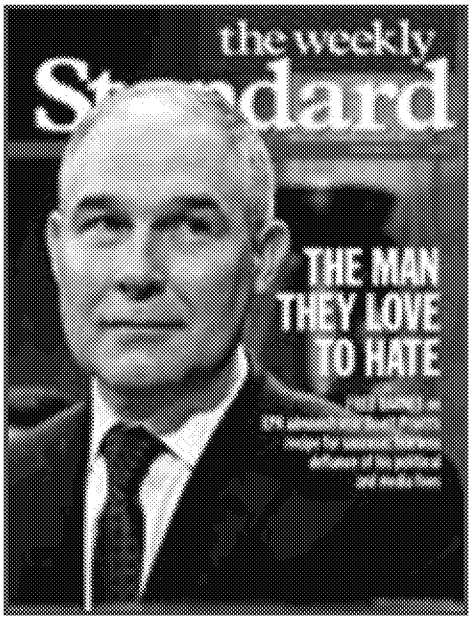
The Washington Post: Scott Pruitt, outspoken and forceful, moves to the center of power within the Trump administration. "Less than four months ago, Scott Pruitt arrived in Washington with few connections to President Trump's inner circle and took the helm of an agency where many employees were openly hostile to him. But the administrator of the Environmental Protection Agency has emerged as one of the most influential policy architects in the president's Cabinet, a skilled and sometimes brash lawyer who is methodically taking apart a slew of regulations and agreements affecting a range of issues, from manufacturing operations to landfills."

USA Today: Scott Pruitt on a mission to change the climate of the EPA. "He's on a mission to re-engineer the agency's culture by returning power to states and away from the Washington bureaucrats and coastal elites he said have led it astray."

TIME: Pruitt: I don't spend any time with polluters. I prosecute polluters.

Washington Examiner: Pruitt advances Back-to-Basics agenda. "Few Trump administration agency chiefs have moved as decisively to implement an agenda as Scott Pruitt, the administrator of the Environmental Protection Agency, and he's quite clear about what he wants to do. He calls it a 'back to the basics' agenda, removing the government from what he considers extraneous activity."

The Washington Post: How Scott Pruitt turned the EPA into one of Trump's most powerful tools. "...aggressiveness on issues from coal waste to vehicle emissions has made Pruitt one of Trump's most high-profile and consequential Cabinet members. It also has made him one of the most controversial... Yet, allies praise Pruitt for returning more power to individual states while scaling back what they see as the previous administration's regulatory excesses."



Bloomberg: EPA's Pruitt Denies He's an Ally of Polluters, Vows to Get Tough. "Scott Pruitt, the head of the Environmental Protection Agency, vowed that he will get tough on corporate polluters, dismissing critics who cast him as too cozy with industry. "They don't know me," Pruitt said, during an interview with Bloomberg News in his Washington office. "I've led a grand jury. We are going to do enforcement, to go after bad actors and go after polluters."

Wall Street Journal: Pruitt said West Lake sends a results driven message. "'This sends a message that we're actually going to get results,' Mr. Pruitt said in an interview with The Wall Street Journal. 'Frankly it's just what we ought to be doing.'"

The Washington Post: EPA head Scott Pruitt defends Paris exit. "When we joined Paris, the rest of the world applauded ... because it put this country at disadvantage... It's a bad deal for this country. We're going to make sure as we make deals we're going to put the interests of America first."

Wall Street Journal: Pruitt aims to accelerate his efforts to remake the EPA. "Environmental Protection Agency chief Scott Pruitt plans to use his second year on the job to accelerate efforts to remake the agency, saying he wants to speed its permitting processes and transform a culture he says is bureaucratic."

Reuters: Pruitt gave a wide-ranging interview about protecting the environment and American jobs. "The past administration was all about words. This administration is all about action. Look at the actions this country has taken. We have reduced our greenhouse gas levels to pre-1994 levels primarily through technology and innovation, not through government mandate. We have nothing to be apologetic about with the rest of the world."

Washington Examiner: EPA's Scott Pruitt declares 'war on lead.' "EPA Administrator Scott Pruitt has begun an effort to 'eradicate' lead poisoning from drinking water, more than three years after the crisis in Flint, Michigan, started. Pruitt hosted a meeting Jan. 8 for state and local officials at agency headquarters in Washington to obtain feedback on ways to update the 1991 Lead and Copper Rule... It has not been revised in more than a decade."

The Hill: EPA staffing falls to Reagan-era levels. "EPA's staffing is now lower than it was in former President Reagan's final year in office. An EPA spokeswoman said Tuesday that, as of Jan. 3, the agency had 14,162 employees, down from about 15,000 at the beginning of last year. That's even lower than the 14,400 employees the agency had in fiscal year 1988, Reagan's final year."

Wall Street Journal: EPA to Unveil New Chemical Testing Rules. "The Environmental Protection Agency on Thursday will release new rules to clarify the agency's process of testing the chemicals used in everyday products and other commerce, a matter of deep importance to manufacturers, consumers and environmental advocates."

REGIONAL PRINT

The Chicago Tribune: Pruitt orders companies blamed for East Chicago contamination to pay for cleanup. "'We continue to make cleaning up East Chicago a priority, to protect the health and well-being of the residents who live in the impacted areas,' said EPA Administrator Scott Pruitt in a statement. The EPA estimated the companies will have to pay $24 million for the remediation, according to the announcement, and $2.25 million for the indoor dust cleaning."

Deseret News: Pruitt visited Utah and talked about WOTUS."EPA Administrator Scott Pruitt visited Utah as part of multistate tour to get

input on how the agency can be more responsive to states' needs in general and in specific how the controversial Waters of the United States rule should be retooled."

The St. Louis Post-Dispatch: Pruitt outlined his course of action to cleanup West Lake. "In a long-awaited decision that appears to be a compromise, the Environmental Protection Agency on Thursday recommended partial excavation of the West Lake Landfill in Bridgeton to remove radioactive waste linked to the Manhattan Project."

Arkansas Democrat Gazette: Pruitt discusses WOTUS in Arkansas. "EPA Administrator Scott Pruitt visited with Arkansas Cabinet officials and agriculture representatives Thursday about changes they would like to see made to the nation's definition of protected water bodies."

Houston Chronicle: Pruitt takes on entrenched air pollution system.

Minneapolis Star-Tribune: Pruitt is working hard to protect the Great Lakes. "Scott Pruitt, the nation's top environmental officer, said Wednesday he endorses continued federal funding for a landmark cleanup of the Great Lakes... 'It's a continuing need, and we have to see that it's adequately funded.'"

Cedar Rapids Gazette: Pruitt wants to work hand in hand with states. "'What's important for us in Washington, D.C., to do is to learn and partner and work with folks at the state level to achieve good outcomes together. That just simply has not happened for a number of years,' said EPA Administrator Scott Pruitt, during a stop in Nevada."

Des Moines Register: Pruitt called farmers the first "conservationists, environmentalists." "Pruitt said the country needed to discuss what 'true environmentalism' means: 'We have been blessed with a bounty of natural resources. And some view that as 'We should simply not use them' — that we should put up fences and not use our natural resources. 'I don't buy that. We, as a country, have an obligation to feed the world and power the world,' he said, getting applause. 'When you have the natural resources like we do, we should use them to benefit our neighbors, our country and world.'"

Sioux City Journal: Pruitt held a roundtable with Governor Reynolds, Senators Grassley and Ernst about WOTUS.

The Clarion Ledger: Pruitt addressed energy issues in Mississippi. "U.S. Environmental Protection Agency Administrator Scott Pruitt visited Mississippi Thursday to discuss proposed changes to the Waters of the United States rule, just days after announcing the repeal of the Clean Power Plan."

Houston Chronicle: After Harvey, Pruitt vows bold response to polluted sites around Houston. "Environmental Protection Agency Administrator Scott Pruitt, who has visited Texas twice since Hurricane Harvey, vowed Thursday to have 'an answer' by next month for a permanent solution to clean up the San Jacinto River Waste Pits."

REGIONAL TELEVISION & RADIO

Des Moines WHO-TV: E.P.A. Head Agrees That Des Moines Superfund Site Needs to Develop, But When? "Political Director Dave Price talked to Environmental Protection Agency Administrator Scott Pruitt about efforts to redevelop superfund sites, like Des Moines, all over the country."

Salt Lake City KTVX-TV: Pruitt discusses his Back-To-Basics agenda. "EPA Administrator Scott Pruitt made his first stop on the State Action Tour here in Utah. This morning he sat down with Glen Mills on Good Morning Utah exclusively to talk about the tour."

Louisville WHAS-TV: Pruitt will have changes to Obama's WOTUS. "The head of the United States Environmental Protection Agency was in Louisville Thursday with a promise of change to one of the most controversial environmental regulations for Kentucky farmers. Administrator Scott Pruitt told the Kentucky Farm Bureau's 98th Annual Meeting that the "Waters of the United States" regulation will be changed forever by mid-2018."

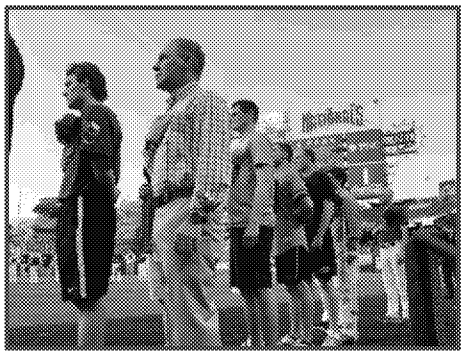
Denver KDVR-TV: Pruitt Gold King Mine on 2-Year Anniversary of Spill Caused by Agency. "Environmental Protection Agency Administrator Scott Pruitt and Colorado leaders will tour the site of the Gold King mine spill on Friday to mark the second anniversary of the spill that dumped 3 million gallons of tainted wastewater into the Animas River."

St. Louis KMOX-TV: Just Moms STL was happy with Pruitt's decision regarding West Lake. "Dawn Chapman and Karen Nickel of the Just Moms STL advocacy group say at first, the group was worried a partial removal would mean only 5percent removed. With a 70percent or more removal — they are pleased. 'I can tell you that we are happy with this decision, and what this does for us is it gives us direction,' Nickel says. 'We've gone without a decision at the site for 10 years, and it's time that we have direction.'"

Twin Cities WCCO-TV: Pruitt gave an in-depth interview about the EPA's Back-To-Basics Agenda. "EPA Administrator Scott Pruitt was in studio for an exclusive interview while he was in the state to meet with Gov. Mark Dayton. He's is in Minnesota as part of his Back-To-Basics tour and talked about rolling back regulations."

Reno KRNV-TV: Pruitt discusses his visit to Nevada. "Administrator of the Environmental Protection Agency Scott Pruitt sat down with News 4's Bill Frankmore on Monday morning to discuss his event with Governor Brian Sandoval at Anaconda Mine in Lyon County regarding future clean-up and his visit with miners at Coeur Rochester Mine in Lovelock."

Des Moines WHO-TV: EPA chief, a former baseball exec, wants 'world, world series.' "I think baseball is one of those sports we can actually truly have a world series, we can have a world competition. We've seen it in other instances and I think that's an opportunity that we need to be pursuing."



Administrator Pruitt stands for the National Anthem at the Congressional Baseball game.

Twin Cities WCCO-AM: Pruitt talked baseball, the environment and American jobs.

Radio Iowa: Pruitt visits Iowa to discuss WOTUS

business

REG WATCH

Court strikes down farm pollution exemption

* The Environmental Protection Agency (EPA) acted improperly when it exempted most farms from air pollution reporting requirements for emissions from animal waste, a court ruled.

The EPA in 2008, under former President George W. Bush, carved out an exemption to reporting requirements for a majority of farms for the pollutants — mostly ammonia and hydrogen sulfide — emitted by animal waste.

Most facilities are required by the Emergency Planning and Community Right-to-Know Act and the Comprehensive Environmental Response, Compensation, and Liability Act to report those emissions to federal, state and local authorities.

But the EPA decided that it could not do anything to reduce or mitigate emissions from animal waste, so requiring reporting would not be useful.

A three-judge panel of the Court of Appeals for the District of Columbia Circuit disagreed Tuesday with the agency, siding instead with environmental groups that challenged the rule.

The judges said that Congress did not give the EPA the authority to carve out such exemptions.

"We have no doubt that a desire for efficiency motivated some of the exceptions Congress provided, but those concerns don't give the agency carte blanche to ignore the statute whenever it decides the reporting requirements aren't worth the trouble," Judge Stephen Williams wrote.

Williams dug deeper, concluding that the EPA did not properly consider possible tools it has to fight animal waste emissions.

"Whatever the EPA's past experience in responding to mandated information may have been, it plainly has broad authority to respond," he wrote.

"Thus the comments undermine the EPA's primary justification for the final rule — namely, that notifications of animal-waste-related releases serve no regulatory purpose because it would be 'impractical or unlikely' to respond to such a release," he continued.

"It's not at all clear why it would be impractical for the EPA to investigate or issue abatement orders ... in cases where pumping techniques or other actions lead to toxic levels of hazardous substances such as hydrogen sulfide."

Williams, who was nominated to the court by former President Ronald Reagan, was joined in his opinion by Judge Sri Srinivasan, nominated by former President Barack Obama.

Judge Janice Rogers Brown, a George W. Bush nominee, agreed with the decision but wrote separately that the majority should have used a different standard to determine whether the EPA's actions were a reasonable interpretation of the relevant laws.

Appointment

From: Siperek, Trevor LT [Trevor.L.Siperek@uscg.mil]
Sent: 11/2/2017 12:06:37 PM
To: Siperek, Trevor LT [Trevor.L.Siperek@uscg.mil]; Kevin.Smith@uscg.mil; Loring, Joseph B CAPT [Joseph.B.Loring@uscg.mil]; Weaver, James (USCG) [James.D.Weaver@uscg.mil]; Stuckey, William (PHMSA) [William.Stuckey@dot.gov]; Boynton, Lisa [Boynton.Lisa@epa.gov]; Irizarry, Gilberto [Irizarry.Gilberto@epa.gov]; Brittle, Horace L MSTC [Horace.L.Brittle@uscg.mil]; Lipinski, Rachael CIV [Rachael.Lipinski@uscg.mil]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Brooks, Rebecca J LT [Rebecca.J.Brooks@uscg.mil]

Subject: NRC Advisory Group Meeting for CERCLA/EPCRA
Location: Teleconference

Start: 11/6/2017 8:00:00 PM
End: 11/6/2017 9:00:00 PM
Show Time As: Busy

Recurrence: (none)

When: Monday, November 06, 2017 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference
Note: The GMT offset above does not reflect daylight saving time adjustments.
~~*~*~*~*~*~*~*~*~*

Good morning everyone,
This is a meeting invite for a conference call to continue discussions from our 30OCT17 NRC Advisory Group meeting regarding the impending requirement for CERCLA/EPCRA Animal Waste reporting to the NRC. Topics of discussion will include reporting guidance to farmers as well as other reporting options/courses of action. As previously mentioned, this new reporting requirement has the potential to put a significant strain on NRC operations and capabilities. Your participation is very much appreciated.
Call-in number: Conference Number / Ex. 6
Access code: Conference Number / Ex. 6
Very Respectfully,
Trevor Siperek, LT
Operations Officer
National Response Center
1-800-424-8802

Appointment

From: Smith, Kevin CIV [Kevin.Smith@uscg.mil]
Sent: 10/27/2017 1:22:07 PM
To: Kevin.Smith@uscg.mil; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Woodyard, Josh [Woodyard.Joshua@epa.gov]; Hershey, Christopher L CIV [Christopher.L.Hershey@uscg.mil]

Subject: NRC Advisory Group Meeting
Location: Conference Call

Start: 10/30/2017 6:30:00 PM
End: 10/30/2017 7:30:00 PM
Show Time As: Busy

Recurrence: (none)

When: Monday, October 30, 2017 2:30 PM-3:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conference Call
Note: The GMT offset above does not reflect daylight saving time adjustments.
~~*~*~*~*~*~*~*~*~*

Good Morning Everyone,
CAPT Loring has requested a conference call with the NRC Advisory Group and Mr. Irizarry to continue discussions from yesterday's NRT meeting regarding the impending requirement for CERCLA/EPCRA Animal Waste reporting to the NRC. Topics of discussion will include current reporting guidance to farmers as well as other reporting options/courses of action. As you know, this new reporting requirement has the potential to put a significant strain on NRC operations and capabilities. Your participation is very much appreciated.

Personal Phone / Ex. 6

Access code: 999 287 990#

Respectfully,
Kevin Smith
Director
National Response Center
U.S. Coast Guard Headquarters
2703 Martin Luther King Jr. Ave SE
Washington, DC 20593-7516
Phone: 202-372-2420

Revised 4/26/18

DESCRIPTION OF ISSUE

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to:

- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
- Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), if the farms stable or confine fewer than a certain number of animals. *

On April 11, 2017, the DC Circuit Court vacated this final rule.

In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. EPA requested an additional extension to develop guidance that would assist farmers in calculating and reporting releases from animal waste under CERCLA. The guidance was released on October 25, 2017, and requested public input. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018.

On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate.

On February 1, 2018, the DC Circuit Court of Appeals granted EPA's motion to further stay issuance of the mandate until May 1, 2018. No reporting would be required until the Court issues its order, or mandate, enforcing its decision to eliminate the reporting exemptions for farms on May 1, 2018.

On March 23, 2018, the Consolidated Appropriations Act, 2018 (Omnibus Bill), was signed into law. Title XI of the Omnibus Bill, called the "Fair Agricultural Reporting Method Act" or "FARM Act" exempts the reporting of "air emissions from animal waste at a farm" under CERCLA. When the D.C. Circuit Court of Appeals issues its mandate vacating the 2008 final rule (expected as soon as May 1, 2018), farms will remain exempt from the CERCLA reporting requirements as a result of the Omnibus Bill.

The impact of the FARM Act is that air emissions from animal waste do not need to be reported under EPCRA section 304 by farms.

The Agency is refining its online content to reflect the impact of the recent legislation and interpretation.

Timeframe: May 1, 2018 (should coincide with EPCRA one-pager/web update)

TARGETED AUDIENCES / EXTERNAL STAKEHOLDERS

DRAFT

- Owners and operators of farms with animals (industry)
- Agricultural trade associations focused on animals
- State, local, and tribal governments (including SERCs, LEPCs, and TERCs)
- USDA
- Environmental groups

MESSENGER(S) / INTENRAL STAKEHOLDERS

- OLEM - OEM / RID
- OLEM - OCPA
- AO (OPA/Ag Advisor/Office of Public Engagement)
- OCIR
- Regions

KEY MESSAGES

DRAFT

- The Fair Agricultural Reporting Method (FARM) Act exempts the reporting of "air emissions from animal waste at a farm" under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

- Under EPCRA, air emissions from animal waste do not need to be reported.

- The Agency is refining its online content to reflect the impact of the recent legislation and interpretation.

RECOMMENDED ACTIVITIES

- Web content updated with content that clearly communicates the EPCRA interpretation of section 304.

  - <u>Congressional Notifications</u>
    OCIR will provide e-mail notification to congressional committees with substantive jurisdiction:
    - Senate Environment and Public Works
    - Senate Agriculture
    - House Energy and Commerce
    - House Agriculture

<u>Internal Notifications</u>

- Public Affairs (PADs)
- AAs and RAs

U.S. Environmental Protection Agency: OLEM / OEM
Communications Plan for Interpretation of EPCRA Section 304 (Animal Waste Reporting)

- AO Senior Ag Advisor's Office: Hema Subramanian
- Regional Ag Advisors
- Smart Sectors – Ag leads (Kristinn Sharpe, Elizabeth Corona)
- CERCLA EPCRA Guidance Workgroup members
- OAR and OW Animal Ag POCs: Robin Dunkins, Andrew Sawyers, Ross Brennan, Tom Wall, Lynda Hall
- NPDES and Compliance CAFO Coordinators
- CEPP regional coordinators
- Congressional liaisons

Collateral Materials	Responsible Party
Desk Statement	Latosha Thomas, OEM
Talking Points	Latosha Thomas, OEM
Frequent Questions (External)	Kim Jennings/Patty Gioffre, OEM
Web Content/Updates	Eileen Mayer, OEM

DRAFT

TIMELINE

Due Date	Time	Action	Owner
4/26/18		Draft comms plan to AA for approval	Latosha Thomas, OEM Trish Taylor, OCPA
4/27/18		Draft comms plan to OPA	Trish Taylor, OCPA
4/30/18		Draft desk statement, frequent questions, web content for AA approval	Latosha Thomas, OEM Trish Taylor, OCPA
4/30/18		Draft desk statement, frequent questions, web content to OPA	Trish Taylor, OCPA
5/1/18		Post frequent questions and add'l web content	Eileen Mayer, OEM
5/1/18	Immediately after web posting	Internal Notifications	Kim Jennings, OEM Patty Gioffre, OEM
5/1/18	Immediately after web posting	PADs Notification	Nancy Grantham, OPA
5/1/18	Immediately after web posting	External Notification Call: Congressional	Pamela Janifer, OCIR Carolyn Levine, OCIR
5/1/18	Immediately after web posting	External Notification Call: Trade Associations	Kim Jennings, OEM Patty Gioffre, OEM

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 2/7/2018 6:12:40 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]
Subject: Animal Waste Communications Update

Hi All,

Here's a summary of the communications products that need to be changed based on the Court granting EPA's motion to further stay issuance of the mandate until May 1, 2018. The major changes are related to the fact sheet + toolkit. I have outlined my suggested revisions below. Please let me know by **COB today** if you have any comments/suggestions. Thanks!

Eileen – I've added you here so that you're in the loop about the changes. For the toolkit, my opinion is to take down all of the content until it's revised. We'll let you know when this is approved, so that you can update. We could leave some sort of message that tells visitors that the content is currently being updated. Also, please see my question re: the publication number for the fact sheet below.

FACT SHEET

Changes to content:

- **Current:** 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 January 22, 2018.
  Revision: 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.

- **Current: When do I need to report?** The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.
  Revision: 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.

- Add the following FAQ to the fact sheet:

  - **How will EPA protect my personal information?** EPA takes privacy concerns seriously, and the Agency protects personally identifiable information (PII) in a manner that is consistent with the law. There are several laws that may protect personal information including the Freedom of Information Act (FOIA), the E-Government Act of 2002, and the Federal Information Security Modernization Act of 2014. In accordance with these laws, EPA has procedures in place to protect certain PII from unauthorized disclosure.

    When responding to FOIA requests for information, EPA carefully evaluates the information to determine whether that information should be withheld under FOIA Exemption 6. To determine whether Exemption 6 applies, EPA is required to weigh the privacy interests of an individual against the public interest of disclosure. If the privacy interest outweighs the public interest, the information will be withheld.

    For more information about privacy, see: EPA's Implementation of the Privacy Act.

    For information on FOIA exemptions, see: Freedom of Information Act Exemptions.

- **How does a farmer know if they are still in compliance with the Animal Feeding Operations Air Compliance Agreement (Agreement) or whether the Agreement is still valid? Further, is the Agreement still valid: if a farm changes ownership; or, if a farmer has modified its farm?** The Agreements between the EPA and participating farm owners and operators (Agreement participants) are generally still valid and in effect. Most Agreement participants should be in compliance with their Agreements because the main initial compliance requirement was to pay a civil penalty, which has already occurred, and the majority of the remaining compliance requirements are not triggered until the EPA publishes final emission estimating methodologies pursuant to the Agreement. The Agreements, including future compliance requirements, remain valid and in effect if a farm changes ownership. Further, the Agreements remain valid and in effect if a farmer modifies its farm, but the scope of the Agreement's release and covenant not to sue may be affected by the nature of the farm modification. Agreement participants should consult their Agreements should they have more specific questions about compliance requirements and modifications. Should Agreement participants still have questions after consulting their Agreements, they should contact [TBD].

Other actions:

- In the header, the date needs to be changed to February 2018.
- Does the publication number need to change since this is a different version?
- Needs Spanish translation

Question:

Do we still know that the development of methodologies for estimating emissions (mentioned in green box) won't be completed until the Court issues its mandate?

https://www.epa.gov/sites/production/files/2018-01/documents/cercla_epcra_factsheet_final.pdf

TOOLKIT

Facebook posts for toolkit

- **Current:** Due to a recent Court action, many farmers with animal operations will be required to report emissions from animal waste as early as Jan. 22. Visit www.epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- **Revision:** Due to a recent Court action, many farmers with animal operations will be required to report emissions from animal waste as early as May 1. Visit www.epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.

Tweets for toolkit

- **Current:** Visit www.epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming as early as Jan. 22! #animalwaste
- **Revision:** Visit www.epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming as early as May 1! #animalwaste

PSA Audio File

- **Action:** Remove current audio file. Possibly record a new version.

- **Current:** Due to a recent court action, many farms with animal operations across the United States will be required to report emissions from animal waste as early as January 22. EPA had exempted most farms from this requirement under the EPCRA and CERCLA laws but due to a recent lawsuit, the courts eliminated this exemption. EPA has online tools to help animal ag producers determine if this requirement applies to their operations, and help them comply with the law. To learn more, visit www.epa.gov/animalwaste or call 1-800-424-9346.
- **Revision:** Due to a recent court action, many farms with animal operations across the United States will be required to report emissions from animal waste as early as May 1st. EPA had exempted most farms from this requirement under the EPCRA and CERCLA laws but due to a recent lawsuit, the courts eliminated this exemption. EPA has online tools to help animal ag producers determine if this requirement applies to their operations, and help them comply with the law. To learn more, visit www.epa.gov/animalwaste or call 1-800-424-9346.

Newsletter

- **Current:** Due to a recent Court action, many farms with animal operations (which includes ranching operations) will need to report emissions from animal waste as early as Jan. 22.

Several environmental laws (Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and the Emergency Planning and Community Right-to-Know Act (EPCRA)) require any facility to report releases of hazardous substances if the releases exceed a reportable quantity in a 24-hour period. In 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substance from animal waste under CERCLA, and only subjected large concentrated animal feeding operations (CAFOs) to EPCRA reporting. The primary rationale for the final rule was the fact that, although the purpose of the notifications is to evaluate the need for an emergency response, EPA had not initiated any responses to air releases from animal waste and EPA could not foresee a circumstance where such a release would trigger a response. 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, eliminating the exemptions for farms. EPA sought and was granted additional time from the Court to delay the effective date of the ruling until January 22, 2018, so that EPA could develop guidance materials to help farmers understand their reporting obligations. No reporting is required until the Court issues its order, or mandate, enforcing the April, 2017 decision.

Once reporting is required, farms may follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to:

- Notify the National Response Center for qualifying releases that occur within a 24-hour period;
- Submit an initial written notification (Continuous Release Reporting Form found at: https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances) to the EPA Regional Office; and
- One year later, submit an additional follow-up written notification to the EPA Regional Office.

As part of the initial written notification, facility owners and operators are required to report an estimate on their releases. EPA recognizes it will be challenging for farmers to estimate releases because the variability in emissions from manure management systems has slowed the development of universally applicable methodologies for estimating these releases. However, to help farmers comply with the Court's requirement, EPA has made resources available on its website which may be helpful in estimating emissions. Farmers may also use other models in estimating emissions. Estimated quantities of releases by farmers can be based on: past release data; engineering estimates; their knowledge of the facility's operations and release history; or their best professional judgment. Monitoring data is not required. Farmers should keep a copy of the calculation for future reference. For more information, please see the Resources link at: https://www.epa.gov/animalwaste

- **Revision:** Due to a recent Court action, many farms with animal operations (which includes ranches, livestock/poultry operations) will need to report emissions from animal waste as early as May 1. Two environmental laws [Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA)] require any facility to report

releases of hazardous substances if the releases exceed a reportable quantity in a 24-hour period. In 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste under CERCLA, and only subjected large concentrated animal feeding operations (CAFOs) to EPCRA reporting. The primary rationale for the final rule was the fact that, although the purpose of the notifications is to evaluate the need for an emergency response, EPA had not initiated any responses to air releases from animal waste, and EPA could not foresee a circumstance where such a release would trigger a response. 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, eliminating the exemptions for farms. EPA sought and was granted additional time from the Court to delay the effective date of the ruling until May 1, 2018, so that EPA could develop guidance and communications materials to help farmers understand their reporting obligations. No reporting is required until the Court issues its order, or mandate, enforcing the April 2017 decision.

Once reporting is required, farms may follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to:

- Notify the National Response Center for qualifying releases that occur within a 24-hour period;
- Submit an initial written notification (Continuous Release Reporting Form found at: https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances) to the EPA Regional Office; and
- One year later, submit an additional follow-up written notification to the EPA Regional Office.

As part of the initial written notification, facility owners and operators are required to report an estimate on their releases. EPA recognizes it will be challenging for farmers to estimate releases because the variability in emissions from manure management systems has slowed the development of universally applicable methodologies for estimating these releases. However, to help farmers comply with the Court's requirement, EPA has made resources available on its website which may be helpful in estimating emissions. Farmers may also use other models in estimating emissions. Estimated quantities of releases by farmers can be based on: past release data; engineering estimates; their knowledge of the facility's operations and release history; or their best professional judgment. Monitoring data is not required. Farmers should keep a copy of the calculation for future reference. For more information, please see the Resources link at: https://www.epa.gov/animalwaste.

Widget

- **Current:** Due to a recent court action, many farms with animal operations will be required to report emissions from animal waste as early as January 22.
- **Revision:** Due to a recent court action, many farms with animal operations will be required to report emissions from animal waste as early as May 1.

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Levine, Carolyn [Levine.Carolyn@epa.gov]
Sent: 1/26/2018 10:30:03 PM
To: Principe, Vanessa [Principe.Vanessa@epa.gov]
CC: Palich, Christian [palich.christian@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: Re: With attachment - RE: CERCLA/EPCRA call follow ups

Thanks all!
Have a good weekend.

Carolyn Levine
Office of Congressional and
Intergovernmental Relations
U.S. EPA
(202) 564-1859
levine.carolyn@epa.gov

On Jan 26, 2018, at 4:51 PM, Principe, Vanessa <Principe.Vanessa@epa.gov> wrote:

With referenced attachment this time.

Thanks, V

From: Principe, Vanessa
Sent: Friday, January 26, 2018 4:49 PM
To: Palich, Christian <palich.christian@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Lowery, Brigid <Lowery.Brigid@epa.gov>; Jennings, Kim <jennings.kim@epa.gov>; Patricia Gioffre <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: CERCLA/EPCRA call follow ups
Importance: High

Carolyn/Christian/Jen,

Here is the follow-up information to our 1:30 call, for you to forward to the appropriate parties. Please let us know if you have any questions.

Thanks, V

___

Guidance Information Available for 2008 Rule-

To assist facilities with reporting continuous releases, EPA has developed a guide on the Reporting Requirements for Continuous Releases of Hazardous Substances that includes forms for written reports.

The Guide provides an overview of the information required for the initial and first anniversary follow-up reports to assist facilities with the collection of the required information.
https://www.epa.gov/epcra/reporting-requirements-continuous-releases-hazardous-substances-guide-facilities-compliance

> NOTE – The guidance, the form and the instructions for facilities to comply with continuous release reporting have been posted since 1990. No additional reports are required after the first anniversary report, unless there are any changes to the previously reported information or there is a statistically significant increases (SSI) to the upper bound normal range reported.

These Resources Page / Links to Available Emission Estimation Techniques were available through trade associations and few universities that conducted emission studies.
https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources

> NOTE - Links for *Dairy Operations*; *Swine Operations*; *Poultry Operations*; and *General Emission Estimates for Ammonia from Beef, Dairy, Horse, Swine, Poultry Operations* on this page date to January/ February 2009.

Attached PDF - Fact Sheet for the 2008 Final Rule: *CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms*

Legislative References -

CERCLA release reporting (general):
https://www.law.cornell.edu/cfr/text/40/302.6

EPCRA release reporting (general):
https://www.law.cornell.edu/cfr/text/40/part-355/subpart-C

> NOTE - 355.32, which cross-references CERCLA for purposes of continuous release reporting

CERCLA continuous release reporting:
https://www.law.cornell.edu/cfr/text/40/302.8

From: Palich, Christian
Sent: Friday, January 26, 2018 2:39 PM
To: Levine, Carolyn <Levine.Carolyn@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Cc: Lowery, Brigid <Lowery.Brigid@epa.gov>
Subject: RE: CERCLA/EPCRA call follow ups

Thanks Carolyn, and appreciate everyone for getting on the call in such short notice.

Before we send anything up to the hill on this please send over my way please. Just wanted to stay in loop on what we are providing.

Have a great weekend!

Christian R. Palich

Deputy Associate Administrator
Office of Congressional & Intergovernmental Affairs
U.S Environmental Protection Agency
O: 202.564.4944
C: 202.306.4656
E: Palich.Christian@epa.gov

From: Levine, Carolyn
Sent: Friday, January 26, 2018 2:18 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Cc: Palich, Christian <palich.christian@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>
Subject: CERCLA/EPCRA call follow ups

I think this was the main follow up that Kusai requested, did anyone have any other items?
- docs/guidance provided that EPA referred to in 2009/2010

Carolyn Levine
Office of Congressional and
Intergovernmental Relations
U.S. EPA
(202) 564-1859
levine.carolyn@epa.gov

<cafo_rule_fact_sheet.pdf>

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 1/26/2018 6:25:57 PM
To: Franklin, Kathy [Franklin.Kathy@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Jacob, Sicy [Jacob.Sicy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: Technical assistance call
Attachments: CARPER et.al CERCLA.EPCRA Draft Response 1.24.docx

This is the version we are working from.

From: Franklin, Kathy
Sent: Friday, January 26, 2018 1:19 PM
To: Principe, Vanessa <Principe.Vanessa@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jacob, Sicy <Jacob.Sicy@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: Technical assistance call

Can someone send around the latest copy of the response letter?

Kathy Franklin
USEPA, Office of Emergency Management
WJ Clinton North Bldg., Rm. 6450G Mailcode 5104A
1200 Pennsylvania Ave. NW, Washington, DC 20460 (Zip 20004 for private courier delivery)
Phone: 202-564-7987
Email: franklin.kathy@epa.gov

From: Principe, Vanessa
Sent: Friday, January 26, 2018 1:17 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Franklin, Kathy <Franklin.Kathy@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: Technical assistance call

From OEM, Kathy, Sicy, Becki and myself are available.

Thanks, V

From: Lewis, Jen
Sent: Friday, January 26, 2018 1:11 PM
To: Palich, Christian <palich.christian@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Principe, Vanessa <Principe.Vanessa@epa.gov>
Subject: RE: Technical assistance call

Christian – I can do 1:30 pm [Attorney Client / Ex. 5] Copying a few folks so they can confirm their availability.

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Palich, Christian
Sent: Friday, January 26, 2018 1:08 PM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Merchant, Kusai (EPW) <Kusai_Merchant@epw.senate.gov>; Clowser, Jessica (Fischer) <Jessica_Clowser@fischer.senate.gov>; Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Tulou, Christophe (EPW) <Christophe_Tulou@epw.senate.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>
Subject: Re: Technical assistance call

Sounds great. Jen you can do 1:30pm correct?

Thanks everyone.

Christian R. Palich
Deputy Associate Administrator
Congressional & Intergovernmental Relations
202.306.4656

Sent from my iPhone

On Jan 26, 2018, at 1:05 PM, Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov> wrote:

> Sounds like we have some critical mass at 1:30, other than Christophe. I think we will do what works for most, and we will catch him up.
>
> **From:** Merchant, Kusai (EPW)
> **Sent:** Friday, January 26, 2018 12:45 PM
> **To:** Clowser, Jessica (Fischer) <Jessica_Clowser@fischer.senate.gov>; Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Tulou, Christophe (EPW) <Christophe_Tulou@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
> **Subject:** RE: Technical assistance call
>
> I can make 1:30 pm work if that's where we're converging towards.
>
> **From:** Clowser, Jessica (Fischer)
> **Sent:** Friday, January 26, 2018 12:44 PM
> **To:** Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Tulou, Christophe (EPW) <Christophe_Tulou@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
> **Cc:** Merchant, Kusai (EPW) <Kusai_Merchant@epw.senate.gov>
> **Subject:** RE: Technical assistance call
>
> Yes. 1:30 works for me.
>
> **From:** Donaldson, Teri (EPW)
> **Sent:** Friday, January 26, 2018 12:43 PM
> **To:** Clowser, Jessica (Fischer) <Jessica_Clowser@fischer.senate.gov>; Tulou, Christophe (EPW) <Christophe_Tulou@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Fotouhi, David

<Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Merchant, Kusai (EPW) <Kusai_Merchant@epw.senate.gov>
Subject: RE: Technical assistance call

Could you manage 1:30 Jess? I have a 1:00 meeting…

From: Clowser, Jessica (Fischer)
Sent: Friday, January 26, 2018 12:42 PM
To: Tulou, Christophe (EPW) <Christophe_Tulou@epw.senate.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Merchant, Kusai (EPW) <Kusai_Merchant@epw.senate.gov>
Subject: RE: Technical assistance call

1:00 works best for me.

From: Tulou, Christophe (EPW)
Sent: Friday, January 26, 2018 12:38 PM
To: Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>; Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Clowser, Jessica (Fischer) <Jessica_Clowser@fischer.senate.gov>; Merchant, Kusai (EPW) <Kusai_Merchant@epw.senate.gov>
Subject: RE: Technical assistance call

I have a call at 1:30 – 2:00; otherwise available as MF.

From: Repko, Mary Frances (EPW)
Sent: Friday, January 26, 2018 12:36 PM
To: Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Clowser, Jessica (Fischer) <Jessica_Clowser@fischer.senate.gov>; Tulou, Christophe (EPW) <Christophe_Tulou@epw.senate.gov>; Merchant, Kusai (EPW) <Kusai_Merchant@epw.senate.gov>
Subject: RE: Technical assistance call

Adding Christophe and Kusai. I can do a call between 1 and 2 or after 2:30. We have a 2 pm with bipartisan senior staff on the Committee.

From: Donaldson, Teri (EPW)
Sent: Friday, January 26, 2018 12:21 PM
To: Palich, Christian <palich.christian@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Repko, Mary Frances (EPW) <mary_frances_repko@epw.senate.gov>
Cc: Clowser, Jessica (Fischer) <Jessica_Clowser@fischer.senate.gov>
Subject: Technical assistance call

Hi Mary Frances,

Christian suggested we might have a bi-partisan call this afternoon to discuss the large CAFO reporting, which seems to be our sticking point. I drafted a few questions to frame up the TA call. Please advise of your availability and please feel free to suggest any other questions.

TA Questions:

1. What exactly are large CAFO's reporting?
2. Is any of this data meaningful?
3. Do these reports result in any response?
4. Are the reporting requirements imposing a burden on large CAFOs?
5. Are these reports creating any issues or problems?

P.S. My apologies for not copying everyone on your team, Mary Frances.

Teri

Teri L. Donaldson
General Counsel
U.S. Senate, Environment and Public Works Committee
410 Dirksen Senate Office Building
Washington, DC 20510
202-224-2829 (0) 202-224-5167 (f)
202-945-7337 (cell)
Teri_Donaldson@epw.senate.gov

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 1/26/2018 4:41:28 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Colip, Matthew [colip.matthew@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]
Subject: RE: Animal Waste Reporting Fact Sheet Revisions

That works for me.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Thomas, Latosha
Sent: Friday, January 26, 2018 10:55 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: Animal Waste Reporting Fact Sheet Revisions

Hi All,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Let me know if you have any comments on these or anything else in the fact sheet.

Deliberative Process / Ex. 5

Revision: 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 soon as the Court issues its mandate.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 1/25/2018 9:33:12 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Colip, Matthew [colip.matthew@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]
CC: Hyman Moore, Julie [Hyman.Julie@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: RE: Talking Points re: Animal Waste Reporting
Attachments: Talking Points (Animal Waste Reporting) 1.25.18_PG.docx

See suggested edits attached that are consistent with OGC edits on the website.
Thanks.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Thomas, Latosha
Sent: Thursday, January 25, 2018 4:12 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Cc: Hyman Moore, Julie <Hyman.Julie@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Talking Points re: Animal Waste Reporting

Hi,

I've updated talking points re: animal waste reporting that can be used both internally and externally. If you have any comments, please send to me by **5PM today**. Thanks!

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Talking Points

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

Updated: 1/25/18

Issue: Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)** when they release hazardous substances from animal waste in amounts greater than or equal to their reportable quantity within a 24-hour period.

Background:

- In **2008**, EPA published a final rule that exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only large concentrated animal feeding operations (CAFOs) were subject to reporting under the **Emergency Planning and Community Right-to-Know Act (EPCRA)**—a separate law.

- Citizen groups challenged the validity of EPA's rule, and the US Court of Appeals for the DC Circuit struck down EPA's rule on **April 11, 2017**.

- The Court was expected to issue its mandate by **January 22, 2018**. On Friday, **January 19, 2018**, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate. **No reporting is required until the Court issues its order**, or mandate, enforcing its decision to eliminate the reporting exemptions for farms.

- Once the Court issues its mandate, however, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions once the Court issues its mandate.

Talking Points:

- The Court was expected to issue its mandate by January 22, 2018. On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate. **No reporting is required until the Court issues its order**, or mandate, enforcing its decision to eliminate the reporting exemptions for farms.

- While waiting for the Court to respond, EPA is revising its guidance, conducting outreach to farms without internet access, and finalizing the streamlined continuous release reporting form to be more effective at assisting farms in coming into compliance.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

- **Ammonia (NH_3) and hydrogen sulfide (H_2S)** 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 (RQ) of **100 lbs within a 24-hr period**.

Deliberative Process / Ex. 5

- To comply with **CERCLA section 103** reporting requirements for air releases of hazardous substances from animal waste, farms may follow a streamlined reporting process known as "continuous release reporting". This requires the facility owner or operator to:

  1. Notify the NRC at farms@uscg.mil with the name of the farm, the location (city/town and state), and the name(s) of the hazardous substance(s) released

  2. Submit an initial written notification to the EPA Regional Office (Continuous Release Reporting Form)

  3. One year later, submit an additional follow-up written notification to the EPA Regional Office.

- EPA is working on completing the **National Air Emissions Monitoring Study (NAEMS)**. NAEMS will help the agency develop methodologies to estimate emissions from a wide variety of types of CAFOs 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.

Deliberative Process / Ex. 5

  - A **fact sheet** that provides responses to frequently asked questions (EPA is currently updating to reflect extension request)

  - A number to the **EPCRA, RMP & Oil Information Center (1-800-424-8802)** to provide information related to compliance assistance

  - An **outline of the steps** required to comply with continuous release reporting

- A **continuous release reporting form**
- A reporting requirements **guide** for the continuous release of hazardous substances
- **Tools** to help with **emissions estimates**

- Farmers can 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.

  (Farmers should keep a copy of the calculation for future reference.)

- EPA has provided the following resources related to this reporting requirement.
  - 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.
  - 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 for compliance assistance

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 1/25/2018 9:11:41 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Colip, Matthew [colip.matthew@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]
CC: Hyman Moore, Julie [Hyman.Julie@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: Talking Points re: Animal Waste Reporting
Attachments: Talking Points (Animal Waste Reporting) 1.25.18.docx

Hi,

I've updated talking points re: animal waste reporting that can be used both internally and externally. If you have any comments, please send to me by **5PM today**. Thanks!

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Talking Points

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

Updated: 1/25/18

Issue: Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)** when they release hazardous substances from animal waste in amounts greater than or equal to their reportable quantity within a 24-hour period.

Background:

- In **2008**, EPA published a final rule that exempted farms from reporting hazardous substance air releases from animal waste under CERCLA, and only large concentrated animal feeding operations (CAFOs) were subject to reporting under the **Emergency Planning and Community Right-to-Know Act (EPCRA)**—a separate law.

- Citizen groups challenged the validity of EPA's rule, and the US Court of Appeals for the DC Circuit struck down EPA's rule on **April 11, 2017**.

- The Court was expected to issue its mandate by **January 22, 2018**. On Friday, **January 19, 2018**, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate. **No reporting is required until the Court issues its order**, or mandate, enforcing its decision to eliminate the reporting exemptions for farms.

- Once the Court issues its mandate, however, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions once the Court issues its mandate.

Talking Points:

- The Court was expected to issue its mandate by January 22, 2018. On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate. **No reporting is required until the Court issues its order**, or mandate, enforcing its decision to eliminate the reporting exemptions for farms.

- While waiting for the Court to respond, EPA is revising its guidance, conducting outreach to farms without internet access, and finalizing the streamlined continuous release reporting form to be more effective at assisting farms in coming into compliance.

- Once the Court issues its mandate, however, farms with animal operations that release certain amounts of hazardous substances will be required to report these air emissions once the Court

issues its mandate. **Currently, we do not have an exact timeframe for when the Court will issue its mandate or when, if at all, the Court will grant an extension.**

- **Ammonia (NH_3) and hydrogen sulfide (H_2S)** 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 (RQ) of **100 lbs within a 24-hr period**.

- Emissions from the farm must be reviewed on an annual basis. In addition, estimated emissions are required if there are significant changes in operations that may result in statistically significant increases (SSI) in emissions.

- To comply with **CERCLA section 103** reporting requirements for air releases of hazardous substances from animal waste, farms may follow a streamlined reporting process known as "continuous release reporting". This requires the facility owner or operator to:

    1. Notify the NRC at farms@uscg.mil with the name of the farm, the location (city/town and state), and the name(s) of the hazardous substance(s) released

    2. Submit an initial written notification to the EPA Regional Office (Continuous Release Reporting Form)

    3. One year later, submit an additional follow-up written notification to the EPA Regional Office.

- EPA is working on completing the **National Air Emissions Monitoring Study (NAEMS)**. NAEMS will help the agency develop methodologies to estimate emissions from a wide variety of types of CAFOs 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.

- To help those who must comply with the Court's requirement, EPA has made resources available on its website that may be helpful in estimating emissions, in addition to other related information. The following resources are available on www.epa.gov/animalwaste.

    - A **fact sheet** that provides responses to frequently asked questions (EPA is currently updating to reflect extension request)

    - A number to the **EPCRA, RMP & Oil Information Center (1-800-424-8802)** to provide information related to compliance assistance

    - An **outline of the steps** required to comply with continuous release reporting

    - A **continuous release reporting form**

- A reporting requirements **guide** for the continuous release of hazardous substances
- **Tools** to help with **emissions estimates**

- Farmers can 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.

  (Farmers should keep a copy of the calculation for future reference.)

- EPA has provided the following resources related to this reporting requirement.
  - 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.
  - 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 for compliance assistance

Appointment

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 1/24/2018 6:50:28 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Sands, Jeffrey [sands.jeffrey@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Ariel.Szogi@ars.usda.gov; Matias.Vanotti@ars.usda.gov; walter.mulbry@ars.usda.gov; Marlen.Eve@ARS.USDA.GOV; Pete.Jovanovich@ARS.USDA.GOV; Cal.Mather@ARS.USDA.GOV; David.Knaebel@ARS.USDA.GOV; Steven.Kappes@ARS.USDA.GOV; Jeff.Silverstein@ARS.USDA.GOV
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Colip, Matthew [colip.matthew@epa.gov]

Subject: EPA/USDA Discussion on CERCLA/EPCRA Reporting re: Animal Waste
Location: **Conference Number / Ex. 6**

Start: 1/25/2018 7:00:00 PM
End: 1/25/2018 7:30:00 PM
Show Time As: Tentative

The purpose of this call is to discuss the upcoming requirements related to farmers reporting hazardous substances from animal waste with USDA's Agricultural Research Services.

Message

From: Tulis, Dana S SES [Dana.S.Tulis@uscg.mil]
Sent: 1/22/2018 8:09:28 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption

Thank you!

Dana S. Tulis
Director, Incident Management and Preparedness Policy, CG-5RI
United States Coast Guard,
Washington, D.C. 20593
0-202-372-2097
C-202-631-0140

-----Original Message-----
From: Cheatham, Reggie [mailto:cheatham.reggie@epa.gov]
Sent: Monday, January 22, 2018 3:04 PM
To: Tulis, Dana S SES
Subject: [Non-DoD Source] Fwd: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption

Here ya go

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

Begin forwarded message:

From: "Cheatham, Reggie" <cheatham.reggie@epa.gov>
Date: January 22, 2018 at 1:27:31 PM EST
To: "Loring, Joseph B CAPT" <Joseph.B.Loring@uscg.mil>, "Tulis, Dana" <Tulis.Dana@epa.gov>
Cc: "Jennings, Kim" <Jennings.Kim@epa.gov>, "Gilberto Irizarry (Irizarry.Gilberto@epa.gov)" <Irizarry.Gilberto@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>
Subject: FW: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption

FYSA

Update on Ag Rule activities

Reggie Cheatham, Director

Office of Emergency Management, USEPA

202.564.8003 (O); 202.689.9400 (M);

cheatham.reggie@epa.gov <mailto:cheatham.reggie@epa.gov>

Doris Williams, Executive Assistant

202.564.0053

From: Gioffre, Patricia
Sent: Monday, January 22, 2018 1:03 PM
To: Haas, Craig <Haas.Craig@epa.gov>; Brown, Deborah <Brown.Deborah@epa.gov>; Chin, William <chin.bill@epa.gov>; Gaffey, Jim <Gaffey.Jim@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Peavey, Dwight <Peavey.Dwight@epa.gov>; Rascher, Chris <rascher.chris@epa.gov>; Smith, Catherine <smith.catherine@epa.gov>; Wallace, Leonard <Wallace.Len@epa.gov>; Gallagher, Shirin

<Gallagher.Shirin@epa.gov>; Garcia, Terry <Garcia.Terry@epa.gov>; Hales, Bob <Hales.Bob@epa.gov>; Hartman, Bob <Hartman.Bob@epa.gov>; Leefers, Kristin <Leefers.Kristin@epa.gov>; LeGreid, Kathleen <LeGreid.Kathleen@epa.gov>; Magdangal, David <magdangal.david@epa.gov>; Mairs, Stephanie <Mairs.Stephanie@epa.gov>; McFadden, Kelly <McFadden.Kelly@epa.gov>; Meinhardt, Danielle <meinhardt.danielle@epa.gov>; Morales, Javier <Morales.Javier@epa.gov>; Phillips, Peter <Phillips.Peter@epa.gov>; Schulze, Chad <Schulze.Chad@epa.gov>; Vergeront, Julie <Vergeront.Julie@epa.gov>; Williams, Erin <Williams.Erin@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Dholakia, Umesh <Dholakia.Umesh@epa.gov>; Ghaffari, Mozafar <Ghaffari.Mozafar@epa.gov>; Harrington, Dwayne <Harrington.Dwayne@epa.gov>; Leung, Chao <Leung.Chao@epa.gov>; Maimone, Francesco <Maimone.Francesco@epa.gov>; Mosher, Eric <Mosher.Eric@epa.gov>; Ouedraogo, Idrissa <ouedraogo.idrissa@epa.gov>; Petty, Joel <petty.joel@epa.gov>; Regna, Jean <Regna.Jean@epa.gov>; Rivera, Carlos <Rivera.Carlos@epa.gov>; Rodriguez, Nancy <Rodriguez.Nancy@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Baginski, Alfred <Baginski.Alfred@epa.gov>; Beckley, Patrick <Beckley.Patrick@epa.gov>; Daniel, Kevin <Daniel.Kevin@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Gallagher, Theresa <gallagher.theresa@epa.gov>; Garcia, Jefferie <Garcia.Jefferie@epa.gov>; Gardner, Allison <Gardner.Allison@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hunt, Mary <Hunt.Mary@epa.gov>; Nilsen, Ashley <Nilsen.Ashley@epa.gov>; pandya, perry <pandya.perry@epa.gov>; Parent, Suzanne <Parent.Suzanne@epa.gov>; VanOrden, James <VanOrden.James@epa.gov>; Weiss, Cynthia <Weiss.Cynthia@epa.gov>; Welsh, Mike <Welsh.Mike@epa.gov>; Ziegler, Lauren <Ziegler.Lauren@epa.gov>; Bookman, Robert <Bookman.Robert@epa.gov>; Caplan, Robert W. <Caplan.Robert@epa.gov>; Chow, Eddie <Chow.Eddie@epa.gov>; Cobb, Brandon <cobb.brandon@epa.gov>; Crum, Lynda <Crum.Lynda@epa.gov>; Devkota, Om <devkota.om@epa.gov>; Fite, Mark <Fite.Mark@epa.gov>; Grant, Deanne <Grant.Deanne@epa.gov>; Groendyke, Todd <Groendyke.Todd@epa.gov>; Juan, Rodolfo <Juan.Rodolfo@epa.gov>; Kono, Michiko <Kono.Michiko@epa.gov>; Noles, Jordan <Noles.Jordan@epa.gov>; Nowell, Valerie <Nowell.Valerie@epa.gov>; Poole, Vinson <Poole.Vinson@epa.gov>; Rouch, Ellen <Rouch.Ellen@epa.gov>; Russo, Todd <Russo.Todd@epa.gov>; Spagg, Beverly <Spagg.Beverly@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Warrilow, Phyllis <Warrilow.Phyllis@epa.gov>; Weeks, Victor <weeks.victor@epa.gov>; White, Erika <White.Erika@epa.gov>; Bezerra, Joana <bezerra.joana@epa.gov>; Chomycia, Greg <chomycia.greg@epa.gov>; Chrzaszcz, Monika <chrzaszcz.monika@epa.gov>; Entzminger, James <entzminger.james@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Jager, Ginger <jager.ginger@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Mayhugh, Robert <mayhugh.robert@epa.gov>; Moore, Cecilia <moore.cecilia@epa.gov>; Palomo, Silvia <palomo.silvia@epa.gov>; Riley, Ellen <riley.ellen@epa.gov>; Smith, Robert H <smith.roberth@epa.gov>; Stillman, Sarah <Stillman.Sarah@epa.gov>; Wagner, William <wagner.william@epa.gov>; Barra, Michael <barra.michael@epa.gov>; Clay, Jeffrey <clay.jeffrey@epa.gov>; Ford, Debbie <Ford.Debbie@epa.gov>; Foster, Althea <Foster.Althea@epa.gov>; Hodges, Angela <Hodges.Angela@epa.gov>; Howard, AshleyA <Howard.AshleyA@epa.gov>; Mason, Steve <mason.steve@epa.gov>; Moore, Nathaniel <Moore.Nathaniel@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Pearson, Evan <Pearson.Evan@epa.gov>; Phelps, Sherronda <Phelps.Sherronda@epa.gov>; Robledo, Tony <Robledo.Tony@epa.gov>; Rogers, Elizabeth <rogers.elizabeth@epa.gov>; Smalley, Bryant <smalley.bryant@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Stucky, Marie <Stucky.Marie@epa.gov>; Tates, Samuel <Tates.Samuel@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Trawick, Matthew <Trawick.Matthew@epa.gov>; Ward, Misty <ward.misty@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; Blunk, Terri <Blunk.Terri@epa.gov>; Bosch, Raymond <Bosch.Raymond@epa.gov>; Brewer, Laura <brewer.laura@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Hensley, Dave <Hensley.Dave@epa.gov>; Hoard, Christine <Hoard.Christine@epa.gov>; LaBoda, Sarah <LaBoda.Sarah@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Ndiaye, Fatimatou <Ndiaye.Fatimatou@epa.gov>; Pessetto, Jared <Pessetto.Jared@epa.gov>; Reitz, Katherine <reitz.katherine@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Stotts, Krystal <Stotts.Krystal@epa.gov>; Trotter, Jennifer <Trotter.Jennifer@epa.gov>; Weekley, Erin <weekley.erin@epa.gov>; Whisnant, Amber <Whisnant.Amber@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Bockstahler, Breann <Bockstahler.breann@epa.gov>; Broussard, Rebecca <Broussard.Rebecca@epa.gov>; Chavez, Luke <Chavez.Luke@epa.gov>; Cobb, David <cobb.david@epa.gov>; Meyer, Jeff <Meyer.Jeff@epa.gov>; Ramirez, Steven A <ramirez.stevena@epa.gov>; Reed, Lori <Reed.Lori@epa.gov>; Robinson, Janis <Robinson.Janis@epa.gov>; Weiner, Marc <Weiner.Marc@epa.gov>; Bazley, Greg <Bazley.Greg@epa.gov>; Berg, Elizabeth <Berg.Elizabeth@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Deyoe, Jeremy <deyoe.jeremy@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Henry, Karen <Henry.Karen@EPA.GOV>; Johnstone, Jeremy <Johnstone.Jeremy@epa.gov>; jones, bill <jones.bill@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>; Lucas, Robert <Lucas.Robert@epa.gov>; Moore, Letitia <Moore.Letitia@epa.gov>; Nixon, Donald <Nixon.Donald@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; Rongone, Marie <Rongone.Marie@epa.gov>; Steiner, Cyntia <Steiner.Cyntia@epa.gov>; Wirtschafter, Joshua <Wirtschafter.Joshua@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Brown, Stephanie <Brown.Stephanie@epa.gov>; Burnett, Michael <Burnett.Michael@epa.gov>; Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Hunt, Stuart <Hunt.Stuart@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mears, Gilbert <Mears.Gilbert@epa.gov>; Miles, James <miles.james@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Santacroce, Jeffrey <Santacroce.Jeffrey@epa.gov>; Seltzer, Mark <Seltzer.Mark@epa.gov>; Skinner-Thompson, Jonathan <Skinner-Thompson.Jonathan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Tekrony, Linda <Tekrony.Linda@epa.gov>; Varco, Joseph <varco.joseph@epa.gov>; Yonce, Stacey <yonce.stacey@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Mendez, Lucia <Mendez.Lucia@epa.gov>

Cc: Perrin, Karla <perrin.karla@epa.gov>; Przyborski, Jay <Przyborski.Jay@epa.gov>; Rountree, Jillian <Rountree.Jillian@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Mortensen, Ginah <mortensen.ginah@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Indermark, Michele

<Indermark.Michele@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption

As of this time, the DC Circuit Court of Appeals has not yet issued the mandate to eliminate the EPA administrative reporting exemption on the CERCLA/EPCRA reporting requirements for farms.

On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate by three months. EPA is requesting that the Court give time to allow EPA to further revise the guidance to be more effective in assisting farms with coming into compliance, to conduct outreach to ensure farms with limited or no internet access are aware of the reporting requirements, and to finish developing the streamlined continuous reporting form. Once the court issues the mandate the statutory reporting requirements will go back into effect.

We have updated the www.epa.gov/animalwaste <https://urldefense.proofpoint.com/v2/url?u=http-3A__www.epa.gov_animalwaste&d=DwMGaQ&c=0NKfg44GVknAU-XkWXjNxQ&r=-fXGFDv8GKGre4THhNv9Qz7PzhRx-HTuqKVbNTbkN2c&m=7hW_JeEtHk1b0f1ZBsih7dRtmXzjyDJVPtA7t1zr1tE&s=OMaZRGPgJ_07qQE_NS7C3dHNu9SKLsNfl5ukwlM8vgQ&e=> with the following message:

On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate. No reporting is required until the Court issues its order, or mandate, enforcing its decision to eliminate the reporting exemptions for farms. EPA will be updating this page daily to provide information on the court mandate.

We will continue to update you when we hear news on the request to further delay the mandate.

Please feel free to share this news with stakeholders! Thanks.

Patty Gioffre

USEPA (OLEM/OEM)

1200 Pennsylvania Ave. NW (5104A)

Washington, DC 20460

202-564-1972

202-748-7139 (cell)

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 1/22/2018 5:54:00 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: ECPRA CERCLA Ag -- press release comments

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Gioffre, Patricia
Sent: Monday, January 22, 2018 12:23 PM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: ECPRA CERCLA Ag -- press release comments

I am OK with deleting the yellow highlighted section.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Thomas, Latosha
Sent: Monday, January 22, 2018 12:21 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: FW: ECPRA CERCLA Ag -- press release comments

Hi All,

Please see the comments below. Let me know what you think, so that I can send to OPA. Thanks!

From: Grantham, Nancy
Sent: Monday, January 22, 2018 10:47 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>
Cc: Lowery, Brigid <Lowery.Brigid@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Benjamin, Kent

<Benjamin.Kent@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: ECPRA CERCLA Ag -- press release comments

Latosha,

Can you run this through folks there and in ogc to vet the comments/edits below? thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Block, Molly
Sent: Monday, January 22, 2018 9:17 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: ECPRA CERCLA Ag -- press release comments

My edits attached. T Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Otherwise it looks good to me. Adding Lincoln for a second pair of eyes on Administrator Pruitt's quote.

Molly

From: Grantham, Nancy
Sent: Sunday, January 21, 2018 4:11 PM
To: Block, Molly <block.molly@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: FW: ECPRA CERCLA Ag -- press release comments
Importance: High

Hi –

The press release was reviewed by Jeff Sands and Tate Bennett and then went back to OLEM/OGC.

Please see comments below on what olem/ogc accepted.

This could go as early as tomorrow—if the court rules.

Molly – can you coordinate final OPA changes/comments with Tate and Jeff to make sure get a final version that works for all.?

Thanks much

ng

Nancy Grantham

Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Thomas, Latosha
Sent: Thursday, January 18, 2018 4:27 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>
Subject: RE: ECPRA CERCLA Ag -- press release comments
Importance: High

Hi Nancy,

Here is a clean version of the press release. We accepted some, but there are a few things that we'd like to keep the same. See below. If you have any questions, Jen Lewis stated that you can contact her. Thanks!

-
-

Deliberative Process / Ex. 5

-

Deliberative Process / Ex. 5

From: Grantham, Nancy
Sent: Thursday, January 18, 2018 11:08 AM
To: Benjamin, Kent <Benjamin.Kent@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: FW: ECPRA CERCLA Ag -- press release comments

Please see below and attached – comments from ag advisor's office and OPEEE –

Please send back revised version asap so we can get opa review

Thanks ng

This is Tate's question – that Hema addresses below in her comments –

Deliberative Process / Ex. 5

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Subramanian, Hema
Sent: Wednesday, January 17, 2018 8:56 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Bennett, Tate <Bennett.Tate@epa.gov>
Subject: RE: ECPRA CERCLA Ag

Thanks for sharing, Nancy.

Deliberative Process / Ex. 5

Hope this helps,
---Hema.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Grantham, Nancy
Sent: Tuesday, January 16, 2018 9:24 PM
To: Sands, Jeffrey <sands.jeffrey@epa.gov>
Cc: Subramanian, Hema <Subramanian.Hema@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Subject: Re: ECPRA CERCLA Ag

Thx will do

Sent from my iPhone

On Jan 16, 2018, at 9:02 PM, Sands, Jeffrey <sands.jeffrey@epa.gov> wrote:

> Thanks Nancy. It may be positive (and consistent) to include the steps EPA has taken to exempt most farms from reporting under EPCRA. I believe the lines available on the website would be sufficient in making that point in the press release.
>
> Jeff
>
> Sent from my iPhone
>
> On Jan 16, 2018, at 8:46 PM, Grantham, Nancy <Grantham.Nancy@epa.gov> wrote:
>
>> Please let us know of any edits or comments thx ng
>>
>> Sent from my iPhone
>>
>> Begin forwarded message:
>>
>>> **From:** "Benjamin, Kent" <Benjamin.Kent@epa.gov>
>>> **Date:** January 16, 2018 at 5:13:37 PM EST
>>> **To:** "Grantham, Nancy" <Grantham.Nancy@epa.gov>
>>> **Cc:** "Lowery, Brigid" <Lowery.Brigid@epa.gov>, "Colip, Matthew" <colip.matthew@epa.gov>
>>> **Subject: ECPRA CERCLA Ag**
>>>
>>> Nancy,
>>> Here is the final press release for the Animal Waste issue.
>>>
>>> **Kent A. Benjamin,** M.S., Dep. Office Director
>>> Office of Communications, Partnerships and Analysis
>>> Office of Land and Emergency Management

Tel. 202-564-9095; Mobile: 202-480-4927
Email: benjamin.kent@epa.gov
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

<OLEM_FINAL_Animal Waste Press Release.docx>

Message

From: Jacob, Sicy [Jacob.Sicy@epa.gov]
Sent: 1/22/2018 4:32:27 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]
Subject: RE: Motion/Affidavit for today - Senators' Response
Attachments: CARPER AL 18 000 2865 Draft Reply 1 19_PG. SJ edits.docx

One more minor edit. See attached. thanks

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Monday, January 22, 2018 11:08 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: RE: Motion/Affidavit for today - Senators' Response

A few minor edits.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Indermark, Michele
Sent: Monday, January 22, 2018 10:59 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: FW: Motion/Affidavit for today - Senators' Response

Hi All,

I've revised the response to the Senators' letter based on the affidavit. Could you please review it? Thanks.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Indermark, Michele
Sent: Friday, January 19, 2018 2:29 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: RE: Motion/Affadavit for today

Reggie is back and looking at the affidavit. I revised the letter (2 places) to bring it up to date.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Lewis, Jen
Sent: Friday, January 19, 2018 1:36 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: Motion/Affadavit for today

Hi OEM folks – wanted to check in on two things.

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 1/22/2018 4:29:26 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]
Subject: RE: Motion/Affidavit for today - Senators' Response
Attachments: CARPER AL 18 000 2865 Draft Reply 1 19_PG.JSL.docx

Comments on top of Patty's.

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Gioffre, Patricia
Sent: Monday, January 22, 2018 11:08 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: RE: Motion/Affidavit for today - Senators' Response

A few minor edits.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Indermark, Michele
Sent: Monday, January 22, 2018 10:59 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: FW: Motion/Affidavit for today - Senators' Response

Hi All,

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Michele Indermark
OLEM/OEM
Special Assistant

(w) 202-564-0794

From: Indermark, Michele
Sent: Friday, January 19, 2018 2:29 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: RE: Motion/Affadavit for today

Reggie is back and looking at the affidavit. I revised the letter (2 places) to bring it up to date.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Lewis, Jen
Sent: Friday, January 19, 2018 1:36 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: Motion/Affadavit for today

Hi OEM folks – wanted to check in on two things.

Deliberative Process / Ex. 5 his

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 1/22/2018 4:08:08 PM
To: Indermark, Michele [Indermark.Michele@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]
Subject: RE: Motion/Affidavit for today - Senators' Response
Attachments: CARPER AL 18 000 2865 Draft Reply 1 19_PG.docx

A few minor edits.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Indermark, Michele
Sent: Monday, January 22, 2018 10:59 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: FW: Motion/Affidavit for today - Senators' Response

Hi All,

I've revised the response to the Senators' letter based on the affidavit. Could you please review it? Thanks.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Indermark, Michele
Sent: Friday, January 19, 2018 2:29 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: RE: Motion/Affadavit for today

Reggie is back and looking at the affidavit. I revised the letter (2 places) to bring it up to date.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Lewis, Jen
Sent: Friday, January 19, 2018 1:36 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: Motion/Affadavit for today

Hi OEM folks – wanted to check in on two things.

Attorney Client / Ex. 5 this

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 1/22/2018 3:59:24 PM
To: Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]
Subject: FW: Motion/Affidavit for today - Senators' Response
Attachments: CARPER AL 18 000 2865 Draft Reply 1 19.docx

Hi All,

I've revised the response to the Senators' letter based on the affidavit. Could you please review it? Thanks.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Indermark, Michele
Sent: Friday, January 19, 2018 2:29 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: RE: Motion/Affadavit for today

Reggie is back and looking at the affidavit. I revised the letter (2 places) to bring it up to date.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Lewis, Jen
Sent: Friday, January 19, 2018 1:36 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: Motion/Affadavit for today

Hi OEM folks – wanted to check in on two things.

Attorney Client / Ex. 5 this

Jen

Jen Lewis
Deputy Associate General Counsel

Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 1/19/2018 7:29:04 PM
To: Lewis, Jen [Lewis.Jen@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Swenson, Erik [Swenson.Erik@epa.gov]
Subject: RE: Motion/Affadavit for today
Attachments: CARPER AL 18 000 2865 Draft Reply 1 19.docx

Reggie is back and looking at the affidavit. I revised the letter (2 places) to bring it up to date.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Lewis, Jen
Sent: Friday, January 19, 2018 1:36 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Swenson, Erik <Swenson.Erik@epa.gov>
Subject: Motion/Affadavit for today

Hi OEM folks – wanted to check in on two things.

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 1/19/2018 1:31:18 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Subject: RE: CERCLA Letter
Attachments: CARPER AL 18 000 2865 Draft Reply (003).docx

Jen,

Attorney Client / Ex. 5

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Jennings, Kim
Sent: Friday, January 19, 2018 7:55 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: RE: CERCLA Letter

OK. Thanks.

Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Lewis, Jen
Sent: Friday, January 19, 2018 7:50 AM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: Re: CERCLA Letter

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel

Solid Waste and Emergency Response Law Office
(202) 564-2097

On Jan 19, 2018, at 7:44 AM, Jennings, Kim <Jennings.Kim@epa.gov> wrote:

Hi Jen,

Deliberative Process / Ex. 5

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Cheatham, Reggie
Sent: Friday, January 19, 2018 7:40 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Michaud, John <Michaud.John@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: Re: CERCLA Letter

Got it. Thanks

Reggie Cheatham, Director
Office of Emergency Management
202/564-8003(w) 202/689-9400(c)
cheatham.reggie @epa.gov
Doris Williams, Executive Assistant
202/564-0053

On Jan 19, 2018, at 6:22 AM, Lewis, Jen <Lewis.Jen@epa.gov> wrote:

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

On Jan 18, 2018, at 5:50 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

Got it…Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA

202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Lewis, Jen
Sent: Thursday, January 18, 2018 3:24 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Michaud, John <Michaud.John@epa.gov>
Subject: RE: CERCLA Letter

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Cheatham, Reggie
Sent: Thursday, January 18, 2018 3:19 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>
Subject: FW: CERCLA Letter

FYSA

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Janifer, Pamela
Sent: Thursday, January 18, 2018 2:37 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; McLendon, Wanda <McLendon.Wanda@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: CERCLA Letter

I'll check in with my folks. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

<image001.png>

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Indermark, Michele
Sent: Thursday, January 18, 2018 2:30 PM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; McLendon, Wanda <McLendon.Wanda@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: CERCLA Letter

Pamela and Becky,

Deliberative Process / Ex. 5

From: Janifer, Pamela
Sent: Thursday, January 18, 2018 1:30 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: CERCLA Letter

Deliberative Process / Ex. 5

<image001.png>
Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Indermark, Michele
Sent: Thursday, January 18, 2018 1:29 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>
Subject: RE: CERCLA Letter

I just sent it to Earl, Jen, and John Michaud.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Thursday, January 18, 2018 1:28 PM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA Letter

Deliberative Process / Ex. 5

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Janifer, Pamela
Sent: Thursday, January 18, 2018 1:21 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: CERCLA Letter

Deliberative Process / Ex. 5

<image002.png>
Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Indermark, Michele
Sent: Thursday, January 18, 2018 1:12 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: RE: CERCLA Letter

Becky, Wanda, Pamela,

Deliberative Process / Ex. 5

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Brooks, Becky
Sent: Thursday, January 18, 2018 1:08 PM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: Re: CERCLA Letter

Deliberative Process / Ex. 5

Sent from my iPhone

On Jan 18, 2018, at 1:02 PM, Janifer, Pamela <Janifer.Pamela@epa.gov> wrote:

This is the most current draft version. It has not been uploaded.

<image003.png>

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Brooks, Becky
Sent: Thursday, January 18, 2018 12:43 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; McLendon, Wanda <McLendon.Wanda@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>
Subject: RE: CERCLA Letter

Pamela immediately sent me a follow up email to her email below asking that we hold off, since OCIR may have changes based on the hearing today. Wanda may not have seen that email when she sent her email. For now, let's wait until we get the official draft from OCIR. I'm adding Pamela Janifer to this email, since she is coordinating for OCIR. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Indermark, Michele
Sent: Thursday, January 18, 2018 12:39 PM
To: McLendon, Wanda <McLendon.Wanda@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: FW: CERCLA Letter
Importance: High

Becky and Wanda,

I just received this version from OCIR a minute ago. Is that what you want uploaded into CMS or do you want me to reconcile comments first?

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Janifer, Pamela
Sent: Thursday, January 18, 2018 12:37 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: CERCLA Letter
Importance: High

The goal is to get this cleared today. Please give me a call to discuss. Thanks.

<image004.png>

Pamela Janifer
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1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
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Janifer.pamela@epa.gov

<CARPER AL 18 000 2865 Draft Reply.DOCX>

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 1/16/2018 10:41:43 PM
To: Haas, Craig [Haas.Craig@epa.gov]; Brown, Deborah [Brown.Deborah@epa.gov]; Chin, William [chin.bill@epa.gov]; Gaffey, Jim [Gaffey.Jim@epa.gov]; O'Donnell, Mary Jane [Odonnell.Maryjane@epa.gov]; Peavey, Dwight [Peavey.Dwight@epa.gov]; Rascher, Chris [rascher.chris@epa.gov]; Smith, Catherine [smith.catherine@epa.gov]; Wallace, Leonard [Wallace.Len@epa.gov]; Gallagher, Shirin [Gallagher.Shirin@epa.gov]; Garcia, Terry [Garcia.Terry@epa.gov]; Hales, Bob [Hales.Bob@epa.gov]; Hartman, Bob [Hartman.Bob@epa.gov]; Leefers, Kristin [Leefers.Kristin@epa.gov]; LeGreid, Kathleen [LeGreid.Kathleen@epa.gov]; Magdangal, David [magdangal.david@epa.gov]; Mairs, Stephanie [Mairs.Stephanie@epa.gov]; McFadden, Kelly [McFadden.Kelly@epa.gov]; Meinhardt, Danielle [meinhardt.danielle@epa.gov]; Morales, Javier [Morales.Javier@epa.gov]; Phillips, Peter [Phillips.Peter@epa.gov]; Schulze, Chad [Schulze.Chad@epa.gov]; Vergeront, Julie [Vergeront.Julie@epa.gov]; Williams, Erin [Williams.Erin@epa.gov]; Banner, Ellen [Banner.Ellen@epa.gov]; Dholakia, Umesh [Dholakia.Umesh@epa.gov]; Ghaffari, Mozafar [Ghaffari.Mozafar@epa.gov]; Harrington, Dwayne [Harrington.Dwayne@epa.gov]; Leung, Chao [Leung.Chao@epa.gov]; Maimone, Francesco [Maimone.Francesco@epa.gov]; Mosher, Eric [Mosher.Eric@epa.gov]; Ouedraogo, Idrissa [ouedraogo.idrissa@epa.gov]; Petty, Joel [petty.joel@epa.gov]; Regna, Jean [Regna.Jean@epa.gov]; Rivera, Carlos [Rivera.Carlos@epa.gov]; Rodriguez, Nancy [Rodriguez.Nancy@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Baginski, Alfred [Baginski.Alfred@epa.gov]; Beckley, Patrick [Beckley.Patrick@epa.gov]; Daniel, Kevin [Daniel.Kevin@epa.gov]; Dunn, Michael [dunn.michael@epa.gov]; Gallagher, Theresa [gallagher.theresa@epa.gov]; Garcia, Jefferie [Garcia.Jefferie@epa.gov]; Gardner, Allison [Gardner.Allison@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]; Hunt, Mary [Hunt.Mary@epa.gov]; Nilsen, Ashley [Nilsen.Ashley@epa.gov]; pandya, perry [pandya.perry@epa.gov]; Parent, Suzanne [Parent.Suzanne@epa.gov]; VanOrden, James [VanOrden.James@epa.gov]; Weiss, Cynthia [Weiss.Cynthia@epa.gov]; Welsh, Mike [Welsh.Mike@epa.gov]; Ziegler, Lauren [Ziegler.Lauren@epa.gov]; Bookman, Robert [Bookman.Robert@epa.gov]; Caplan, Robert W. [Caplan.Robert@epa.gov]; Chow, Eddie [Chow.Eddie@epa.gov]; Cobb, Brandon [cobb.brandon@epa.gov]; Crum, Lynda [Crum.Lynda@epa.gov]; Devkota, Om [devkota.om@epa.gov]; Fite, Mark [Fite.Mark@epa.gov]; Grant, Deanne [Grant.Deanne@epa.gov]; Groendyke, Todd [Groendyke.Todd@epa.gov]; Juan, Rodolfo [Juan.Rodolfo@epa.gov]; Kono, Michiko [Kono.Michiko@epa.gov]; Noles, Jordan [Noles.Jordan@epa.gov]; Nowell, Valerie [Nowell.Valerie@epa.gov]; Poole, Vinson [Poole.Vinson@epa.gov]; Rouch, Ellen [Rouch.Ellen@epa.gov]; Russo, Todd [Russo.Todd@epa.gov]; Spagg, Beverly [Spagg.Beverly@epa.gov]; Toney, Anthony [Toney.Anthony@epa.gov]; Warrilow, Phyllis [Warrilow.Phyllis@epa.gov]; Weeks, Victor [weeks.victor@epa.gov]; White, Erika [White.Erika@epa.gov]; Bezerra, Joana [bezerra.joana@epa.gov]; Chomycia, Greg [chomycia.greg@epa.gov]; Chrzaszcz, Monika [chrzaszcz.monika@epa.gov]; Entzminger, James [entzminger.james@epa.gov]; Hans, Mick [hans.mick@epa.gov]; Jager, Ginger [jager.ginger@epa.gov]; Kaiser, Steven [kaiser.steven@epa.gov]; Mayhugh, Robert [mayhugh.robert@epa.gov]; Moore, Cecilia [moore.cecilia@epa.gov]; Palomo, Silvia [palomo.silvia@epa.gov]; Riley, Ellen [riley.ellen@epa.gov]; Smith, Robert H [smith.roberth@epa.gov]; Stillman, Sarah [Stillman.Sarah@epa.gov]; Wagner, William [wagner.william@epa.gov]; Barra, Michael [barra.michael@epa.gov]; Clay, Jeffrey [clay.jeffrey@epa.gov]; Ford, Debbie [Ford.Debbie@epa.gov]; Foster, Althea [Foster.Althea@epa.gov]; Hodges, Angela [Hodges.Angela@epa.gov]; Howard, AshleyA [Howard.AshleyA@epa.gov]; Mason, Steve [mason.steve@epa.gov]; Moore, Nathaniel [Moore.Nathaniel@epa.gov]; Murdock, James [Murdock.James@epa.gov]; Pearson, Evan [Pearson.Evan@epa.gov]; Phelps, Sherronda [Phelps.Sherronda@epa.gov]; Robledo, Tony [Robledo.Tony@epa.gov]; Rogers, Elizabeth [rogers.elizabeth@epa.gov]; Smalley, Bryant [smalley.bryant@epa.gov]; Smith, Monica [smith.monica@epa.gov]; Stucky, Marie [Stucky.Marie@epa.gov]; Tates, Samuel [Tates.Samuel@epa.gov]; Thompson, Steve [thompson.steve@epa.gov]; Trawick, Matthew [Trawick.Matthew@epa.gov]; Ward, Misty [ward.misty@epa.gov]; Bieri, Britt [bieri.britt@epa.gov]; Blunk, Terri [Blunk.Terri@epa.gov]; Bosch, Raymond [Bosch.Raymond@epa.gov]; Brewer, Laura [brewer.laura@epa.gov]; Bunch, Howard [Bunch.Howard@epa.gov]; Harper, Jodi [Harper.Jodi@epa.gov]; Hayes, Scott [Hayes.Scott@epa.gov]; Hensley, Dave [Hensley.Dave@epa.gov]; Hoard, Christine [Hoard.Christine@epa.gov]; LaBoda, Sarah [LaBoda.Sarah@epa.gov]; Mills, Clarissa [mills.clarissa@epa.gov]; Ndiaye, Fatimatou [Ndiaye.Fatimatou@epa.gov]; Pessetto, Jared [Pessetto.Jared@epa.gov]; Reitz, Katherine [reitz.katherine@epa.gov]; Rosado-Chaparro, Wilfredo [Rosado-Chaparro.Wilfredo@epa.gov]; Stotts, Krystal [Stotts.Krystal@epa.gov]; Trotter, Jennifer [Trotter.Jennifer@epa.gov]; Weekley, Erin [weekley.erin@epa.gov]; Whisnant, Amber [Whisnant.Amber@epa.gov]; Atencio, Kathie [Atencio.Kathie@epa.gov]; Bockstahler, Breann [Bockstahler.breann@epa.gov]; Broussard, Rebecca [Broussard.Rebecca@epa.gov]; Chavez, Luke [Chavez.Luke@epa.gov]; Cobb, David [cobb.david@epa.gov]; Meyer, Jeff [Meyer.Jeff@epa.gov]; Ramirez, Steven A [ramirez.stevena@epa.gov]; Reed, Lori [Reed.Lori@epa.gov];

Robinson, Janis [Robinson.Janis@epa.gov]; Weiner, Marc [Weiner.Marc@epa.gov]; Bazley, Greg [Bazley.Greg@epa.gov]; Berg, Elizabeth [Berg.Elizabeth@epa.gov]; BERMAN, TESSA [Berman.Tessa@epa.gov]; Deyoe, Jeremy [deyoe.jeremy@epa.gov]; Gallo, Madeline [Gallo.Madeline@epa.gov]; Henry, Karen [Henry.Karen@EPA.GOV]; Johnstone, Jeremy [Johnstone.Jeremy@epa.gov]; jones, bill [jones.bill@epa.gov]; Lawrence, Kathryn [Lawrence.Kathryn@epa.gov]; Lucas, Robert [Lucas.Robert@epa.gov]; Moore, Letitia [Moore.Letitia@epa.gov]; Nixon, Donald [Nixon.Donald@epa.gov]; Proboszcz, Angie [Proboszcz.Angie@EPA.GOV]; Rongone, Marie [Rongone.Marie@epa.gov]; Steiner, Cyntia [Steiner.Cyntia@epa.gov]; Wirtschafter, Joshua [Wirtschafter.Joshua@epa.gov]; Averback, Jonathan [Averback.Jonathan@epa.gov]; Belke, Jim [Belke.Jim@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Brown, Stephanie [Brown.Stephanie@epa.gov]; Burnett, Michael [Burnett.Michael@epa.gov]; Dixon, Chelsea [Dixon.Chelsea@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Garvey, Mark [Garvey.Mark@epa.gov]; Gerardin, Margaret [Gerardin.Margaret@epa.gov]; Hunt, Stuart [Hunt.Stuart@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Lischinsky, Robert [Lischinsky.Robert@epa.gov]; Mears, Gilbert [Mears.Gilbert@epa.gov]; Miles, James [miles.james@epa.gov]; Presler, Amos [presler.amos@epa.gov]; Saenz, Diana [Saenz.Diana@epa.gov]; Santacroce, Jeffrey [Santacroce.Jeffrey@epa.gov]; Seltzer, Mark [Seltzer.Mark@epa.gov]; Skinner-Thompson, Jonathan [Skinner-Thompson.Jonathan@epa.gov]; Sullivan, Greg [Sullivan.Greg@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Tekrony, Linda [Tekrony.Linda@epa.gov]; Varco, Joseph [varco.joseph@epa.gov]; Yonce, Stacey [yonce.stacey@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Mendez, Lucia [Mendez.Lucia@epa.gov]; Perrin, Karla [perrin.karla@epa.gov]; Przyborski, Jay [Przyborski.Jay@epa.gov]; Rountree, Jillian [Rountree.Jillian@epa.gov]

CC: Jennings, Kim [Jennings.Kim@epa.gov]; Gerardin, Margaret [Gerardin.Margaret@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Costa, Allison [Costa.Allison@epa.gov]; Schrock, Bill [Schrock.Bill@epa.gov]; Galloway, Carol [Galloway.Carol@epa.gov]; Mortensen, Ginah [mortensen.ginah@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Noggle, William [Noggle.William@epa.gov]

Subject: RE: EPA factsheets on CERCLA-EPCRA reporting for animal waste

My apologies- There is a typo in the website address below. The correct link is www.epa.gov/animalwaste

---

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Gioffre, Patricia
Sent: Tuesday, January 16, 2018 4:16 PM
To: Haas, Craig <Haas.Craig@epa.gov>; Brown, Deborah <Brown.Deborah@epa.gov>; Chin, William <chin.bill@epa.gov>; Gaffey, Jim <Gaffey.Jim@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Peavey, Dwight <Peavey.Dwight@epa.gov>; Rascher, Chris <rascher.chris@epa.gov>; Smith, Catherine <smith.catherine@epa.gov>; Wallace, Leonard <Wallace.Len@epa.gov>; Gallagher, Shirin <Gallagher.Shirin@epa.gov>; Garcia, Terry <Garcia.Terry@epa.gov>; Hales, Bob <Hales.Bob@epa.gov>; Hartman, Bob <Hartman.Bob@epa.gov>; Leefers, Kristin <Leefers.Kristin@epa.gov>; LeGreid, Kathleen <LeGreid.Kathleen@epa.gov>; Magdangal, David <magdangal.david@epa.gov>; Mairs, Stephanie <Mairs.Stephanie@epa.gov>; McFadden, Kelly <McFadden.Kelly@epa.gov>; Meinhardt, Danielle <meinhardt.danielle@epa.gov>; Morales, Javier <Morales.Javier@epa.gov>; Phillips, Peter <Phillips.Peter@epa.gov>; Schulze, Chad <Schulze.Chad@epa.gov>; Vergeront, Julie <Vergeront.Julie@epa.gov>; Williams, Erin <Williams.Erin@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Dholakia, Umesh <Dholakia.Umesh@epa.gov>; Ghaffari, Mozafar <Ghaffari.Mozafar@epa.gov>; Harrington, Dwayne <Harrington.Dwayne@epa.gov>; Leung, Chao <Leung.Chao@epa.gov>; Maimone, Francesco <Maimone.Francesco@epa.gov>; Mosher, Eric <Mosher.Eric@epa.gov>; Ouedraogo, Idrissa <ouedraogo.idrissa@epa.gov>; Petty, Joel <petty.joel@epa.gov>; Regna, Jean

<Regna.Jean@epa.gov>; Rivera, Carlos <Rivera.Carlos@epa.gov>; Rodriguez, Nancy <Rodriguez.Nancy@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Baginski, Alfred <Baginski.Alfred@epa.gov>; Beckley, Patrick <Beckley.Patrick@epa.gov>; Daniel, Kevin <Daniel.Kevin@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Gallagher, Theresa <gallagher.theresa@epa.gov>; Garcia, Jefferie <Garcia.Jefferie@epa.gov>; Gardner, Allison <Gardner.Allison@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hunt, Mary <Hunt.Mary@epa.gov>; Nilsen, Ashley <Nilsen.Ashley@epa.gov>; pandya, perry <pandya.perry@epa.gov>; Parent, Suzanne <Parent.Suzanne@epa.gov>; VanOrden, James <VanOrden.James@epa.gov>; Weiss, Cynthia <Weiss.Cynthia@epa.gov>; Welsh, Mike <Welsh.Mike@epa.gov>; Ziegler, Lauren <Ziegler.Lauren@epa.gov>; Bookman, Robert <Bookman.Robert@epa.gov>; Caplan, Robert W. <Caplan.Robert@epa.gov>; Chow, Eddie <Chow.Eddie@epa.gov>; Cobb, Brandon <cobb.brandon@epa.gov>; Crum, Lynda <Crum.Lynda@epa.gov>; Devkota, Om <devkota.om@epa.gov>; Fite, Mark <Fite.Mark@epa.gov>; Grant, Deanne <Grant.Deanne@epa.gov>; Groendyke, Todd <Groendyke.Todd@epa.gov>; Juan, Rodolfo <Juan.Rodolfo@epa.gov>; Kono, Michiko <Kono.Michiko@epa.gov>; Noles, Jordan <Noles.Jordan@epa.gov>; Nowell, Valerie <Nowell.Valerie@epa.gov>; Poole, Vinson <Poole.Vinson@epa.gov>; Rouch, Ellen <Rouch.Ellen@epa.gov>; Russo, Todd <Russo.Todd@epa.gov>; Spagg, Beverly <Spagg.Beverly@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Warrilow, Phyllis <Warrilow.Phyllis@epa.gov>; Weeks, Victor <weeks.victor@epa.gov>; White, Erika <White.Erika@epa.gov>; Bezerra, Joana <bezerra.joana@epa.gov>; Chomycia, Greg <chomycia.greg@epa.gov>; Chrzaszcz, Monika <chrzaszcz.monika@epa.gov>; Entzminger, James <entzminger.james@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Jager, Ginger <jager.ginger@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Mayhugh, Robert <mayhugh.robert@epa.gov>; Moore, Cecilia <moore.cecilia@epa.gov>; Palomo, Silvia <palomo.silvia@epa.gov>; Riley, Ellen <riley.ellen@epa.gov>; Smith, Robert H <smith.roberth@epa.gov>; Stillman, Sarah <Stillman.Sarah@epa.gov>; Wagner, William <wagner.william@epa.gov>; Barra, Michael <barra.michael@epa.gov>; Clay, Jeffrey <clay.jeffrey@epa.gov>; Ford, Debbie <Ford.Debbie@epa.gov>; Foster, Althea <foster.althea@epa.gov>; Hodges, Angela <Hodges.Angela@epa.gov>; Howard, AshleyA <Howard.AshleyA@epa.gov>; Mason, Steve <mason.steve@epa.gov>; Moore, Nathaniel <Moore.Nathaniel@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Pearson, Evan <Pearson.Evan@epa.gov>; Phelps, Sherronda <Phelps.Sherronda@epa.gov>; Robledo, Tony <Robledo.Tony@epa.gov>; Rogers, Elizabeth <rogers.elizabeth@epa.gov>; Smalley, Bryant <smalley.bryant@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Stucky, Marie <Stucky.Marie@epa.gov>; Tates, Samuel <Tates.Samuel@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Trawick, Matthew <Trawick.Matthew@epa.gov>; Ward, Misty <ward.misty@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; Blunk, Terri <Blunk.Terri@epa.gov>; Bosch, Raymond <Bosch.Raymond@epa.gov>; Brewer, Laura <brewer.laura@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Hensley, Dave <Hensley.Dave@epa.gov>; Hoard, Christine <Hoard.Christine@epa.gov>; LaBoda, Sarah <LaBoda.Sarah@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Ndiaye, Fatimatou <Ndiaye.Fatimatou@epa.gov>; Pessetto, Jared <Pessetto.Jared@epa.gov>; Reitz, Katherine <reitz.katherine@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Stotts, Krystal <Stotts.Krystal@epa.gov>; Trotter, Jennifer <Trotter.Jennifer@epa.gov>; Weekley, Erin <weekley.erin@epa.gov>; Whisnant, Amber <Whisnant.Amber@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Bockstahler, Breann <Bockstahler.breann@epa.gov>; Broussard, Rebecca <Broussard.Rebecca@epa.gov>; Chavez, Luke <Chavez.Luke@epa.gov>; Cobb, David <cobb.david@epa.gov>; Meyer, Jeff <Meyer.Jeff@epa.gov>; Ramirez, Steven A <ramirez.stevena@epa.gov>; Reed, Lori <Reed.Lori@epa.gov>; Robinson, Janis <Robinson.Janis@epa.gov>; Weiner, Marc <Weiner.Marc@epa.gov>; Bazley, Greg <Bazley.Greg@epa.gov>; Berg, Elizabeth <Berg.Elizabeth@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Deyoe, Jeremy <deyoe.jeremy@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Henry, Karen <Henry.Karen@EPA.GOV>; Johnstone, Jeremy <Johnstone.Jeremy@epa.gov>; jones, bill <jones.bill@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>; Lucas, Robert <Lucas.Robert@epa.gov>; Moore, Letitia <Moore.Letitia@epa.gov>; Nixon, Donald <nixon.donald@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; Rongone, Marie <Rongone.Marie@epa.gov>; Steiner, Cyntia <Steiner.Cyntia@epa.gov>; Wirtschafter, Joshua <Wirtschafter.Joshua@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Brown, Stephanie <Brown.Stephanie@epa.gov>; Burnett, Michael <Burnett.Michael@epa.gov>; Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Hunt, Stuart <Hunt.Stuart@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mears, Gilbert <Mears.Gilbert@epa.gov>; Miles, James <miles.james@epa.gov>; Presler, Amos

<presler.amos@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Santacroce, Jeffrey <Santacroce.Jeffrey@epa.gov>; Seltzer, Mark <Seltzer.Mark@epa.gov>; Skinner-Thompson, Jonathan <Skinner-Thompson.Jonathan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Tekrony, Linda <Tekrony.Linda@epa.gov>; Varco, Joseph <varco.joseph@epa.gov>; Yonce, Stacey <yonce.stacey@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Mendez, Lucia <Mendez.Lucia@epa.gov>; Perrin, Karla <perrin.karla@epa.gov>; Przyborski, Jay <Przyborski.Jay@epa.gov>; Rountree, Jillian <Rountree.Jillian@epa.gov>
Cc: Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Michele Indermark (Indermark.Michele@epa.gov) <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Becki Clark (Clark.Becki@epa.gov) <Clark.Becki@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Mortensen, Ginah <mortensen.ginah@epa.gov>; Gerain Cogliano <Cogliano.Gerain@epa.gov>; William Noggle (Noggle.William@epa.gov) <Noggle.William@epa.gov>
Subject: EPA factsheets on CERCLA-EPCRA reporting for animal waste

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. These are final and ready to go public. Please distribute to your networks for outreach. Here is some stock language (with contact info) that can be inserted into emails:

> Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.
>
> If you have any questions, please contact the Environmental Protection Agency via the information provided below:
>
> - Visit www.epa.gov/animalwaste for guidance and access to the continuous release reporting forms
> - Email comments or suggestions on guidance materials to: CERCLA103.guidance@epa.gov
> - Regional Contacts: www.epa.gov/epcra/cr-erns-regional-contacts
> - Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: www.eap.gov/animalwaste or you can link to the factsheets directly at https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal.

A public service announcement (PSA) is expected to be released to ag radio networks later today, and an online toolkit with other outreach materials will also be out soon. For the time being, feel free to share this factsheet with any contacts who may field questions from farmers once the PSA airs.

Let me know if you have any questions/concerns.
Thank you!

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 1/16/2018 10:39:35 PM
To: OLEM OEM RID [OLEM_OEM_RID@epa.gov]
CC: OLEM OEM Managers [OLEMOEMManagers@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Lee, Eugene [Lee.Eugene@epa.gov]
Subject: EPA factsheets on CERCLA-EPCRA reporting for animal waste
Attachments: CERCLA EPCRA Factsheet FINAL.pdf; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Attached are factsheets (in English and Spanish) on the CERCLA/EPCRA reporting requirements for air releases of hazardous substances from animal waste. These are final and ready to go public. This has been distributed to the regional EPCRA/CERCLA/112r enforcement workgroup.

Here is some stock language (with contact info) that can be inserted into emails for further distribution:

> Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these fact sheets and FAQs is to provide an overview and basic information for those who are impacted by this new requirement.
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> - Visit www.epa.gov/animalwaste for guidance and access to the continuous release reporting forms
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> - Call with questions: 1-800-424-9346

The factsheets are also available on the CERCLA/EPCRA website. A link is available at the top of the page: www.eap.gov/animalwaste or you can link to the factsheets directly at https://www.epa.gov/epcra/fact-sheet-cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal.

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Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 1/17/2018 10:17:27 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: Issue Paper on CERCLA/EPCRA Animal Waste Air Monitoring
Attachments: Issue Paper for Animal Waste.docx

Importance: High

Hi!

Here's what I drafted. This shouldn't need to go through extensive review because I copied most of it from the fact sheet. I used the website for the second part and last parts. Let me know ASAP if we should add anything. I think Barry is using this for The Hill tomorrow.

From: Thomas, Latosha
Sent: Wednesday, January 17, 2018 3:03 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: RE: Issue Paper on CERCLA/EPCRA Animal Waste Air Monitoring
Importance: High

Hi again,

I think the fact sheet answers questions 1 and 3. I can send additional content that outlines the outreach we've done (question 2). No sense in reinventing the wheel, however.

From: Benjamin, Kent
Sent: Wednesday, January 17, 2018 2:32 PM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: FW: Issue Paper on CERCLA/EPCRA Animal Waste Air Monitoring
Importance: High

Here's what I was asked for/

Subject: Issue Paper on CERCLA/EPCRA Animal Waste Air Monitoring

It is highly likely Barry will get questions on the CERCLA/EPA issue. Can you pull together an issue paper ASAP? Please make sure it contains language that talks to the point that (1) the EPA been educating farmers on what to expect after the court's final ruling, (2) is doing lots of outreach to inform; **Deliberative Process / Ex. 5** Thank you.

Kent A. Benjamin, M.S., Dep. Office Director
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management
Tel. 202-564-9095; Mobile: 202-480-4927
Email: *benjamin.kent@epa.gov*
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

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

Overview

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than or equal to their reportable quantity within a 24-hour period. 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 reporting, which is a separate but related law. Citizen groups challenged the validity of EPA's rule, and the US 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 January 22, 2018.

Education for those who are required to report once the Court issues its mandate

EPA has provided information on www.epa.gov/animalwaste to educate those who will be directly impacted by this requirement. The website provides the following resources and guidance to assist farmers with animal operations:

- A fact sheet that provides responses to frequently asked questions
- A number to the EPCRA, RMP & Oil Information Center (1-800-424-8802) to provide information related to compliance assistance
- A continuous release reporting form to address the issue of whether farmers have to report daily
- An outline of the steps required for sufficient continuous release reporting
- A reporting requirements guide for the continuous release of hazardous substances
- Tools to help with emissions estimates

In addition, EPA has hosted a series of outreach calls to stakeholders (livestock trade associations, states, industry, etc.) that will be impacted by this requirement. The purpose of the calls was to provide an overview of the issue, discuss outreach materials provided by the Agency to help communicate the requirement, and to answer any questions that were received.

Outreach to stakeholders

EPA has leveraged the support of its stakeholders to communicate this requirement to those who will be directly impacted by this requirement. A toolkit has been provided on www.epa.gov/agriculture to help stakeholders spread the word. The toolkit includes the following:

- Facebook posts and tweets for stakeholders to post on their social media accounts
- A PSA audio file that can be shared or rebroadcasted
- A widget that can be posted on stakeholders' websites (The widget helps send a reminder about reporting requirements)

Message

From: Mayer, Eileen [Mayer.Eileen@epa.gov]
Sent: 1/16/2018 7:35:14 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Subject: RE: IMMEDIATE WEB POSTING: Animal Waste Fact Sheet

Yes, that will be created when I create the document page (both versions will be on one document page). I'll send that along once it's done.

Eileen M. Mayer
Web Editor-in-Chief (EPCRA, RMP, Oil Spills Regulations, and Emergency Response)
Office of Emergency Management
U.S. Environmental Protection Agency
202-564-9628

From: Jennings, Kim
Sent: Tuesday, January 16, 2018 2:34 PM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: RE: IMMEDIATE WEB POSTING: Animal Waste Fact Sheet

We also need a url specific to the factsheet.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Thomas, Latosha
Sent: Tuesday, January 16, 2018 2:30 PM
To: Mayer, Eileen <Mayer.Eileen@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: IMMEDIATE WEB POSTING: Animal Waste Fact Sheet
Importance: High

Hi Eileen,

Could you please post both versions of the animal waste fact sheet (English/Spanish) to www.epa.gov/animalwaste ASAP? It should go at the top of the page or placed somewhere prominently so that folks can find it immediately. Thanks for your help!

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Mayer, Eileen [Mayer.Eileen@epa.gov]
Sent: 1/16/2018 7:33:43 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
Subject: RE: IMMEDIATE WEB POSTING: Animal Waste Fact Sheet

These need to be made 508 compliant first. That will take me a few extra minutes before I can post, but I'll let you know once they are live.

Eileen M. Mayer
Web Editor-in-Chief (EPCRA, RMP, Oil Spills Regulations, and Emergency Response)
Office of Emergency Management
U.S. Environmental Protection Agency
202-564-9628

From: Thomas, Latosha
Sent: Tuesday, January 16, 2018 2:30 PM
To: Mayer, Eileen <Mayer.Eileen@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: IMMEDIATE WEB POSTING: Animal Waste Fact Sheet
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thomas.latosha@epa.gov

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 1/16/2018 7:30:27 PM
To: Mayer, Eileen [Mayer.Eileen@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
Subject: IMMEDIATE WEB POSTING: Animal Waste Fact Sheet
Attachments: CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf

Importance: High

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(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Requisitos de reportes para emisiones al aire de sustancias peligrosas provenientes de desechos animales en las granjas conforme a CERCLA y EPCRA

Generalidades

Hay dos leyes ambientales, la Ley de Responsabilidad, Compensación y Respuesta Ambiental Comprensiva (CERCLA, por sus siglas en inglés) y la Ley de Planificación para Emergencias y Derecho a Saber de la Comunidad (EPCRA, por sus siglas en inglés) que exigen reportar emisiones de una sustancia peligrosa que exceda una cantidad reportable en un periodo de 24 horas. El propósito de la notificación es para que los funcionarios federales, estatales y locales evalúen la necesidad de una respuesta de emergencia a fin de mitigar los efectos de la emisión a la comunidad.

Debido a una decisión judicial reciente, pronto se les exigirá a algunas granjas (incluidos ranchos, operaciones ganaderas y/u operaciones animales) reportar las emisiones al aire de sustancias peligrosas provenientes de desechos animales según CERCLA.

¿Por qué debo reportar?

Anteriormente, la EPA eximía a las granjas de reportar emisiones al aire de sustancias peligrosas provenientes de desechos animales según CERCLA, y solo las operaciones concentradas de gran envergadura para alimentar animales (CAFO, por sus siglas en inglés) estaban sujetas a reportes conforme a EPCRA, que es una ley separada pero relacionada.

Hubo grupos de ciudadanos que objetaron la validez de la regla de la EPA, y la Corte de Apelaciones de los EE. UU. correspondiente al Circuito DC anuló dicha regla de la EPA el 11 de abril de 2017. Por lo tanto, ya no es aplicable la exención reglamentaria de la EPA.

A causa de la decisión judicial, se exigirá a las granjas con operaciones animales que emiten ciertas cantidades de sustancias peligrosas que reporten estas emisiones al aire incluso a partir del 22 de enero de 2018.

¿Cuándo tengo que reportar?

Se espera que se emita la orden judicial el 22 de enero de 2018. Las granjas no deben reportar hasta que se emita la orden judicial.

¿Debo presentar un informe de CERCLA?

Se exige reportar cuando las emisiones de sustancias peligrosas (como amoníaco o sulfuro de hidrógeno) provenientes de desechos animales alcancen o excedan sus cantidades reportables dentro de un periodo de 24 horas. Para ver una lista completa de sustancias peligrosas conforme a CERCLA, consulte el enlace de Recursos en inglés en: www.epa.gov/animalwaste.

¿Qué sustancias se deben reportar?

El amoníaco (NH_3) y el sulfuro de hidrógeno (H_2S) son sustancias peligrosas comunes emitidas por los desechos animales que se exige reportar si se emiten al aire en cantidades que superen o igualen la cantidad reportable de 100 lbs dentro de un periodo de 24 horas. Si una granja emite cualquier otra sustancia peligrosa sobre sus cantidades reportables designadas dentro de un periodo de 24 horas, deben reportarse aquellas también.

¿Cómo estimo las emisiones?

¿Por qué no puede la EPA decirme cuántos animales se requiere reportar?

La EPA reconoce que será difícil para los agricultores estimar las emisiones porque no hay una metodología generalmente aceptada para estimar estas emisiones en este momento.

Hay muchos factores que influyen en las emisiones:

- ubicación geográfica;
- condiciones ambientales;
- prácticas administrativas (por ej, forraje, guano);
- características de los animales (por ej. número, especie, etapa de vida);
- condiciones operativas; y
- prácticas generales de gestión.

Debido a las interacciones complejas de estos factores, no pueden estandarizarse las emisiones basándose exclusivamente en el número y tipo de animales que haya en cada operación animal. Por ejemplo, hay muchas situaciones donde las operaciones con menos animales tienen mayores emisiones que las operaciones con mayor número de la misma especie animal.

La EPA está trabajando para desarrollar metodologías destinadas a estimar las emisiones de una amplia variedad de operaciones para así informar mejor sobre estimar emisiones provenientes de desechos animales. Sin embargo, no se terminará dicha labor antes del mandato judicial para que los agricultores reporten.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020346-00001

Para asistir a los agricultores con los requisitos de reportar, la EPA ha puesto recursos a disposición en su sitio web que pueden ser útiles para estimar las emisiones. También puede usar otros modelos para estimar emisiones o puede estimar cantidades de emisiones basándose en:

- Datos anteriores de emisiones;
- Estimados de ingeniería;
- Su conocimiento de las operaciones de la instalación y el historial de emisiones; o
- Su óptimo criterio profesional.

Se exige a los propietarios y operadores de instalaciones reportar solo un estimado; no se requieren datos de monitoreo. Además, no se exige a los agricultores reducir las emisiones. Los agricultores deben conservar una copia de los cálculos para referencia futura. Para obtener más información, vea el enlace de Recursos en: www.epa.gov/animalwaste.

¿Cómo reporto según CERCLA?

Para cumplir con los requisitos de reportes de CERCLA en cuanto a emisiones al aire de sustancias peligrosas provenientes de desechos animales, en vez de reportar todos los días, las granjas pueden seguir un proceso simplificado de reportes que se conoce como "reportes de emisiones continuas". Esto exige que el propietario u operador de la instalación siga los pasos descritos en la columna a la derecha.

¿Con qué frecuencia debo estimar las emisiones?

Si usted usa el proceso de reportes de emisiones continuas, debe revisar las emisiones de la grande una vez al año. También deberá estimar las emisiones después de que haya cambios considerables en las operaciones que puedan causar aumentos estadísticamente significativos en las emisiones.

¿Debo presentar un informe según EPCRA?

La EPA interpreta la ley como que excluye a las granjas que usan sustancias en "operaciones agrícolas de rutina" de los reportes según la sección 304 de la EPCRA. Esto abarca operaciones de rutina en las granjas, operaciones de alimentación de animales, criaderos de plantas, otras operaciones de horticultura y acuicultura. Para obtener más información, vea: www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal.

Proceso de reportes de emisiones continuas según CERCLA

Paso 1: Proporcione al Centro Nacional de Respuesta (National Response Center, NRC, por sus siglas en inglés) una notificación inicial de emisiones continuas por correo electrónico (farms@uscg.mil) o por teléfono (1-800-424-8802). Un propietario u operador puede enviar una notificación por correo electrónico abarcando múltiples granjas.

Su mensaje de correo electrónico debe identificar que esta es una notificación inicial de emisiones continuas e incluir:

- Nombre de la granja
- Ubicación de la granja (por ej., nombre de la ciudad/pueblo y estado)
- Nombre(s) de la(s) sustancia(s) peligrosa(s) emitida (s) (amoníaco y/o sulfuro de hidrógeno)

Nota: El NRC no exige información personalmente identificable, como la dirección de una residencia privada. Una ubicación genérica (nombre de la ciudad/pueblo y estado) puede ser suficiente.

Recibirá un mensaje de correo electrónico del NRC con un solo número de identificación (CR-ERNS) para su(s) granja(s). Incluya el número de CR-ERNS en el informe de seguimiento mencionado en el Paso 2.

Paso 2: Dentro de un plazo de 30 días de la notificación al NRC, presente una notificación inicial por escrito a la Oficina Regional de la EPA correspondiente al área donde ocurre la emisión (vea www.epa.gov/epcra/cr-erns-regional-contacts). Use el Formulario de reportes de emisiones continuas.

Paso 3: Presente una sola vez un informe de seguimiento en el primer aniversario a la Oficina Regional de la EPA.

¿Deben cumplir las granjas que tienen animales mantenidos principalmente fuera de una estructura cerrada y pastando en pastizales, con reportar emisiones de sustancias peligrosas provenientes de desechos animales conforme a CERCLA?

Sí, en caso de que la instalación tenga emisiones sobre la cantidad reportable. La EPA considera toda propiedad contigua con propietario común como instalación única para fines de reportar. Con el objeto de determinar si tiene una emisión reportable, una persona debe identificar todas las fuentes de emisiones de sustancias peligrosas, identificar las cantidades

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020346-00002

que se emiten de cada fuente y sumar las cantidades emitidas de la instalación. Al hacer esta determinación, las granjas deben incluir todas las emisiones de la instalación, incluso emisiones de desechos animales provenientes de animales que se mantienen principalmente fuera de una estructura cerrada.

Recursos adicionales

- Envíe por correo electrónico comentarios o sugerencias sobre materiales de orientación a: CERCLA103.guidance@epa.gov
- Contactos regionales: www.epa.gov/epcra/cr-erns-regional-contacts
- Formularios de reportes de emisiones continuas: www.epa.gov/animalwaste
- Centro Nacional de Respuesta: 800-424-8802 o farms@uscg.mil

¿Tiene alguna pregunta?

- Vea la orientación de CERCLA y EPCRA para obtener más información en inglés: www.epa.gov/animalwaste
- Llame al Centro de Información sobre EPCRA, RMP y Petróleo al: 1-800-424-9346

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020346-00003

United States Environmental Protection Agency

Office of Land and Emergency Management

520-F-17-001
January 2018
www.epa.gov/animalwaste

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 January 22, 2018.

When do I need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

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 (NH_3) and hydrogen sulfide (H_2S) 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.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020347-00001

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'll also need to estimate emissions following any significant changes in operations that may result in 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

CERCLA Continuous Release Reporting Process

Step 1: Provide the National Response Center (NRC) with an initial continuous release notificationby 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.

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

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020347-00002

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 1/12/2018 8:22:24 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]
CC: Thomas, Latosha [Thomas.Latosha@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: RE: URGENT- OGC Review Requested on CERCLA EPCRA website
Attachments: Waterkeeper Draft CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms.OGC.docx

Patty – quick review from Earl and me. I may try and review again a bit more carefully but I did not want to hold you up.

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Gioffre, Patricia
Sent: Friday, January 12, 2018 11:54 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: URGENT- OGC Review Requested on CERCLA EPCRA website

And now attaching the actual document for review. Whoops!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Gioffre, Patricia
Sent: Friday, January 12, 2018 11:53 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Earl Salo <Salo.Earl@epa.gov>
Cc: Latosha Thomas (Thomas.Latosha@epa.gov) <Thomas.Latosha@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Mayer, Eileen <mayer.eileen@epa.gov>; Becki Clark (Clark.Becki@epa.gov) <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Michele Indermark (Indermark.Michele@epa.gov) <Indermark.Michele@epa.gov>
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OGC-
The CERCLA EPCRA factsheet will likely be distributed today (see attached for version that was sent to OPA).

As a result, we need to make changes to our website that are consistent with the factsheet as well as to better organize resources and make the site more user-friendly.

Please review and let me know if you have any legal concerns. I am less interested in making this perfect, but I do want to ensure consistency with the factsheet. We will add more Q&As next week, but for now-this is a start.

Patty Gioffre
USEPA (OLEM/OEM)
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Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

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

- Updates
- Overview
- Reporting Exemption and Resulting Litigation
- Purpose
- Frequent Questions
  - Reporting Requirements
  - How to Report
  - Emissions
- Resources

Attention!

On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018.

Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017. The court is expected to issue the mandate on January 22, 2018. No reporting is necessary until the mandate is issued.

To expedite your initial continuous release notification to the National Response Center, you may use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms.

Attorney Work Product / Ex. 5

Attorney Work Product / Ex. 5

Updates

The National Response Center (NRC) has updated the email address for initial continuous release notifications. Please use: farms@uscg.mil.

The Frequent Questions section has been updated. Please see below.

Overview

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Attorney Work Product / Ex. 5

Attorney Work Product / Ex. 5

Reporting Exemption for Animal Waste and Resulting Litigation

On December 18, 2008, EPA published a final rule that exempted most farms from certain release reporting requirements in CERCLA and EPCRA. Specifically, the rule exempted farms releasing hazardous substances from animal waste to the air above threshold levels from reporting under CERCLA. For EPCRA reporting, the

rule exempted reporting of such releases if the farm had fewer animals than a large concentrated animal feeding operation (CAFO).

In short, all farms were relieved from reporting hazardous substance air releases from animal waste under CERCLA, and only large CAFOs were subject to EPCRA reporting.

A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations.

No reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017, decision. EPA will update this guidance to provide farmers with notice of when the mandate issues and reporting requirements begin. Please check this website frequently. **Once the mandate is issued, farms should submit an initial continuous release notification to the National Response Center for qualifying releases that occur within a 24-hour period.**

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Purpose

EPA developed this ~~interim~~ guidance to assist farms in complying with requirements to report air releases of hazardous substances from animal waste under CERCLA and EPCRA. EPA welcomes comments and suggestions from the regulated community and the public on these resources and other additional resources that should be included here. Please email comments or suggestions to: CERCLA103.guidance@epa.gov. EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations.

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Frequent Questions

Reporting Requirements

- EPCRA Reporting Requirements
- General CERCLA Requirements
- Previous Reporting
- Other Circumstances

Questions?
For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

EPCRA Reporting Requirements

Do I need to submit an EPCRA report?

Attorney Work Product / Ex. 5

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- ~~EPCRA Reporting Requirements~~

General CERCLA Requirements

~~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 will no longer apply~~es~~ once the court's ruling takes effect. 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 January 22, 2018.

~~When do I have to comply~~need to report?

The Court is expected to issue its mandate ~~order~~ on January 22, 2018. Farms do not have to report until the Court issues its mandate.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 once the mandate is issued, farms releasing hazardous substances to air from animal wastes, equal to or greater than their reportable quantities, within any 24-hour period, must notify the NRC. For farms with continuous releases, this can be done by "continuous release reporting." See How do I report for CERCLA?, below. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

~~Do I need to submit a CERCLA report?~~

Reporting is required when releases of hazardous substances (like ammonia or hydrogen sulfide) from animal waste and other sources meet or exceed their reportable quantities within a 24-hour period. For a complete list of CERCLA hazardous substances, please see: Resources.

~~What substances need to be reported?~~

Ammonia (NH_3) and hydrogen sulfide (H_2S) 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.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 For a complete list, see: CERCLA hazardous substances and their reportable quantities (RQs).

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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." Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 This requires the facility owner or operator to:

- Notify the NRC. This may be done by email (farms@uscg.mil). Please identify your reportable release as an **"initial continuous release notification."**
- Submit an initial written notification to the EPA Regional Office; and
- One year later submit an additional follow-up written notification to the EPA Regional Office.

Deliberative Process / Ex. 5

Email should be used by farms for the initial continuous release notification. For other types of releases Attorney Client / Ex. 5 please call the NRC at 1-800-424-8802.

Attorney Client / Ex. 5

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

Deliberative Process / Ex. 5

Who do I notify if I need to report?

You must immediately notify the NRC when you have a release of any CERCLA hazardous substance at or above its reportable quantity within any 24-hour period. However, there is an exception for the normal application of fertilizers or the handling, storage or application of pesticide products as described [redacted]

Attorney Client / Ex. 5

Do I have to notify the NRC every time my emissions exceed the reportable quantity in a 24-hour period?

No. If your farm has releases that are continuous and stable in quantity and rate, you can follow a streamlined reporting process known as "continuous release reporting." EPA considers emissions from animal waste to be continuous and stable in quantity and rate, and therefore eligible for this streamlined reporting option.

For more information on the regulation and guidance for continuous release reporting requirements, see: Resources.

Can I request an extension?

No, CERCLA section 103 requires the facility owner or operator to immediately notify the NRC of a reportable release of a hazardous substance.

The one exception is for farm owners/operators participating in the Agency's Animal Feeding Operation Air Compliance Agreement, and that are in compliance with their Agreements. For more information, see: Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

Are there additional continuous release reporting requirements?

There are two additional types of continuous release reporting requirements:

- statistically significant increase ~~(SSI)~~ notification and
- notification of changes to previously submitted continuous release information.

You must immediately notify the NRC of any statistically significant increases ~~(SSI)~~ or of a change in previously submitted release information. This is most likely to be triggered by:

- an increase in the number of animals maintained on the farm (beyond the range used for the initial report) or
- a significant change (or disruption) in waste handling systems or procedures.

This is an ongoing requirement.

What is a statistically significant increase ~~n SSI~~?

A statistically significant increase ~~n SSI~~ is an episodic release of a hazardous substance that exceeds the release quantity described in the upper bound of the normal range of the facility's continuous release report. The normal range includes all releases of a hazardous substance (from all sources at the facility) occurring over any 24-hour period under normal operating conditions during the preceding year.

Only those releases that are both continuous and stable in quantity and rate may be included in the normal range.

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Previous Reporting

A farm owner/operator filed the continuous release and one-time anniversary report to comply with CERCLA section 103 for their facility before the 2008 exemption. If the information is still valid, do they have to file again?

No, if there have been no SSI in emissions or other changes to the report filed before 2008, then the farm owner/operator need not submit another report.

If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

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Other Circumstances

Do I have to report when I apply fertilizers or pesticides to crops?

No, farm owners/operators do not need to report the normal application of fertilizers (including normal application of manure as a fertilizer) or the handling, storage or application of pesticide products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) ~~CERCLA~~ section 103, any spills or accidents involving these substances must be immediately reported to the NRC when they meet or exceed the reportable quantity.

Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

At this time, farm owners/operators in compliance with their Animal Feeding Operation Air Compliance Agreement (70 FR 4958) are not expected to report air releases of hazardous substances from animal wastes under CERCLA and EPCRA. Per their Agreement, participants must report air releases of hazardous substances equal to or exceeding the hazardous substances' reportable quantities under CERCLA when EPA completes the National Air Emissions Monitoring Study.

For additional information on EPCRA reporting, see: EPCRA Q&A.

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 ~~section 103~~?

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 aggregate 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.

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Deliberative Process / Ex. 5

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How to Report

How do I report a continuous release under Comprehensive Environmental Response, Compensation, and Liability Act (**CERCLA**)**?**

Deliberative Process / Ex. 5

You may follow these steps to report air emissions from animal wastes (e.g. ammonia and hydrogen sulfide releases):

Step 1:

Notify the NRC. For the purposes of this initial continuous release notification, please email the NRC at: farms@uscg.mil. The email must clearly state this is an "initial continuous release notification."

Due to the potential for large call volumes to the NRC an email notification will expedite your notification and will help to avoid expected long hold delays once reporting for farmers begins. An email notification should also help ensure that other types of emergency calls which may require immediate attention are expeditiously received by the NRC and not held up by call delays or system crashes. EPA and the NRC consider an email notification, in this instance, sufficient to comply with the immediate notification requirement for a continuous release under CERCLA section 103.

In order to qualify as a continuous release notification, please note in the subject line of the e-mail that this is an **"initial continuous release notification."**

Include the following in your email (farms@uscg.mil):

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

You can submit information for multiple facilities (i.e., farms) in one email (farms@uscg.mil).

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

You will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up written notification report that goes to your EPA Regional Office discussed in Step 2 below. The single CR-ERNS number provided should be used for each facility included in the email.

It may take some time to receive the automated notice from the NRC, so please be patient. Also, check your email's spam or junk folders before attempting to send your email again.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

Step 2: Submit an initial written notification to the EPA Regional Office.

Submit an initial written notification to the EPA Regional Office for the area where the release occurs, within 30 days of the call to the NRC. Note: Unlike the initial continuous release notification, each facility needs to submit a separate continuous release reporting form.

Farms can use this continuous release reporting form to provide the initial written notification. *Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs.* ***Farms not reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) should not send information to the LEPCs and SERCs.***

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

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

Within 30 days of the first anniversary date of the initial written notification (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist you with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

If I have multiple facilities (i.e., farms), can I make one notification that addresses all of my facilities?

In making your initial notification, you can submit information for multiple facilities in one email (farms@uscg.mil). List the name and location of each farm, as well as the associated name(s) of hazardous substance(s) released. However, if you are calling the NRC, then you can only provide one report per phone call. For the follow-up written notification to EPA, each facility should be reported separately.

You will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up written notification report that goes to your EPA Regional Office discussed in Step 2 below. The single CR-ERNS number provided should be used for each facility included in the email.

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Emissions

How do I estimate the releases for reporting?

To help you comply with the reporting requirements, EPA has made resources available that may be helpful in estimating emissions of ammonia and/or hydrogen sulfide. 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.

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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.

CERCLA section 103 allows "continuous releases" to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.

~~Why can't EPA tell me how many animals require reporting?~~

Deliberative Process / Ex. 5

EPA recognizes that it will be challenging for farmers to estimate~~report~~ releases from animal wastes because there is no generally accepted methodology for estimating these emissions ~~quantities~~ 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.

Deliberative Process / Ex. 5

How often do I need to estimate emissions?

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If you use the continuous release reporting process, you need to review emissions from the farm once a year. You should ll also need to estimate emissions following any significant changes in operations that may result in statistically significant increases in emissions. ~~You must annually review emissions from the farm.~~ You'll also need to report any Attorney Client / Ex. 5 statistically significant increases ~~SSI~~ in emissions.

Attorney Client / Ex. 5

How can I reduce emissions?

Farmers are not required to reduce emissions. For farmers that want to reduce emissions, EPA and United States Department of Agriculture (USDA) developed a reference guide that provides options for improving air quality from livestock and poultry operations. The guide provides a compilation of conservation measures for reducing air pollutant emissions and/or reducing air quality impacts from livestock and poultry operations.

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Resources

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Regulation: 40 CFR part 302 - Designation, Reportable Quantities, and Notification

Additional Guidance: Reporting Requirements for Continuous Releases of Hazardous Substances

Commented [GP7]: Add:
•Email comments or suggestions on guidance materials to: [HYPERLINK "mailto:CERCLA103.guidance@epa.gov"]
•EPA Regional Contacts: [HYPERLINK "https://www.epa.gov/epcra/cr-ems-regional-contacts"]
•Continuous Release Reporting Form: [HYPERLINK "https://www.epa.gov/animalwaste"] LINK to current form]
•National Response Center: 800-424-8802 or [HYPERLINK "mailto:farms@uscg.mil"]
•EPCRA, RMP & Oil Information Center at: 1-800-424-9346 Monday through Friday 10 am to 5 pm EST, (excluding Federal holidays)

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Emission Estimates

Farm owners/operators may consider any of the resources provided in this section (or any other studies available to you) for estimating releases. You can also coordinate with your trade associations or the land-grant universities in your area (see Appendix A.3: List of AFO Air Quality Programs & Land-Grant Universities available in reference guide).

You may establish estimated 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.

Monitoring data is not required. Additionally, farmers are not required to reduce emissions. Farmers should keep a copy of the calculation for future reference.

Disclaimer: This listing does not constitute EPA endorsement. These are provided solely as available resources for farms to use while EPA finalizes its methodologies for estimating air emissions of ammonia and hydrogen sulfide from animal wastes. Farms may use any other approaches that are available to develop these estimates.

Deliberative Process / Ex. 5

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 1/12/2018 4:53:34 PM
To: Lewis, Jen [Lewis.Jen@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]
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Patty Gioffre
USEPA (OLEM/OEM)
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Draft CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms

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On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018.

Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017. The court is expected to issue the mandate on January 22, 2018. No reporting is necessary until the mandate is issued.

To expedite your initial continuous release notification to the National Response Center, you may use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms.

Attorney Work Product / Ex. 5

Updates

The National Response Center (NRC) has updated the email address for initial continuous release notifications. Please use: farms@uscg.mil.

The Frequent Questions section has been updated. Please see below.

Overview

Attorney Work Product / Ex. 5

Attorney Work Product / Ex. 5

Reporting Exemption for Animal Waste and Resulting Litigation

On December 18, 2008, EPA published a final rule that exempted most farms from certain release reporting requirements in CERCLA and EPCRA. Specifically, the rule exempted farms releasing hazardous substances from animal waste to the air above threshold levels from reporting under CERCLA. For EPCRA reporting, the

rule exempted reporting of such releases if the farm had fewer animals than a large concentrated animal feeding operation (CAFO).

In short, all farms were relieved from reporting hazardous substance air releases from animal waste under CERCLA, and only large CAFOs were subject to EPCRA reporting.

A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations.

No reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017, decision. EPA will update this guidance to provide farmers with notice of when the mandate issues and reporting requirements begin. Please check this website frequently. **Once the mandate is issued, farms should submit an initial continuous release notification to the National Response Center for qualifying releases that occur within a 24-hour period.**

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Purpose

EPA developed this ~~interim~~ guidance to assist farms in complying with requirements to report air releases of hazardous substances from animal waste under CERCLA and EPCRA. EPA welcomes comments and suggestions from the regulated community and the public on these resources and other additional resources that should be included here. Please email comments or suggestions to: CERCLA103.guidance@epa.gov. EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations.

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Frequent Questions

Reporting Requirements

- EPCRA Reporting Requirements
- General CERCLA Requirements
- Previous Reporting
- Other Circumstances

Questions?
For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

EPCRA Reporting Requirements

Do I need to submit an EPCRA report?

Attorney Work Product / Ex. 5

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- ~~EPCRA Reporting Requirements~~

General CERCLA Requirements

~~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 January 22, 2018.

When do I ~~have to comply~~need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

~~Farmers should begin to comply with reporting requirements after the DC Circuit Court of Appeals issues its order, or mandate, enforcing the April 11, 2017, decision.~~ Once the mandate is issued, farms releasing hazardous substances to air from animal wastes, equal to or greater than their reportable quantities, within any 24-hour period, must notify the NRC. For farms with continuous releases, this means submitting an initial continuous release notification.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

~~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: Resources.

What substances need to be reported?

Ammonia (NH_3) and hydrogen sulfide (H_2S) 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.

~~Typical hazardous substances associated with animal wastes include ammonia and hydrogen sulfide. Both ammonia and hydrogen sulfide have a reportable quantity of 100 lbs. If a farm releases ammonia and/or hydrogen sulfide in amounts ≥ the reportable quantity (100 lbs) within a 24-hour period, then the farm owner or operator must notify the NRC.~~ For a complete list, see: CERCLA hazardous substances and their reportable quantities (RQs).

~~How do I report for CERCLA?~~

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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." ~~For additional information on continuous release reporting, see: How do I report a continuous release under CERCLA?~~

~~What are my requirements to report air releases from animal waste under CERCLA section 103?~~

~~Farm owners/operators must comply with CERCLA section 103 reporting requirements for air releases of hazardous substances from animal waste at their farms.~~

~~If a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, the farm may follow a streamlined reporting process known as "continuous release reporting."~~ This requires the facility owner or operator to:

- Notify the NRC. This may be done by email (farms@uscg.mil). Please identify your reportable release as an **"initial continuous release notification."**
- Submit an initial written notification to the EPA Regional Office; and
- One year later submit an additional follow-up written notification to the EPA Regional Office.

~~For additional information on continuous release reporting, see: How do I report a continuous release under CERCLA?~~

Email should be used by farms for the initial continuous release notification. For other types of releases that require immediate response, please call the NRC at 1-800-424-8802.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

~~When do I have to comply?~~

~~Farmers should begin to comply with reporting requirements after the DC Circuit Court of Appeals issues its order, or mandate, enforcing the April 11, 2017, decision. Once the mandate is issued, farms releasing hazardous substances to air from animal wastes, equal to or greater than their reportable quantities, within any 24-hour period, must notify the NRC. For farms with continuous releases, this means submitting an initial continuous release notification.~~

~~For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.~~

~~What substances need to be reported?~~

~~Typical hazardous substances associated with animal wastes include ammonia and hydrogen sulfide. Both ammonia and hydrogen sulfide have a reportable quantity of 100 lbs. If a farm releases ammonia and/or hydrogen sulfide in amounts ≥ the reportable quantity (100 lbs) within a 24-hour period, then the farm owner or operator must notify the NRC. For a complete list, see: CERCLA hazardous substances and their reportable quantities (RQs).~~

Who do I notify if I need to report?

You must immediately notify the NRC when you have a release of any CERCLA hazardous substance at or above its reportable quantity within any 24-hour period. However, there is an exception for the normal application of fertilizers or the handling, storage or application of pesticide products as described above.

Do I have to notify the NRC every time my emissions exceed the reportable quantity in a 24-hour period?

No. If your farm has releases that are continuous and stable in quantity and rate, you can follow a streamlined reporting process known as "continuous release reporting." EPA considers emissions from animal waste to be continuous and stable in quantity and rate, and therefore eligible for this streamlined reporting option.

For more information on the regulation and guidance for continuous release reporting requirements, see: Resources.

Can I request an extension?

No, CERCLA section 103 requires the facility owner or operator to immediately notify the NRC of a reportable release of a hazardous substance.

The one exception is for farm owners/operators participating in the Agency's Animal Feeding Operation Air Compliance Agreement, and that are in compliance with their Agreements. For more information, see: Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

Are there additional continuous release reporting requirements?

There are two additional types of continuous release reporting requirements:

- statistically significant increase ~~(SSI)~~ notification and
- notification of changes to previously submitted continuous release information.

You must immediately notify the NRC of any statistically significant increases ~~(SSI)~~ or of a change in previously submitted release information. This is most likely to be triggered by:

- an increase in the number of animals maintained on the farm (beyond the range used for the initial report) or
- a significant change (or disruption) in waste handling systems or procedures.

This is an ongoing requirement.

What is a statistically significant increase ~~SSI~~?

A statistically significant increase ~~(SSI)~~ is an episodic release of a hazardous substance that exceeds the release quantity described in the upper bound of the normal range of the facility's continuous release report. The normal range includes all releases of a hazardous substance (from all sources at the facility) occurring over any 24-hour period under normal operating conditions during the preceding year.

Only those releases that are both continuous and stable in quantity and rate may be included in the normal range.

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Previous Reporting

A farm owner/operator filed the continuous release and one-time anniversary report to comply with CERCLA section 103 for their facility before the 2008 exemption. If the information is still valid, do they have to file again?

No, if there have been no SSI in emissions or other changes to the report filed before 2008, then the farm owner/operator need not submit another report.

If a farmer made an initial notification before the court issued the mandate, do they still need to submit a written report to the EPA regional office within 30 days?

No. For those farmers who have already made their initial continuous release notification, the farmer may wait to submit the written report until the court issues the mandate. Within 30 days of the court mandate, the farmer must submit a written report to the EPA regional office. No additional call or email to the NRC is required.

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Other Circumstances

Do I have to report when I apply fertilizers or pesticides to crops?

No, farm owners/operators do not need to report the normal application of fertilizers (including normal application of manure as a fertilizer) or the handling, storage or application of pesticide products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) ~~CERCLA~~ section 103, any spills or accidents involving these substances must be immediately reported to the NRC when they meet or exceed the reportable quantity.

Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

At this time, farm owners/operators in compliance with their Animal Feeding Operation Air Compliance Agreement (70 FR 4958) are not expected to report air releases of hazardous substances from animal wastes under CERCLA and EPCRA. Per their Agreement, participants must report air releases of hazardous substances equal to or exceeding the hazardous substances' reportable quantities under CERCLA when EPA completes the National Air Emissions Monitoring Study.

For additional information on EPCRA reporting, see: EPCRA Q&A.

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 ~~section 103~~?

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 aggregate 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.

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~~EPCRA Reporting Requirements~~

~~What are my requirements to report under EPCRA section 304?~~

~~EPA interprets the statute to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. For more information, see EPCRA Q&A. EPA intends to conduct a rulemaking to clarify its interpretation of "used in routine agricultural operations" as it pertains to EPCRA reporting requirements.~~

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How to Report

How do I report a continuous release under Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)?

Commented [GP2]: Got feedback that some users are jumping to this section and getting confused by the acronyms, so adding again.

You may follow these steps to report air emissions from animal wastes (e.g. ammonia and hydrogen sulfide releases):

Step 1:

Notify the NRC. For the purposes of this initial continuous release notification, please email the NRC at: farms@uscg.mil. The email must clearly state this is an "initial continuous release notification."

Due to the potential for large call volumes to the NRC an email notification will expedite your notification and will help to avoid expected long hold delays once reporting for farmers begins. An email notification should also help ensure that other types of emergency calls which may require immediate attention are expeditiously received by the NRC and not held up by call delays or system crashes. EPA and the NRC consider an email notification, in this instance, sufficient to comply with the immediate notification requirement for a continuous release under CERCLA section 103.

In order to qualify as a continuous release notification, please note in the subject line of the e-mail that this is an **"initial continuous release notification."**

Include the following in your email (farms@uscg.mil):

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

You can submit information for multiple facilities (i.e., farms) in one email (farms@uscg.mil).

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

You will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up written notification report that goes to your EPA Regional Office discussed in Step 2 below. The single CR-ERNS number provided should be used for each facility included in the email.

It may take some time to receive the automated notice from the NRC, so please be patient. Also, check your email's spam or junk folders before attempting to send your email again.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

Step 2: Submit an initial written notification to the EPA Regional Office.

Submit an initial written notification to the EPA Regional Office for the area where the release occurs, within 30 days of the call to the NRC. Note: Unlike the initial continuous release notification, each facility needs to submit a separate continuous release reporting form.

Farms can use this continuous release reporting form to provide the initial written notification. *Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs.* ***Farms not reporting under the Emergency Planning and Community Right-to-Know Act (EPCRA) should not send information to the LEPCs and SERCs.***

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

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

Within 30 days of the first anniversary date of the initial written notification (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist you with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

If I have multiple facilities (i.e., farms), can I make one notification that addresses all of my facilities?

In making your initial notification, you can submit information for multiple facilities in one email (farms@uscg.mil). List the name and location of each farm, as well as the associated name(s) of hazardous substance(s) released. However, if you are calling the NRC, then you can only provide one report per phone call. For the follow-up written notification to EPA, each facility should be reported separately.

You will receive an automatic response email from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up written notification report that goes to your EPA Regional Office discussed in Step 2 below. The single CR-ERNS number provided should be used for each facility included in the email.

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Emissions

How do I estimate the releases for reporting?

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

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

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.

CERCLA section 103 allows "continuous releases" to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.

Why can't EPA tell me how many animals require reporting?

~~Some farms that raise animals will have reportable releases of ammonia and/or hydrogen sulfide (i.e. release of ≥ 100 lbs in a 24-hour period) from animal waste. These resources may assist farmers in estimating emissions.~~

EPA recognizes that it will be challenging for farmers to estimate~~report~~ releases from animal wastes because there is no generally accepted methodology for estimating these emissions~~quantities~~ 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.

~~CERCLA section 103 allows "continuous releases" to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.~~

How often do I need to estimate emissions?

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

need to estimate emissions following any significant changes in operations that may result in statistically significant increases ~~$$~~ in emissions.

How can I reduce emissions?

Farmers are not required to reduce emissions. For farmers that want to reduce emissions, EPA and United States Department of Agriculture (USDA) developed a reference guide that provides options for improving air quality from livestock and poultry operations. The guide provides a compilation of conservation measures for reducing air pollutant emissions and/or reducing air quality impacts from livestock and poultry operations.

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Resources

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Regulation: 40 CFR part 302 - Designation, Reportable Quantities, and Notification

Additional Guidance: Reporting Requirements for Continuous Releases of Hazardous Substances

Emission Estimates

Farm owners/operators may consider any of the resources provided in this section (or any other studies available to you) for estimating releases. You can also coordinate with your trade associations or the land-grant universities in your area (see Appendix A.3: List of AFO Air Quality Programs & Land-Grant Universities available in reference guide).

You may establish estimated 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.

Monitoring data is not required. Additionally, farmers are not required to reduce emissions. Farmers should keep a copy of the calculation for future reference.

Disclaimer: This listing does not constitute EPA endorsement. These are provided solely as available resources for farms to use while EPA finalizes its methodologies for estimating air emissions of ammonia and hydrogen sulfide from animal wastes. Farms may use any other approaches that are available to develop these estimates.

Commented [GP3]: Add:
•Email comments or suggestions on guidance materials to: [HYPERLINK "mailto:CERCLA103.guidance@epa.gov"]
•EPA Regional Contacts: [HYPERLINK "https://www.epa.gov/epcra/cr-ems-regional-contacts"]
•Continuous Release Reporting Form: [HYPERLINK "https://www.epa.gov/animalwaste"] LINK to current form]
•National Response Center: 800-424-8802 or [HYPERLINK "mailto:farms@nsc.mil"]
•EPCRA, RMP & Oil Information Center at: 1-800-424-9346 Monday through Friday 10 am to 5 pm EST, (excluding Federal holidays)

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Commented [GP4]: People are confusing the estimators with calculators. Is there a word in the descriptions of the estimators (i.e., those documents that are not worksheets) that we can use to avoid confusion?

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 1/9/2018 2:22:36 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: FINAL COMMS MATERIALS: Animal Waste Rule

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Thomas, Latosha
Sent: Tuesday, January 09, 2018 9:18 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: FINAL COMMS MATERIALS: Animal Waste Rule
Importance: High

Hi Nancy,

Here are the final materials that you have requested.

As you know, the fact sheet is being reviewed by USDA. Thanks!

Facebook Posts for toolkit (non-EPA social media accounts)

- Due to a recent Court action, many farmers with animal operations will be required to report emissions from animal waste as early as Jan. 22. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with reporting requirements for air releases from animal waste. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets for toolkit (non-EPA social media accounts)

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming as early as Jan. 22! #animalwaste
- #DYK EPA has guidance to help farmers with animal operations comply with new reporting requirements under CERCLA & EPCRA? Visit epa.gov/animalwaste or call 1-800-424-9346. #animalwaste

Tweets for our EPA accounts (@EPA and @EPALand)

- Due to a recent Court action, many U.S. farms with animal operations will be required to report emissions from animal waste as early as Jan. 22. To learn more, visit https://www.epa.gov/animalwaste or call 1-800-424-9346.

- Due to a recent Court action, many farms with animal operations will need to report emissions from animal waste as early as Jan. 22. EPA has online tools to help animal ag producers see if this requirement applies to them & help them comply with the law. https://www.epa.gov/animalwaste.

PSA Script

- *Due to a recent Court action, many farms with animal operations across the United States will be required to report emissions from animal waste* as early as Jan. 22.
- *EPA had exempted most farms from this requirement under the EPCRA and CERCLA laws but due to a recent lawsuit, the courts eliminated this exemption.*
- *EPA has online tools to help animal ag producers determine if this requirement applies to their operations and help them comply with the law.*
- *To learn more visit* epa.gov/animalwaste *or call 1-800-424-9346.*

Widget Revised language: Air Emissions from Agriculture Due to a recent Court action, many farms with animal operations will be required to report emissions from animal waste as early as Jan. 22. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

Banner/Box Language for Web Site (epa.gov and boxed content for epa.gov/agriculture)

CERCLA and EPCRA Air Emissions from Agriculture

Due to a recent Court action, many U.S. farms with animal operations will be required to report emissions from animal waste as early as Jan. 22.

Find out if this requirement applies to your operation.

Latosha Thomas
U.S. Environmental Protection Agency
Office of Emergency Management
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 1/8/2018 3:52:41 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]
Subject: RE: Latest comm strategy and factsheet
Attachments: CERCLA EPCRA Factsheet 1-4-18 final_HS kjj comments and edits 1-8-18_PG.docx

<!--[if lte mso 15 || CheckWebRef]-->

Gioffre, Patricia has shared a OneDrive for Business file with you. To view it, click the link below.

CERCLA EPCRA Factsheet 1-8-18_clean.docx

<!--[endif]-->

I have some suggested edits on the fact sheet. The beginning seemed a little too repetitive with the addition of the question on "Why do I have to report."

Deliberative Process / Ex. 5

I also made the formatting changes. Take a look. I attached a redline and a clean version.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Jennings, Kim
Sent: Monday, January 08, 2018 10:20 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>
Subject: RE: Latest comm strategy and factsheet

Hi all,

I am just sending this to OEM. Attached are my suggested language changes and comments. There is a suggestion for a format change on page 2 which I am not sure works, but I leave that to Eileen.

Thoughts?

Regarding the edits below to the facebook post, tweets, PSA script, and widget, I have no comments and agree with the changes.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Taylor, Trish
Sent: Friday, January 05, 2018 5:47 PM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: FW: Latest comm strategy and factsheet

Hi Julie, Brendan and Latosha,

Hema has provided comments to the comms materials for OEM consideration; including to the fact sheet, social media posts, PSA script and widget language. Once OEM incorporates the appropriate changes, please send to OCPA. Cut/pasted below are her comments. I was not in on the original email chain, but I see that other from OEM were, so you may have these already. I have not seen any edits for the comms plan itself.

Thanks,
Trish

From: Subramanian, Hema
Sent: Friday, January 05, 2018 2:25 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Sorry – just noticed the word livestock. FYI poultry aren't included in that so they are sensitive to that word. Further edit below.

From: Subramanian, Hema
Sent: Friday, January 05, 2018 2:18 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Inserted some suggestions for the comms blurbs below in green.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Facebook Posts for toolkit (non-EPA social media accounts)

- Due to a recent Court action, many farmers with animal operations will be required to report emissions from animal waste as early as Jan. 22. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with new Court-mandated reporting requirements under CERCLA and EPCRA. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets for toolkit (non-EPA social media accounts)

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming as early as Jan. 22! #animalwaste
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PSA Script

Deliberative Process / Ex. 5

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Widget Revised language: Air Emissions from Agriculture Due to a recent Court action, many farms with animal operations will ~~soon~~ be required to report emissions from animal waste as early as Jan. 22. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

From: Subramanian, Hema
Sent: Friday, January 05, 2018 2:02 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Latest comm strategy and factsheet

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Deliberative Process / Ex. 5

Thanks for being receptive, I hope this helps.
---Hema.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 1/8/2018 3:42:57 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]
Subject: RE: Latest comm strategy and factsheet

No comments from me!

From: Jennings, Kim
Sent: Monday, January 08, 2018 10:20 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>
Subject: RE: Latest comm strategy and factsheet

Hi all,

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Thoughts?

Regarding the edits below to the facebook post, tweets, PSA script, and widget, I have no comments and agree with the changes.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Taylor, Trish
Sent: Friday, January 05, 2018 5:47 PM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
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Hi Julie, Brendan and Latosha,

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Thanks,
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Sent: Friday, January 05, 2018 2:25 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

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From: Subramanian, Hema
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Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
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Inserted some suggestions for the comms blurbs below in green.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
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Facebook Posts for toolkit (non-EPA social media accounts)

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PSA Script

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Sent: 1/8/2018 3:20:03 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]
Subject: RE: Latest comm strategy and factsheet
Attachments: CERCLA EPCRA Factsheet 1-4-18 final_HS kjj comments and edits 1-8-18.docx

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PSA Script

Deliberative Process / Ex. 5

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subramanian.hema@epa.gov

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 1/5/2018 4:13:50 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]
CC: Benjamin, Kent [Benjamin.Kent@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Hi Kim,

The materials were sent already. If we get feedback from the Ag Advisors that provides us the chance to revise them, we can make the edits.

I'm not on today's call invite either. On yesterday's call, Patty said she'd be available for today's call, so I assume she got the invite. I'll check with Nancy about it.

Thanks,
Trish

From: Jennings, Kim
Sent: Friday, January 05, 2018 11:07 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Hi Trish,

Patty and Latosha are out today. When is the call, I don't have an invitation for it.

I am OK with the materials attached. Regarding the material below, in light of conversations yesterday, perhaps we should make the following edits to make clear this is not an EPA action or new regulation:

Facebook Posts for toolkit (non-EPA social media accounts)

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PSA Script

- *Due to a recent Court action, many farms with animal operations across the United States will soon be required to report emissions from animal waste.*
- *EPA had exempted most farms from this requirement under the EPCRA and CERCLA laws but due to a recent lawsuit, the courts eliminated this exemption.*
- *EPA has tools to help livestock producers determine if this requirement applies to their operations and help them comply with the law.*
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The preferred version of the widget is the one with the EPA logo and barn image.

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Taylor, Trish
Sent: Friday, January 05, 2018 9:51 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials

Good morning,

These are the communication materials I'm sending to OPA for review this a.m. Please let me know if there are any questions or concern prior to me sending them to Nancy G. at 11:00 a.m.

There are 2 outstanding pieces: the mini article (which will really just be a blurb, since it's 1-2 paragraphs, max) and the press release, which is least crucial at this point.

We also may need to revise the materials depending on the outcome of today's conf call with OEM, Ag Advisors and USDA. Patty will be on that call, right?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Here's what I'm sending at 11am:

- Communications plan (Attached)
- Part of the Toolkit for states and ag associations
    - Facebook post
    - Tweets
    - one-page cheat sheet/FAQs (Attached. this is also being called the "fact sheet")
    - widget language

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The preferred version of the widget is the one with the EPA logo and barn image.

Thanks,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)

U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 1/5/2018 4:08:05 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]
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Subject: revised Ag rule comms plan
Attachments: Animal Waste Emissions Reporting Reqs Comms Plan (DRAFT 1.5.18).docx

I removed Region 8 under the "Owner" column and replaced with OEM/OPA.

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Revised 1/4/18

DESCRIPTION OF ISSUE

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to:

- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
- Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), if the farms stable or confine fewer than a certain number of animals.

On April 11, 2017, the DC Circuit Court vacated this final rule.

In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. EPA requested an additional extension to develop guidance that would assist farmers in calculating and reporting releases from animal waste under CERCLA. The guidance was released on October 25, 2017, and requested public input. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. EPA is continuing to refine the guidance to assist farmers with reporting under CERCLA.

Once the mandate is issued, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than their reportable quantities within any 24-hour period must report such releases under CERCLA.

EPA interprets EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. Further explanation is on EPA's website.

EPA is working with agricultural trade associations and the Farm Bureau to convey the guidance information to owners and operators of farms with animals.

Timeframe: December 15, 2017 to February 21, 2018

TARGETED AUDIENCES

- Owners and Operators of farms with animals
- Agricultural Trade Associations focused on animals
- State, local, and tribal governments (including SERCs, LEPCs, and TERCs)
- USDA
- Environmental groups

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020417-00001

MESSENGER(S)

- OLEM - OEM / RID
- OLEM - OCPA
- OPA
- OCIR
- Regions

KEY MESSAGES

- Farmers with animal operations are required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).

- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).

RECOMMENDED ACTIVITIES

- News release to targeted agricultural focused outlets only
  - National Association of Farm Broadcasting (NAFB)
  - Agri-Pulse
  - Manure Manager
  - Farm Factor
  - Oklahoma Farm Report
  - Ag Annex
  - Agri-View
  - Morning Ag Clips
  - Ag Inspirations (This is the radio show of one of our AADG Participants)
  - Dairybusiness
  - Farm World Online
  - National Hog Farmer
  - AgWired
  - Farm Futures
  - AgriNews
  - Capital Press
  - Farm Journal
  - Harvest Public Media, KCUR

DRAFT

- Modern Farmer
- Progressive Farmer
- Successful Farming

- Possible Release to Mainstream news outlets as well

- Web content updated with content that clearly communicates the new requirement for farmers to report.

Outreach Activities

- OEM Listserv and External Notifications
  - Livestock Trade Associations:
    - National Cattleman's Beef Association
    - Arizona Cattle Growers Association
    - National Chicken Council
    - National Council of Farmer Cooperatives
    - National Turkey Federation
    - US Poultry and Egg Association
    - United Egg Producers
    - National Pork Producers Council
    - National Pork Board
    - National Milk Producers Federation
    - Mid-Atlantic Dairy Association
    - Nisei Farmers League
    - Innovation Center for US Dairy
    - Dairy Farmers of America
    - Dairy Management Inc.
    - Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
    - Cornell PRO-DAIRY Program
  - Industry
    - Seaboard Farms
    - Tyson Foods
  - Federal
    - USDA
  - State, Local and Tribal Officials
    - National Association of Sara Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
    - National Association of State Departments of Agriculture
    - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation

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- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviros/NGOs
  - Sierra Club

- Congressional Notifications
  OCIR will provide e-mail notification to congressional committees with substantive jurisdiction:
  - Senate Environment and Public Works
  - Senate Agriculture
  - House Energy and Commerce
  - House Agriculture
  - OCFO will provide e-mail notification to congressional Appropriations committees

Internal Notifications

- Public Affairs (PADs)
- AAs and RAs
- AO Senior Ag Advisor's Office: Jeff Sands, Hema Subramanian
- Regional Ag Advisors
- Smart Sectors – Ag leads (Kristinn Sharpe, Elizabeth Corona)
- CERCLA EPCRA Guidance Workgroup members
- OAR and OW Animal Ag POCs: Robin Dunkins, Andrew Sawyers, Ross Brennan, Tom Wall, Lynda Hall
- NPDES and Compliance CAFO Coordinators
- CEPP regional coordinators
- Congressional liaisons

Collateral Materials	Responsible Party
• OEM/SERC-TERC Updates Listserv messages	Margaret Gérardin/Eileen Mayer
• Press release	Nancy Grantham, OPA
• Animal waste web update (requirements)	Eileen Mayer
• Agriculture web update	Ginah Mortenson/Carol Galloway (National Ag Center)
• EPA.gov banner	Eileen Mayer & OWC
• Toolkit	Latosha Thomas, OEM
• PSA	Latosha Thomas, OEM/HQ OPA
• Video	Latosha Thomas, OEM/HQ OPA
• Update existing guidance online (including FAQs)	Eileen Mayer/Patty Gioffre

DRAFT

U.S. Environmental Protection Agency: OLEM / OEM
Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

TIMELINE

Due Date	Time	Action	Owner
12-19-17 12-29-17 1-2-18		Draft comms plan to AA for approval	Latosha Thomas, OEM Trish Taylor, OCPA
1-2-18	COB	Draft PSA script to OPA	Trish Taylor, OCPA
1-4-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-5-18		Record PSA	Nancy Grantham, OPA
1-8-18		Send PSA to PADs for radio station pitching	Nancy Grantham, OPA
1-8-18		Draft press release to AA for approval	Latosha Thomas, OEM
1-4-18		Develop toolkit. Toolkit includes: Facebook post language, Tweet language, short article they can include in their newsletters to members (one paragraph), one-page cheat sheet with FAQs, widget. OEM, OCPA, OGC, OPA will review.	Trish Taylor, OCPA Latosha Thomas, OEM
1-5-18		New boxed language for epa.gov/agriculture to direct traffic to epa.gov/animalwaste	OPA/OWC
1-8-18		Draft press release, web banner to OPA	Trish Taylor, OCPA
As needed		Update epa.gov/animalwaste (compliance requirements) with any needed changes	Eileen Mayer, OEM
1-9-18		Send short email notifications to regional ag advisors on outreach efforts (toolkit) [Ag advisors will send to their different listservs, including states, which are different from others mentioned and may overlap some.]	Regional ag advisors/Jeff Sands (HQ Ag Advisor)
1-9-18		Send short email notifications to regional congressional contacts on outreach efforts (toolkit)	Pamela Janifer (coordinate with regions)
1-9-18		Send short email notifications to state emergency mangers on outreach efforts (toolkit). OPA will send a note to PADs to let RCs know when they can send.	All Regions (CEPP regional coordinators)/Nancy Grantham, OPA
Week of 1-9-18		**PAD Notification**	Nancy Grantham, OPA
Week of 1-9-18		**AA/RA Notification**	Becky Brooks, OLEM IO

DRAFT

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

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Week of 1-9-18		**External Notification Call**: Pork Assoc (Re: farms'compliance)	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Livestock Trade Associations	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Farm Bureau	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** National Association of Sara Title III Officials, SERCs, TERCs	OPE or OEM/RID
1-16-18		Develop video on how to fill out continuous release form (Review by OEM, OCPA, OGC, OPA, PADs)	OPA
1-22-18**	(Before press release)	**Congressional e-mail notification**	Pamela Janifer, OCIR
1-22-18**	Afternoon (post- press release)	E-mail notification to livestock trade associations, Farm Bureau, State Ag contacts.	Margaret Gérardin, OEM Latosha Thomas, OEM
1-22-18**	Afternoon (post- press release)	OEM Listserv and SERC-TERC Updates Listserv	Margaret Gérardin, OEM Eileen Mayer, OEM
1-22-18**	Afternoon (post-press release)	Post press release on Twitter*	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs
1-22-18**		Post banner on epa.gov	Eileen Mayer, OEM & Jessica Orquina, OWC
1-22-18**	Afternoon	**Issue press release** to targeted outlets	Nancy Grantham, OPA
1-28-18		Post video on how to fill out continuous release form & post to web page: epa.gov/animalwaste.	Eileen Mayer, OEM/PADs
1-28-18		Notify PADS when video is posted	Nancy Grantham, OPA
1-28-18		Amplify video via social media	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs

*Requires amplification by regions

**This date or whatever date the Court issues its mandate

DRAFT

Message

From: Harwood, Jackie [Harwood.Jackie@epa.gov]
Sent: 1/5/2018 7:42:47 PM
To: Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Will do. Thank you.

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Indermark, Michele
Sent: Friday, January 05, 2018 2:02 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Hi Jackie,

We are providing a draft reply to the subject congressional letter on the portion of the CERCLA/EPCRA rule pertaining to farms. At this point Kim, Reggie, OGC (Jen Lewis and John Michaud), and OAR (Robin Dunkins) have reviewed the draft. All comments have been incorporated.

The letter still needs to be reviewed by Barry, Carolyn Levine (OCIR), Jeff Sands (Ag Advisor), and Tate Bennett (Office of Public Engagement). Would you please assist with these reviews? Let me know if you have any questions.

D. Michele Indermark
HQ EPA
OLEM/OEM
Special Assistant
WJCN 1448C
(w) 202-564-0794
Indermark.michele@epa.gov

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 1/5/2018 4:01:15 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Got it

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Cheatham, Reggie
Sent: Friday, January 05, 2018 10:58 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Made it clear!

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Grantham, Nancy
Sent: Friday, January 05, 2018 10:56 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Taylor, Trish
Sent: Friday, January 05, 2018 10:49 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie

<Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Hi Nancy,
OEM green lit these materials.

- Communications plan (Attached)
- Part of the Toolkit for states and ag associations
    - Facebook post
    - Tweets
    - one-page cheat sheet/FAQs (Attached. this is also being called the "fact sheet")
    - widget language

Facebook Posts for toolkit (non-EPA social media accounts)

- Many farmers with animal operations will soon be required to report emissions from animal waste. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with reporting requirements under CERCLA and EPCRA. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets for toolkit (non-EPA social media accounts)

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming soon! #animalwaste
- #DYK EPA has guidance to help farmers with animal operations comply with reporting requirements under CERCLA & EPCRA? Visit epa.gov/animalwaste or call 1-800-424-9346. #animalwaste

Tweets for our EPA accounts (@EPA and @EPALand)

- Many U.S. farms with animal operations will soon be required to report emissions from animal waste. To learn more, visit https://www.epa.gov/animalwaste or call 1-800-424-9346.

- Many farms with animal operations will soon need to report emissions from animal waste. Online tools are available to livestock producers to determine if this requirement applies to them & help them comply with the law. https://www.epa.gov/animalwaste.

PSA Script

Deliberative Process / Ex. 5

- *To learn more visit epa.gov/animalwaste or call 1-800-424-9346.*

Widget Revised language: Air Emissions from Agriculture Many farms with animal operations will soon be required to report emissions from animal waste. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

The preferred version of the widget is the one with the EPA logo and barn image.

Thanks,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 1/5/2018 3:48:33 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Thomas, Latosha [Thomas.Latosha@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials
Attachments: Animal Waste Emissions Reporting Reqs Comms Plan (DRAFT 1.4.18).docx; revised CERCLA EPCRA Farms Factsheet 1-4-18.docx

Hi Nancy,
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- Communications plan (Attached)
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Deliberative Process / Ex. 5

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The preferred version of the widget is the one with the EPA logo and barn image.

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U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Revised 1/4/18

DESCRIPTION OF ISSUE

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to:

- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
- Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), if the farms stable or confine fewer than a certain number of animals.

On April 11, 2017, the DC Circuit Court vacated this final rule.

In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. EPA requested an additional extension to develop guidance that would assist farmers in calculating and reporting releases from animal waste under CERCLA. The guidance was released on October 25, 2017, and requested public input. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. EPA is continuing to refine the guidance to assist farmers with reporting under CERCLA.

Once the mandate is issued, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than their reportable quantities within any 24-hour period must report such releases under CERCLA.

EPA interprets EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. Further explanation is on EPA's website.

EPA is working with agricultural trade associations and the Farm Bureau to convey the guidance information to owners and operators of farms with animals.

Timeframe: December 15, 2017 to February 21, 2018

TARGETED AUDIENCES

- Owners and Operators of farms with animals
- Agricultural Trade Associations focused on animals
- State, local, and tribal governments (including SERCs, LEPCs, and TERCs)
- USDA
- Environmental groups

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020422-00001

MESSENGER(S)

- OLEM - OEM / RID
- OLEM - OCPA
- OPA
- OCIR
- Regions

KEY MESSAGES

- Farmers with animal operations are required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).

- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).

RECOMMENDED ACTIVITIES

- News release to targeted agricultural focused outlets only
  - National Association of Farm Broadcasting (NAFB)
  - Agri-Pulse
  - Manure Manager
  - Farm Factor
  - Oklahoma Farm Report
  - Ag Annex
  - Agri-View
  - Morning Ag Clips
  - Ag Inspirations (This is the radio show of one of our AADG Participants)
  - Dairybusiness
  - Farm World Online
  - National Hog Farmer
  - AgWired
  - Farm Futures
  - AgriNews
  - Capital Press
  - Farm Journal
  - Harvest Public Media, KCUR

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- Modern Farmer
- Progressive Farmer
- Successful Farming

- Possible Release to Mainstream news outlets as well

- Web content updated with content that clearly communicates the new requirement for farmers to report.

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Outreach Activities

- OEM Listserv and External Notifications
  - Livestock Trade Associations:
    - National Cattleman's Beef Association
    - Arizona Cattle Growers Association
    - National Chicken Council
    - National Council of Farmer Cooperatives
    - National Turkey Federation
    - US Poultry and Egg Association
    - United Egg Producers
    - National Pork Producers Council
    - National Pork Board
    - National Milk Producers Federation
    - Mid-Atlantic Dairy Association
    - Nisei Farmers League
    - Innovation Center for US Dairy
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U.S. Environmental Protection Agency: OLEM / OEM
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1-22-18**		Post banner on epa.gov	Eileen Mayer, OEM & Jessica Orquina, OWC
1-22-18**	Afternoon	**Issue press release** to targeted outlets	Nancy Grantham, OPA

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020422-00006

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
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1-28-18		Notify PADS when video is posted	Nancy Grantham, OPA
1-28-18		Amplify video via social media	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs

*Requires amplification by regions

**This date or whatever date the Court issues its mandate

DRAFT

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 1/5/2018 3:40:18 PM
To: Franklin, Kathy [Franklin.Kathy@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Thanks Kathy for catching these. I have a reminder into OGC to get their comments to us ASAP.

Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Franklin, Kathy
Sent: Friday, January 05, 2018 10:25 AM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Some minor edits, attached. Do we need to get OGC to review?

Kathy Franklin
USEPA, Office of Emergency Management
WJ Clinton North Bldg., Rm. 6450G Mailcode 5104A
1200 Pennsylvania Ave. NW, Washington, DC 20460 (Zip 20004 for private courier delivery)
Phone: 202-564-7987
Email: franklin.kathy@epa.gov

From: Jennings, Kim
Sent: Friday, January 05, 2018 10:14 AM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Hi all,

I have incorporated comments from Kathy and Sicy, however, I have not changed the write-up for the NAEMS study since that is language from the Office of Air and they have approved it. It reflects the actions related to that study versus our actions under CERCLA/EPCRA.

Please take a look and let me know if you have any additional comments.

Thanks,
Kim

Kim Jennings

Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || Desk: (202) 564-7998 ||

From: Jacob, Sicy
Sent: Friday, January 05, 2018 9:41 AM
To: Franklin, Kathy <Franklin.Kathy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Additional comments: Rather than using AFOs, can we use "farms with animal operations"? USDA only define "farm" and their census data list "farms with cattle & calves, farms with hogs and pigs", etc.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Jacob, Sicy
Sent: Friday, January 05, 2018 9:09 AM
To: Franklin, Kathy <Franklin.Kathy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Hi I added comments on Kathy's version. See attached. Thanks.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Franklin, Kathy
Sent: Thursday, January 04, 2018 9:19 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

I have some edits, see attached

Kathy Franklin
USEPA, Office of Emergency Management
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1200 Pennsylvania Ave. NW, Washington, DC 20460 (Zip 20004 for private courier delivery)
Phone: 202-564-7987
Email: franklin.kathy@epa.gov

From: Gioffre, Patricia
Sent: Thursday, January 04, 2018 5:51 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Attached is a revised response. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

For question 4, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let me know if you have any other questions or concerns with this response.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Indermark, Michele
Sent: Thursday, January 04, 2018 3:08 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Patty and Kim,

My only thoughts are:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Thursday, January 04, 2018 2:40 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)
Importance: High

All- Please review the attached response to the questions posed by a bipartisan group of Senators on the CERCLA/EPCRA requirements. This response is due next week and we will need time to engage the OLEM front office, the ag advisor, and other senior policy leaders at EPA.

Allison/Bill/Robin- I developed a response on the emission methodology question based on language in the petition denial (so it should look very familiar).

Please reply all with any comments before COB on Friday, 1/5/18.

My apologies for the short turnaround on this request.

Best wishes!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Franklin, Kathy [Franklin.Kathy@epa.gov]
Sent: 1/5/2018 3:15:20 PM
To: Jacob, Sicy [Jacob.Sicy@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Correction: My interpretation that USDA had a definition of CAFO came from Google search. I did not explore this further yesterday. When I click on the source of that info, it comes from Wikipedia
https://en.wikipedia.org/wiki/Concentrated_animal_feeding_operation
but then the reference cited for that info by Wikipedia is a USDA document that discusses what a CAFO means for EPA water regulations.
https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/plantsanimals/livestock/afo/

The U.S. Environmental Protection Agency (EPA) defines AFOs as agricultural enterprises where animals are kept and raised in confined situations. AFOs congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland. There are approximately 450,000 AFOs in the United States.
A CAFO is another EPA term for a large concentrated AFO. A CAFO is an AFO with more than 1000 animal units (an animal unit is defined as an animal equivalent of 1000 pounds live weight and equates to 1000 head of beef cattle, 700 dairy cows, 2500 swine weighing more than 55 lbs, 125 thousand broiler chickens, or 82 thousand laying hens or pullets) confined on site for more than 45 days during the year. Any size AFO that discharges manure or wastewater into a natural or man-made ditch, stream or other waterway is defined as a CAFO, regardless of size. CAFOs are regulated by EPA under the Clean Water Act in both the 2003 and 2008 versions of the "CAFO" rule.

So disregard my comment that USDA has a definition for CAFO. Actually I guess our CERCLA reporting covers more than just AFOs (as defined by EPA water regs), since we will be saying that grazing animals are also covered.

Kathy Franklin
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Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Hi I added comments on Kathy's version. See attached. Thanks.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management

U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Franklin, Kathy
Sent: Thursday, January 04, 2018 9:19 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
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Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

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Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

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Deliberative Process / Ex. 5

For question 4, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let me know if you have any other questions or concerns with this response.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Indermark, Michele
Sent: Thursday, January 04, 2018 3:08 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>

Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Patty and Kim,

My only thoughts are:

-

-

Deliberative Process / Ex. 5

-

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Thursday, January 04, 2018 2:40 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)
Importance: High

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Please reply all with any comments before COB on Friday, 1/5/18.

My apologies for the short turnaround on this request.

Best wishes!

Patty Gioffre
US EPA/OLEM/OEM

202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Taylor, Trish [Taylor.Trish@epa.gov]
Sent: 1/5/2018 3:12:44 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Benjamin, Kent [Benjamin.Kent@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials
Attachments: revised CERCLA EPCRA Farms Factsheet 1-4-18.docx; Animal Waste Emissions Reporting Reqs Comms Plan (DRAFT 1.4.18).docx

FYSA

From: Taylor, Trish
Sent: Friday, January 05, 2018 9:51 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials

Good morning,

These are the communication materials I'm sending to OPA for review this a.m. Please let me know if there are any questions or concern prior to me sending them to Nancy G. at 11:00 a.m.

There are 2 outstanding pieces: the mini article (which will really just be a blurb, since it's 1-2 paragraphs, max) and the press release, which is least crucial at this point.

We also may need to revise the materials depending on the outcome of today's conf call with OEM, Ag Advisors and USDA. Patty will be on that call, right?

Deliberative Process / Ex. 5

Here's what I'm sending at 11am:

- Communications plan (Attached)
- Part of the Toolkit for states and ag associations
  - Facebook post
  - Tweets
  - one-page cheat sheet/FAQs (Attached. this is also being called the "fact sheet")
  - widget language

Facebook Posts for toolkit (non-EPA social media accounts)

- Many farmers with animal operations will soon be required to report emissions from animal waste. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with reporting requirements under CERCLA and EPCRA. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets for toolkit (non-EPA social media accounts)

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming soon! #animalwaste
- #DYK EPA has guidance to help farmers with animal operations comply with reporting requirements under CERCLA & EPCRA? Visit epa.gov/animalwaste or call 1-800-424-9346. #animalwaste

Tweets for our EPA accounts (@EPA and @EPALand)

- Many U.S. farms with animal operations will soon be required to report emissions from animal waste. To learn more, visit https://www.epa.gov/animalwaste or call 1-800-424-9346.

- Many farms with animal operations will soon need to report emissions from animal waste. Online tools are available to livestock producers to determine if this requirement applies to them & help them comply with the law. https://www.epa.gov/animalwaste.

PSA Script

Deliberative Process / Ex. 5

- *To learn more visit epa.gov/animalwaste or call 1-800-424-9346.*

Widget Revised language: Air Emissions from Agriculture Many farms with animal operations will soon be required to report emissions from animal waste. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

The preferred version of the widget is the one with the EPA logo and barn image.

Thanks,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Revised 1/4/18

DESCRIPTION OF ISSUE

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to:

- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
- Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), if the farms stable or confine fewer than a certain number of animals.

On April 11, 2017, the DC Circuit Court vacated this final rule.

In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. EPA requested an additional extension to develop guidance that would assist farmers in calculating and reporting releases from animal waste under CERCLA. The guidance was released on October 25, 2017, and requested public input. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. EPA is continuing to refine the guidance to assist farmers with reporting under CERCLA.

Once the mandate is issued, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than their reportable quantities within any 24-hour period must report such releases under CERCLA.

EPA interprets EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. Further explanation is on EPA's website.

EPA is working with agricultural trade associations and the Farm Bureau to convey the guidance information to owners and operators of farms with animals.

Timeframe: December 15, 2017 to February 21, 2018

TARGETED AUDIENCES

- Owners and Operators of farms with animals
- Agricultural Trade Associations focused on animals
- State, local, and tribal governments (including SERCs, LEPCs, and TERCs)
- USDA
- Environmental groups

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020433-00001

MESSENGER(S)

- OLEM - OEM / RID
- OLEM - OCPA
- OPA
- OCIR
- Regions

KEY MESSAGES

- Farmers with animal operations are required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).

- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).

RECOMMENDED ACTIVITIES

- News release to targeted agricultural focused outlets only
  - National Association of Farm Broadcasting (NAFB)
  - Agri-Pulse
  - Manure Manager
  - Farm Factor
  - Oklahoma Farm Report
  - Ag Annex
  - Agri-View
  - Morning Ag Clips
  - Ag Inspirations (This is the radio show of one of our AADG Participants)
  - Dairybusiness
  - Farm World Online
  - National Hog Farmer
  - AgWired
  - Farm Futures
  - AgriNews
  - Capital Press
  - Farm Journal
  - Harvest Public Media, KCUR

DRAFT

- Modern Farmer
- Progressive Farmer
- Successful Farming

- Possible Release to Mainstream news outlets as well

- Web content updated with content that clearly communicates the new requirement for farmers to report.

DRAFT

Outreach Activities

- OEM Listserv and External Notifications
  - Livestock Trade Associations:
    - National Cattleman's Beef Association
    - Arizona Cattle Growers Association
    - National Chicken Council
    - National Council of Farmer Cooperatives
    - National Turkey Federation
    - US Poultry and Egg Association
    - United Egg Producers
    - National Pork Producers Council
    - National Pork Board
    - National Milk Producers Federation
    - Mid-Atlantic Dairy Association
    - Nisei Farmers League
    - Innovation Center for US Dairy
    - Dairy Farmers of America
    - Dairy Management Inc.
    - Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
    - Cornell PRO-DAIRY Program
  - Industry
    - Seaboard Farms
    - Tyson Foods
  - Federal
    - USDA
  - State, Local and Tribal Officials
    - National Association of Sara Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
    - National Association of State Departments of Agriculture
    - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation

- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviros/NGOs
  - Sierra Club

- Congressional Notifications
  OCIR will provide e-mail notification to congressional committees with substantive jurisdiction:
  - Senate Environment and Public Works
  - Senate Agriculture
  - House Energy and Commerce
  - House Agriculture
  - OCFO will provide e-mail notification to congressional Appropriations committees

Internal Notifications

- Public Affairs (PADs)
- AAs and RAs
- AO Senior Ag Advisor's Office: Jeff Sands, Hema Subramanian
- Regional Ag Advisors
- Smart Sectors – Ag leads (Kristinn Sharpe, Elizabeth Corona)
- CERCLA EPCRA Guidance Workgroup members
- OAR and OW Animal Ag POCs: Robin Dunkins, Andrew Sawyers, Ross Brennan, Tom Wall, Lynda Hall
- NPDES and Compliance CAFO Coordinators
- CEPP regional coordinators
- Congressional liaisons

Collateral Materials	Responsible Party
• OEM/SERC-TERC Updates Listserv messages	Margaret Gérardin/Eileen Mayer
• Press release	Nancy Grantham, OPA
• Animal waste web update (requirements)	Eileen Mayer
• Agriculture web update	Ginah Mortenson/Carol Galloway (National Ag Center)
• EPA.gov banner	Eileen Mayer & OWC
• Toolkit	Region 8
• PSA	Region 8
• Video	Region 8
• Update existing guidance online (including FAQs)	Eileen Mayer/Patty Gioffre

DRAFT

DRAFT

TIMELINE

Due Date	Time	Action	Owner
12-19-17 12-29-17 1-2-18		Draft comms plan to AA for approval	Latosha Thomas, OEM Trish Taylor, OCPA
1-2-18	COB	Draft PSA script to OPA	Trish Taylor, OCPA
1-3-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-4-18		Record PSA	Nancy Grantham, OPA
1-4-18		Send PSA to PADs for radio station pitching	Nancy Grantham, OPA
1-3-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-4-18		Draft press release to AA for approval	Latosha Thomas, OEM
1-4-18		Develop toolkit. Toolkit includes: Facebook post language, Tweet language, short article they can include in their newsletters to members (one paragraph), one-page cheat sheet with FAQs, widget. OEM, OCPA, OGC, OPA will review.	Trish Taylor, OCPA Latosha Thomas, OEM
1-5-18		New boxed language for epa.gov/agriculture to direct traffic to epa.gov/animalwaste	OPA/OWC
1-8-18		Draft press release, web banner to OPA	Trish Taylor, OCPA
As needed		Update epa.gov/animalwaste (compliance requirements) with any needed changes	Eileen Mayer, OEM

U.S. Environmental Protection Agency: OLEM / OEM
Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
1-9-18		Send short email notifications to regional ag advisors on outreach efforts (toolkit) [Ag advisors will send to their different listservs, including states, which are different from others mentioned and may overlap some.]	Regional ag advisors/Jeff Sands (HQ Ag Advisor)
1-9-18		Send short email notifications to regional congressional contacts on outreach efforts (toolkit)	Pamela Janifer (coordinate with regions)
1-9-18		Send short email notifications to state emergency mangers on outreach efforts (toolkit). OPA will send a note to PADs to let RCs know when they can send.	All Regions (CEPP regional coordinators)/Nancy Grantham, OPA
Week of 1-9-18		**PAD Notification**	Nancy Grantham, OPA
Week of 1-9-18		**AA/RA Notification**	Becky Brooks, OLEM IO
Week of 1-9-18		**External Notification Call**: Pork Assoc (Re: farms'compliance)	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Livestock Trade Associations	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Farm Bureau	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** National Association of Sara Title III Officials, SERCs, TERCs	OPE or OEM/RID
1-16-18		Develop video on how to fill out continuous release form (Review by OEM, OCPA, OGC, OPA, PADs)	OPA
1-22-18**	(Before press release)	**Congressional e-mail notification**	Pamela Janifer, OCIR
1-22-18**	Afternoon (post- press release)	E-mail notification to livestock trade associations, Farm Bureau, State Ag contacts.	Margaret Gérardin, OEM Latosha Thomas, OEM
1-22-18**	Afternoon (post- press release)	OEM Listserv and SERC-TERC Updates Listserv	Margaret Gérardin, OEM Eileen Mayer, OEM
1-22-18**	Afternoon (post-press release)	Post press release on Twitter*	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs
1-22-18**		Post banner on epa.gov	Eileen Mayer, OEM & Jessica Orquina, OWC
1-22-18**	Afternoon	**Issue press release** to targeted outlets	Nancy Grantham, OPA

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020433-00006

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
1-28-18		Post video on how to fill out continuous release form & post to web page: epa.gov/animalwaste.	Eileen Mayer, OEM/PADs
1-28-18		Notify PADS when video is posted	Nancy Grantham, OPA
1-28-18		Amplify video via social media	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs

*Requires amplification by regions

**This date or whatever date the Court issues its mandate

DRAFT

Message

From: Roache, Brendan [Roache.Brendan@epa.gov]
Sent: 1/5/2018 3:09:39 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials
Attachments: revised CERCLA EPCRA Farms Factsheet 1-4-18.docx; Animal Waste Emissions Reporting Reqs Comms Plan (DRAFT 1.4.18).docx

You weren't on this email....Looping you in.

From: Taylor, Trish
Sent: Friday, January 05, 2018 9:51 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials

Good morning,

These are the communication materials I'm sending to OPA for review this a.m. Please let me know if there are any questions or concern prior to me sending them to Nancy G. at 11:00 a.m.

There are 2 outstanding pieces: the mini article (which will really just be a blurb, since it's 1-2 paragraphs, max) and the press release, which is least crucial at this point.

We also may need to revise the materials depending on the outcome of today's conf call with OEM, Ag Advisors and USDA. Patty will be on that call, right?

Deliberative Process / Ex. 5

Here's what I'm sending at 11am:

- Communications plan (Attached)
- Part of the Toolkit for states and ag associations
  - Facebook post
  - Tweets
  - one-page cheat sheet/FAQs (Attached. this is also being called the "fact sheet")
  - widget language

Facebook Posts for toolkit (non-EPA social media accounts)

- Many farmers with animal operations will soon be required to report emissions from animal waste. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with reporting requirements under CERCLA and EPCRA. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets for toolkit (non-EPA social media accounts)

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming soon! #animalwaste
- #DYK EPA has guidance to help farmers with animal operations comply with reporting requirements under CERCLA & EPCRA? Visit epa.gov/animalwaste or call 1-800-424-9346. #animalwaste

Tweets for our EPA accounts (@EPA and @EPALand)

- Many U.S. farms with animal operations will soon be required to report emissions from animal waste. To learn more, visit https://www.epa.gov/animalwaste or call 1-800-424-9346.

- Many farms with animal operations will soon need to report emissions from animal waste. Online tools are available to livestock producers to determine if this requirement applies to them & help them comply with the law. https://www.epa.gov/animalwaste.

PSA Script

Deliberative Process / Ex. 5

- *To learn more visit epa.gov/animalwaste or call 1-800-424-9346.*

Widget Revised language: Air Emissions from Agriculture Many farms with animal operations will soon be required to report emissions from animal waste. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

The preferred version of the widget is the one with the EPA logo and barn image.

Thanks,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

U.S. Environmental Protection Agency: OLEM / OEM
Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Revised 1/4/18
DESCRIPTION OF ISSUE

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to:

- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
- Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), if the farms stable or confine fewer than a certain number of animals.

On April 11, 2017, the DC Circuit Court vacated this final rule.

In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. EPA requested an additional extension to develop guidance that would assist farmers in calculating and reporting releases from animal waste under CERCLA. The guidance was released on October 25, 2017, and requested public input. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. EPA is continuing to refine the guidance to assist farmers with reporting under CERCLA.

Once the mandate is issued, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than their reportable quantities within any 24-hour period must report such releases under CERCLA.

EPA interprets EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. Further explanation is on EPA's website.

EPA is working with agricultural trade associations and the Farm Bureau to convey the guidance information to owners and operators of farms with animals.

Timeframe: December 15, 2017 to February 21, 2018

TARGETED AUDIENCES

- Owners and Operators of farms with animals
- Agricultural Trade Associations focused on animals
- State, local, and tribal governments (including SERCs, LEPCs, and TERCs)
- USDA
- Environmental groups

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020436-00001

MESSENGER(S)

- OLEM - OEM / RID
- OLEM - OCPA
- OPA
- OCIR
- Regions

KEY MESSAGES

- Farmers with animal operations are required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).

- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).

RECOMMENDED ACTIVITIES

- News release to targeted agricultural focused outlets only
  - National Association of Farm Broadcasting (NAFB)
  - Agri-Pulse
  - Manure Manager
  - Farm Factor
  - Oklahoma Farm Report
  - Ag Annex
  - Agri-View
  - Morning Ag Clips
  - Ag Inspirations (This is the radio show of one of our AADG Participants)
  - Dairybusiness
  - Farm World Online
  - National Hog Farmer
  - AgWired
  - Farm Futures
  - AgriNews
  - Capital Press
  - Farm Journal
  - Harvest Public Media, KCUR

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- Modern Farmer
- Progressive Farmer
- Successful Farming

- Possible Release to Mainstream news outlets as well

- Web content updated with content that clearly communicates the new requirement for farmers to report.

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Outreach Activities

- OEM Listserv and External Notifications
  - Livestock Trade Associations:
    - National Cattleman's Beef Association
    - Arizona Cattle Growers Association
    - National Chicken Council
    - National Council of Farmer Cooperatives
    - National Turkey Federation
    - US Poultry and Egg Association
    - United Egg Producers
    - National Pork Producers Council
    - National Pork Board
    - National Milk Producers Federation
    - Mid-Atlantic Dairy Association
    - Nisei Farmers League
    - Innovation Center for US Dairy
    - Dairy Farmers of America
    - Dairy Management Inc.
    - Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
    - Cornell PRO-DAIRY Program
  - Industry
    - Seaboard Farms
    - Tyson Foods
  - Federal
    - USDA
  - State, Local and Tribal Officials
    - National Association of Sara Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
    - National Association of State Departments of Agriculture
    - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation

- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviros/NGOs
  - Sierra Club

- Congressional Notifications
  OCIR will provide e-mail notification to congressional committees with substantive jurisdiction:
  - Senate Environment and Public Works
  - Senate Agriculture
  - House Energy and Commerce
  - House Agriculture
  - OCFO will provide e-mail notification to congressional Appropriations committees

Internal Notifications

- Public Affairs (PADs)
- AAs and RAs
- AO Senior Ag Advisor's Office: Jeff Sands, Hema Subramanian
- Regional Ag Advisors
- Smart Sectors – Ag leads (Kristinn Sharpe, Elizabeth Corona)
- CERCLA EPCRA Guidance Workgroup members
- OAR and OW Animal Ag POCs: Robin Dunkins, Andrew Sawyers, Ross Brennan, Tom Wall, Lynda Hall
- NPDES and Compliance CAFO Coordinators
- CEPP regional coordinators
- Congressional liaisons

Collateral Materials	Responsible Party
• OEM/SERC-TERC Updates Listserv messages	Margaret Gérardin/Eileen Mayer
• Press release	Nancy Grantham, OPA
• Animal waste web update (requirements)	Eileen Mayer
• Agriculture web update	Ginah Mortenson/Carol Galloway (National Ag Center)
• EPA.gov banner	Eileen Mayer & OWC
• Toolkit	Region 8
• PSA	Region 8
• Video	Region 8
• Update existing guidance online (including FAQs)	Eileen Mayer/Patty Gioffre

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DRAFT

TIMELINE

Due Date	Time	Action	Owner
12-19-17 12-29-17 1-2-18		Draft comms plan to AA for approval	Latosha Thomas, OEM Trish Taylor, OCPA
1-2-18	COB	Draft PSA script to OPA	Trish Taylor, OCPA
1-3-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-4-18		Record PSA	Nancy Grantham, OPA
1-4-18		Send PSA to PADs for radio station pitching	Nancy Grantham, OPA
1-3-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-4-18		Draft press release to AA for approval	Latosha Thomas, OEM
1-4-18		Develop toolkit. Toolkit includes: Facebook post language, Tweet language, short article they can include in their newsletters to members (one paragraph), one-page cheat sheet with FAQs, widget. OEM, OCPA, OGC, OPA will review.	Trish Taylor, OCPA Latosha Thomas, OEM
1-5-18		New boxed language for epa.gov/agriculture to direct traffic to epa.gov/animalwaste	OPA/OWC
1-8-18		Draft press release, web banner to OPA	Trish Taylor, OCPA
As needed		Update epa.gov/animalwaste (compliance requirements) with any needed changes	Eileen Mayer, OEM

U.S. Environmental Protection Agency: OLEM / OEM
Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
1-9-18		Send short email notifications to regional ag advisors on outreach efforts (toolkit) [Ag advisors will send to their different listservs, including states, which are different from others mentioned and may overlap some.]	Regional ag advisors/Jeff Sands (HQ Ag Advisor)
1-9-18		Send short email notifications to regional congressional contacts on outreach efforts (toolkit)	Pamela Janifer (coordinate with regions)
1-9-18		Send short email notifications to state emergency mangers on outreach efforts (toolkit). OPA will send a note to PADs to let RCs know when they can send.	All Regions (CEPP regional coordinators)/Nancy Grantham, OPA
Week of 1-9-18		**PAD Notification**	Nancy Grantham, OPA
Week of 1-9-18		**AA/RA Notification**	Becky Brooks, OLEM IO
Week of 1-9-18		**External Notification Call**: Pork Assoc (Re: farms'compliance)	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Livestock Trade Associations	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Farm Bureau	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** National Association of Sara Title III Officials, SERCs, TERCs	OPE or OEM/RID
1-16-18		Develop video on how to fill out continuous release form (Review by OEM, OCPA, OGC, OPA, PADs)	OPA
1-22-18**	(Before press release)	**Congressional e-mail notification**	Pamela Janifer, OCIR
1-22-18**	Afternoon (post- press release)	E-mail notification to livestock trade associations, Farm Bureau, State Ag contacts.	Margaret Gérardin, OEM Latosha Thomas, OEM
1-22-18**	Afternoon (post- press release)	OEM Listserv and SERC-TERC Updates Listserv	Margaret Gérardin, OEM Eileen Mayer, OEM
1-22-18**	Afternoon (post-press release)	Post press release on Twitter*	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs
1-22-18**		Post banner on epa.gov	Eileen Mayer, OEM & Jessica Orquina, OWC
1-22-18**	Afternoon	**Issue press release** to targeted outlets	Nancy Grantham, OPA

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020436-00006

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
1-28-18		Post video on how to fill out continuous release form & post to web page: epa.gov/animalwaste.	Eileen Mayer, OEM/PADs
1-28-18		Notify PADS when video is posted	Nancy Grantham, OPA
1-28-18		Amplify video via social media	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs

*Requires amplification by regions

**This date or whatever date the Court issues its mandate

DRAFT

Message

From: Jacob, Sicy [Jacob.Sicy@epa.gov]
Sent: 1/5/2018 2:08:45 PM
To: Franklin, Kathy [Franklin.Kathy@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)
Attachments: AL 18 000 2865 Draft Reply 1-4-2018 v2 KF edits Sicy's comments.docx

Hi I added comments on Kathy's version. See attached. Thanks.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Franklin, Kathy
Sent: Thursday, January 04, 2018 9:19 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

I have some edits, see attached

Kathy Franklin
USEPA, Office of Emergency Management
WJ Clinton North Bldg., Rm. 6450G Mailcode 5104A
1200 Pennsylvania Ave. NW, Washington, DC 20460 (Zip 20004 for private courier delivery)
Phone: 202-564-7987
Email: franklin.kathy@epa.gov

From: Gioffre, Patricia
Sent: Thursday, January 04, 2018 5:51 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Attached is a revised response. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

For question 4 Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let me know if you have any other questions or concerns with this response.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Indermark, Michele
Sent: Thursday, January 04, 2018 3:08 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Patty and Kim,

My only thoughts are:

- Deliberative Process / Ex. 5
-
-

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Thursday, January 04, 2018 2:40 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy

<Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)
Importance: High

All- Please review the attached response to the questions posed by a bipartisan group of Senators on the CERCLA/EPCRA requirements. This response is due next week and we will need time to engage the OLEM front office, the ag advisor, and other senior policy leaders at EPA.

Allison/Bill/Robin- I developed a response on the emission methodology question based on language in the petition denial (so it should look very familiar).

Please reply all with any comments before COB on Friday, 1/5/18.

My apologies for the short turnaround on this request.

Best wishes!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 1/5/2018 1:52:28 PM
To: Dunkins, Robin [Dunkins.Robin@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Costa, Allison [Costa.Allison@epa.gov]; Schrock, Bill [Schrock.Bill@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Thanks Robin for the quick review.

Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Dunkins, Robin
Sent: Friday, January 05, 2018 8:48 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Re: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

We're fine with your response Patty.

Robin Dunkins, Group Leader
Natural Resources Group
OAR/OAQPS/SPPD Mail Code E143-03
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711
919-541-5335 office
919-605-1178 cell
dunkins.robin@epa.gov

On Jan 4, 2018, at 2:40 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> All- Please review the attached response to the questions posed by a bipartisan group of Senators on the CERCLA/EPCRA requirements. This response is due next week and we will need time to engage the OLEM front office, the ag advisor, and other senior policy leaders at EPA.
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> My apologies for the short turnaround on this request.

Best wishes!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

<CMS_18-000-2865_CERCLA-EPCRA Air Emissions.pdf>

<AL 18 000 2865 Draft Reply 1-4-2018.docx>

Message

From: Franklin, Kathy [Franklin.Kathy@epa.gov]
Sent: 1/5/2018 2:19:21 AM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)
Attachments: AL 18 000 2865 Draft Reply 1-4-2018 v2 KF edits.docx

I have some edits, see attached

Kathy Franklin
USEPA, Office of Emergency Management
WJ Clinton North Bldg., Rm. 6450G Mailcode 5104A
1200 Pennsylvania Ave. NW, Washington, DC 20460 (Zip 20004 for private courier delivery)
Phone: 202-564-7987
Email: franklin.kathy@epa.gov

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Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
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Attached is a revised response Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

For question 4, Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let me know if you have any other questions or concerns with this response.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

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To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)

Patty and Kim,

My only thoughts are:

-

-

Deliberative Process / Ex. 5

-

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Thursday, January 04, 2018 2:40 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Urgent-Review requested-Congressional response on CERCLA/EPCRA (CMS- AL-18-000-2865)
Importance: High

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Please reply all with any comments before COB on Friday, 1/5/18.

My apologies for the short turnaround on this request.

Best wishes!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

«Title» «First_Name__I» «Last_Name»
«Organization»
«City», «State» «Zip_code»

Dear «Salutation» «Last_Name»:

Thank you for your December 21, 2017 letter regarding constituents' questions and concerns about the EPA guidance for reporting of air emissions from animal waste.

On December 18, 2008, EPA published a final rule that exempted most farms from certain release reporting requirements under the Comprehensive Environmental, Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right to Know Act (EPCRA). Specifically, the rule exempted farms releasing hazardous substances from animal waste to the air above threshold levels from reporting under CERCLA.

A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. No ~~reporting is required until the Court issues its order, or mandate, enforcing the April 11, 2017 decision.~~ The court is expected to issue the mandate on January 22, 2018. No reporting is necessary until the mandate is issued.

Commented [FK1]: The two sentences I added are verbatim from the right hand box on our guidance webpage. I thought we should make it clear here that there is an extension of time to report (I know we also mention in one of the answers to a question).

EPA has actively engaged the agricultural community to develop interim guidance for CERCLA reporting. We coordinated with key agriculture and livestock trade associations to understand their stakeholders' concerns and to address those issues. The interim guidance includes information on the steps involved in reporting continuous releases of hazardous substances as well as resources to assist farmers in estimating emissions from animal waste. EPA made the interim guidance available in October 2017 and requested comments from stakeholders on how to improve that guidance. EPA is in the process of reviewing those comments and revising the guidance.

The enclosure provides responses to the specific questions in your letter.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at Levine.Carolyn@epa.gov or 202-564-1959.

Sincerely,

Barry N. Breen
Principal Deputy Assistant Administrator

Enclosure

1. **How are you working with farmers and others in the regulated community to help them identify whether they are subject to any new reporting requirements?**

   EPA has been working primarily with state agricultural representatives and agricultural trade associations to get the word out to farmers on the upcoming reporting requirements. EPA worked with key agriculture and livestock trade associations to develop interim guidance to assist farmers in reporting air releases of hazardous substances from animal waste at farms. This guidance includes links to resources that farmers can use to calculate emissions tailored to specific species of livestock. EPA also has an information center available to assist with technical questions regarding the reporting requirements. EPA's guidance also explains that it interprets the EPCRA statute to exclude farms that use hazardous substances in "routine agricultural operations" from EPCRA section 304 release reporting. Thus farms are not required to report any releases of EPCRA extremely hazardous chemicals or CERCLA hazardous substance from routine agricultural activities, including any releases from animal or animal waste. EPA intends to conduct a rulemaking to clarify its interpretation of "used in routine agricultural operations" as it pertains to EPCRA reporting requirements.

   Deliberative Process / Ex. 5

   In light of the D.C. Circuit's ruling more than eight months ago, do you expect to take any further administrative action to clarify the size or levels of emissions produced by farming operations that might be covered by these requirements?

   To better understand and evaluate emissions from ~~C~~Animal Feeding Operations (AFOs), the EPA has been undertaking the National Air Emissions Monitoring Study (NAEMS). The study is a fundamental step that the agency intends to complete in order to determine how to best address emissions from ~~concentrated animal feeding operations (C~~AFOs~~)~~ within the Clean Air Act's regulatory framework. NAEMS will help the agency develop methodologies to estimate emissions of ammonia, hydrogen sulfide, PM and VOC from a wide variety of types of ~~C~~AFOs. These methodologies can better inform the estimation of emissions and exposures related to point sources located at these operations. The EPA is unable to provide emission estimating methodologies until NAEMS is complete.

   Commented [FK3]: I don't know whether we should use the term AFOs or CAFOs. The information on the NAEMS webpage uses the tern AFOs. CAFO could be interpreted to mean the USDA meaning which is farm that has over 1000 "animal units" confined for over 45 days a year. Although I note EPA used the tern CAFO in its recent response to CAA section 111 petition, perhaps because the petitioners specified used the term CAFO in requesting that EPA regulate this industry under the CAA.

   Do you anticipate further requesting a delay in the compliance deadline, in order to do so?

   At this time, EPA does not expect to request an additional delay of the mandate. The EPA previously requested the D.C. Circuit court delay the mandate on two separate occasions to allow time for the agency to develop guidance and a streamlined continuous release reporting form. The court delayed the mandate to January 22, 2018.

2. **What other federal, state, and local partners are you working with to assist farmers in understanding any new reporting obligations? How are you working with the, United States, Department of Agriculture in this regard?**

   The EPA has been working with several federal, state and local partners to assist farmers in understanding the CERCLA reporting requirements. At the federal level EPA has been coordinating with the United States Coast Guard National Response Center (or NRC) to provide consistent outreach to farmers who are required to notify the NRC of an initial continuous release. EPA regional agricultural advisors have been working with state and local agricultural contacts to reach out to the agricultural community, educate them on the reporting requirements, and respond to questions and concerns. This includes coordination with USDA extension services to reach out to farmers.

3. **As we mentioned, some of our constituents have expressed to us that the current, reporting process and methodology is confusing. What steps are you taking to simplify your guidance and streamline, the reporting process?**

If a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, the farm may follow a streamlined reporting process known as "continuous release reporting." rather than report to the NRC every 24-hour period in which a release exceeds its RQ. This requires the facility owner or operator to:

- Notify the NRC Make an initial continuous release notification to the NRC ;
- Submit an initial written notification to the EPA Regional Office; and
- One year later submit an additional follow-up written notification to the EPA Regional Office.

Commented [FK4]: Changing this so it relates better to discussion of these steps later on in the response letter.

The EPA developed interim guidance to assist farmers to comply with the continuous release reporting requirements. This guidance includes information on the steps involved in reporting continuous releases as well as resources to assist farmers in estimating emissions from animal waste.

EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time. CERCLA section 103 allows "continuous releases" to be reported in ranges. Farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.

EPA requested comments from regulated-stakeholders on how to improve this interim guidance and we are currently reviewing those comments and revising the guidance. EPA is also developing a streamlined continuous release reporting form specifically for farmers to simplify the written notificationreporting process to the EPA Regional Office.

Commented [FK5]: I am trying to keep language consistent with words used in the Steps 1-3 we mention earlier.

4. **For farmers who may have limited access to the internet, what steps are you taking to assist these individuals in meeting any new reporting requirements?**

The continuous release reporting requirements include an initial continuous release notification to the NRC followed byand an initial follow-up written notification to the EPA Regional Office, with a written follow-up report to EPA one year later.

Commented [FK6]: The follow-up is the term used in Step 3, the one year anniversary report.

The NRC is exploring solutions to ensure that the initial continuous release reporting to the NRC continues to run smoothly, while also ensuring that the NRC maintains its vital ability to receive actionable reports requiring immediate On-Scene Coordinator action. The National Response Center (NRC) is exploring a solution through its Automated Call Distribution software that will allow farmers with limited access to the Internet to make the NRCan initial continuous release notificationreport via telephone.

EPA has been coordinating with agricultural trade organizations to assist EPA in communicating reporting requirements to the agricultural community. The EPA has also developed an outreach toolkit for our regional staff to use to communicate reporting requirements to the agricultural community as well as a public service announcement for distribution to agricultural radio stations.

EPA is also developing a streamlined continuous release reporting form for farm facility owners and operators to submit to the EPA Regional Office. EPA plans to make the streamlined continuous release reportingthis form for farms available on our website once completed and we will work with our federal, state, local and industry partners to make this form available to individuals with limited access to the internet. Once the farmer completes the form, it can be mailed to the EPA Regional Office.

Commented [FK7]: We already mentioned this previously.

For those that do have such access, what steps are your taking to simplify reporting?

EPA developed guidance and is in the process of completing a streamlined continuous release reporting form to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA has developed a simpler link to access the guidance (www.epa.gov/animalwaste) and EPA has worked

with the NRC to simplify the email address for submitting initial continuous release notifications (farms@uscg.mil).

Finally, EPA and the NRC worked together to include guidance for the reporting emissions from animal waste on the NRC website to assist farmers on next steps after making the initial NRC notification (http://www.nrc.uscg.mil).

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 1/4/2018 11:26:16 PM
To: Hyman Moore, Julie [Hyman.Julie@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]
Subject: Animal Waste Update
Attachments: CERCLA EPCRA Factsheet 1-4-18.docx; Animal Waste Press Release (DRAFT - 1.22.18).docx; Draft Article for Animal Waste.docx; Animal Waste Emissions Reporting Requirements Communications Plan (DRAFT 1.22.17).docx

Importance: High

Hi All,

As you can imagine, there has been a bunch of back and forth all day related to the comms materials. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 OLEM will most likely request these materials tomorrow, and they only want the final versions of everything together. Since I'm compressed tomorrow, please contact Patty or Kim if you have questions. Thanks!

Updates from Patty:

- Deliberative Process / Ex. 5
- Deliberative Process / Ex. 5

Note: OLEM really wants us to have the small article for the toolkit, even though we suggested not including it. The current version Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Facetweets for Toolkit (Facebook posts + Tweets. Please be aware that any revisions to tweets must not go over 280 characters.)

Posts for toolkit that will be sent out by states + ag associations on their social media accounts prior to the Court issuing its mandate. Will not be sent by EPA.

Facebook Posts

- Many farmers with animal operations will soon be required to report emissions from animal waste. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with reporting requirements under CERCLA and EPCRA. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming soon! #animalwaste
- #DYK EPA has guidance to help farmers with animal operations comply with reporting requirements under CERCLA & EPCRA? Visit epa.gov/animalwaste or call 1-800-424-9346. #animalwaste

Additional Social Media

Posts that will be sent by EPA to its social media accounts before the Court issues its mandate. Not sent by states.

- Many farms with animal operations across the country will soon be required to report emissions from animal waste. To learn more, visit https://www.epa.gov/animalwaste or call 1-800-424-9346.

- Many farms with animal operations will soon need to report emissions from animal waste. Online tools are available to livestock producers to determine if this requirement applies to them & help them comply with the law. https://www.epa.gov/animalwaste.

PSA Script

- *Many farms with animal operations across the United States will soon be required to report emissions from animal waste.*
- *EPA had exempted most farms from this requirement under the EPCRA and CERCLA laws but due to a recent lawsuit, the courts eliminated this exemption.*
- *EPA has tools to help livestock producers determine if this requirement applies to their operations and help them comply with the law.*
- *To learn more visit* epa.gov/animalwaste *or call 1-800-424-9346.*

Widget

Revised language: Many farms with animal operations will soon be required to report emissions from animal waste.

VERSION 1 – EPA seal & background image:

VERSION 2 – no image/shaded background:

Air Emissions from Agriculture

Starting January 22, many U.S. livestock producers will be required to report air releases from animal waste.

Learn about this requirement.

Compliance assistance: 800-424-9346

VERSION 3 – small size:

Air Emissions from Agriculture

Starting January 22, many U.S. livestock producers will be required to report air releases from animal waste.

Learn about this requirement.

Compliance assistance: 800-424-9346

Latosha Thomas
U.S. Environmental Protection Agency
Office of Emergency Management
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Revised 1/4/18

DESCRIPTION OF ISSUE

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to:

- Section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and
- Section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA), if the farms stable or confine fewer than a certain number of animals.

On April 11, 2017, the DC Circuit Court vacated this final rule.

In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. EPA requested an additional extension to develop guidance that would assist farmers in calculating and reporting releases from animal waste under CERCLA. The guidance was released on October 25, 2017, and requested public input. On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018. EPA is continuing to refine the guidance to assist farmers with reporting under CERCLA.

Once the mandate is issued, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than their reportable quantities within any 24-hour period must report such releases under CERCLA.

EPA interprets EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. Further explanation is on EPA's website.

EPA is working with agricultural trade associations and the Farm Bureau to convey the guidance information to owners and operators of farms with animals.

Timeframe: December 15, 2017 to February 21, 2018

TARGETED AUDIENCES

- Owners and Operators of farms with animals
- Agricultural Trade Associations focused on animals
- State, local, and tribal governments (including SERCs, LEPCs, and TERCs)
- USDA
- Environmental groups

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020446-00001

MESSENGER(S)

- OLEM - OEM / RID
- OLEM - OCPA
- OPA
- OCIR
- Regions

KEY MESSAGES

- Farmers with animal operations are required to begin reporting emissions of hazardous substances from animal waste that are equal to or greater than a certain threshold when the court issues its mandate (January 22, 2017 or later).

- EPA has issued guidance that is available online to assist farmers in estimating their air releases and reporting under CERCLA for air releases of hazardous substances from animal waste at farms (EPA's website also contains EPA's preliminary interpretation of EPCRA to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304).

RECOMMENDED ACTIVITIES

- News release to targeted agricultural focused outlets only
  - National Association of Farm Broadcasting (NAFB)
  - Agri-Pulse
  - Manure Manager
  - Farm Factor
  - Oklahoma Farm Report
  - Ag Annex
  - Agri-View
  - Morning Ag Clips
  - Ag Inspirations (This is the radio show of one of our AADG Participants)
  - Dairybusiness
  - Farm World Online
  - National Hog Farmer
  - AgWired
  - Farm Futures
  - AgriNews
  - Capital Press
  - Farm Journal
  - Harvest Public Media, KCUR

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- Modern Farmer
- Progressive Farmer
- Successful Farming

- Possible Release to Mainstream news outlets as well

- Web content updated with content that clearly communicates the new requirement for farmers to report.

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Outreach Activities

- OEM Listserv and External Notifications
  - Livestock Trade Associations:
    - National Cattleman's Beef Association
    - Arizona Cattle Growers Association
    - National Chicken Council
    - National Council of Farmer Cooperatives
    - National Turkey Federation
    - US Poultry and Egg Association
    - United Egg Producers
    - National Pork Producers Council
    - National Pork Board
    - National Milk Producers Federation
    - Mid-Atlantic Dairy Association
    - Nisei Farmers League
    - Innovation Center for US Dairy
    - Dairy Farmers of America
    - Dairy Management Inc.
    - Livestock and Poultry Environmental Learning Center (extension agents at land grant universities)
    - Cornell PRO-DAIRY Program
  - Industry
    - Seaboard Farms
    - Tyson Foods
  - Federal
    - USDA
  - State, Local and Tribal Officials
    - National Association of Sara Title III Officials (NASTTPO), State Emergency Response Commissions (SERCs), Tribal Emergency Response Commissions (TERCs), Local Emergency Planning Committees (LEPCs)
    - National Association of State Departments of Agriculture
    - National Association of Clean Air Agencies – Agriculture Committee
  - American Farm Bureau Federation

- Agricultural Retailers Association (ARA)
- The Fertilizer Institute (TFI)
- National Farmers Union
- National Association of Conservation Districts (NACD)
- Enviros/NGOs
  - Sierra Club

- Congressional Notifications
  OCIR will provide e-mail notification to congressional committees with substantive jurisdiction:
  - Senate Environment and Public Works
  - Senate Agriculture
  - House Energy and Commerce
  - House Agriculture
  - OCFO will provide e-mail notification to congressional Appropriations committees

Internal Notifications

- Public Affairs (PADs)
- AAs and RAs
- AO Senior Ag Advisor's Office: Jeff Sands, Hema Subramanian
- Regional Ag Advisors
- Smart Sectors – Ag leads (Kristinn Sharpe, Elizabeth Corona)
- CERCLA EPCRA Guidance Workgroup members
- OAR and OW Animal Ag POCs: Robin Dunkins, Andrew Sawyers, Ross Brennan, Tom Wall, Lynda Hall
- NPDES and Compliance CAFO Coordinators
- CEPP regional coordinators
- Congressional liaisons

Collateral Materials	Responsible Party
• OEM/SERC-TERC Updates Listserv messages	Margaret Gérardin/Eileen Mayer
• Press release	Nancy Grantham, OPA
• Animal waste web update (requirements)	Eileen Mayer
• Agriculture web update	Ginah Mortenson/Carol Galloway (National Ag Center)
• EPA.gov banner	Eileen Mayer & OWC
• Toolkit	Region 8
• PSA	Region 8
• Video	Region 8
• Update existing guidance online (including FAQs)	Eileen Mayer/Patty Gioffre

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TIMELINE

Due Date	Time	Action	Owner
12-19-17 12-29-17 1-2-18		Draft comms plan to AA for approval	Latosha Thomas, OEM Trish Taylor, OCPA
1-2-18	COB	Draft PSA script to OPA	Trish Taylor, OCPA
1-3-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-4-18		Record PSA	Nancy Grantham, OPA
1-4-18		Send PSA to PADs for radio station pitching	Nancy Grantham, OPA
1-3-18		Draft comms plan to OPA	Trish Taylor, OCPA
1-4-18		Draft press release to AA for approval	Latosha Thomas, OEM
1-4-18		Develop toolkit. Toolkit includes: Facebook post language, Tweet language, short article they can include in their newsletters to members (one paragraph), one-page cheat sheet with FAQs, widget. OEM, OCPA, OGC, OPA will review.	Trish Taylor, OCPA Latosha Thomas, OEM
1-5-18		New boxed language for epa.gov/agriculture to direct traffic to epa.gov/animalwaste	OPA/OWC
1-8-18		Draft press release, web banner to OPA	Trish Taylor, OCPA
As needed		Update epa.gov/animalwaste (compliance requirements) with any needed changes	Eileen Mayer, OEM

U.S. Environmental Protection Agency: OLEM / OEM
Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
1-9-18		Send short email notifications to regional ag advisors on outreach efforts (toolkit) [Ag advisors will send to their different listservs, including states, which are different from others mentioned and may overlap some.]	Regional ag advisors/Jeff Sands (HQ Ag Advisor)
1-9-18		Send short email notifications to regional congressional contacts on outreach efforts (toolkit)	Pamela Janifer (coordinate with regions)
1-9-18		Send short email notifications to state emergency mangers on outreach efforts (toolkit). OPA will send a note to PADs to let RCs know when they can send.	All Regions (CEPP regional coordinators)/Nancy Grantham, OPA
Week of 1-9-18		**PAD Notification**	Nancy Grantham, OPA
Week of 1-9-18		**AA/RA Notification**	Becky Brooks, OLEM IO
Week of 1-9-18		**External Notification Call**: Pork Assoc (Re: farms'compliance)	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Livestock Trade Associations	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** Farm Bureau	OPE or OEM/RID
Week of 1-9-18		**External Notification Call:** National Association of Sara Title III Officials, SERCs, TERCs	OPE or OEM/RID
1-16-18		Develop video on how to fill out continuous release form (Review by OEM, OCPA, OGC, OPA, PADs)	OPA
1-22-18**	(Before press release)	**Congressional e-mail notification**	Pamela Janifer, OCIR
1-22-18**	Afternoon (post- press release)	E-mail notification to livestock trade associations, Farm Bureau, State Ag contacts.	Margaret Gérardin, OEM Latosha Thomas, OEM
1-22-18**	Afternoon (post- press release)	OEM Listserv and SERC-TERC Updates Listserv	Margaret Gérardin, OEM Eileen Mayer, OEM
1-22-18**	Afternoon (post-press release)	Post press release on Twitter*	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs
1-22-18**		Post banner on epa.gov	Eileen Mayer, OEM & Jessica Orquina, OWC
1-22-18**	Afternoon	**Issue press release** to targeted outlets	Nancy Grantham, OPA

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020446-00006

U.S. Environmental Protection Agency: OLEM / OEM

Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste

Due Date	Time	Action	Owner
1-28-18		Post video on how to fill out continuous release form & post to web page: epa.gov/animalwaste.	Eileen Mayer, OEM/PADs
1-28-18		Notify PADS when video is posted	Nancy Grantham, OPA
1-28-18		Amplify video via social media	Jessica Orquina, OWC/Trish Taylor, OCPA/PADs

*Requires amplification by regions

**This date or whatever date the Court issues its mandate

DRAFT

1/22/2018

Contact Information:
XXXX

DRAFT

Farms Are Now Required to Report Air Releases of Hazardous Substances from Animal Waste

WASHINGTON – Today the U.S. Environmental Protection Agency (EPA) announced that farmers with animal operations, which includes ranchers, must begin reporting air releases of hazardous substances from animal waste. The action is based on the DC Circuit Court's decision to vacate an EPA final rule that exempted most farmers from reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right to Know Act (EPCRA).

"EPA will work with farmers and ranchers to provide guidance to assist them with reporting emissions from animal waste," said EPA Administrator Scott Pruitt. "The Agency wants to make certain that it is providing farmers with the necessary resources to make the reporting process as easy as possible."

If a farm with animal operations has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, the farmer may follow a streamlined reporting process known as "continuous release reporting." This reporting process involves three steps. The first step is to notify the National Response Center (NRC) of an initial continuous release. The NRC has established a primary notification option for farmers via email to ensure they do not experience long wait times by phone. The notification by email or phone must include the name of the farm, its location, and the name(s) of the hazardous substance(s) released. The second step requires an initial written notification to the EPA regional office for the location where the release occurs. The written notification must be sent within 30 days of the NRC notification. The last step involves sending a one-time first anniversary follow-up report to the EPA regional office. Additional reporting may be required following any significant changes in operations that could increase emissions.

In December 2008, EPA published a final rule that excluded most farms with animal operations from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated the rule. Based on requests from EPA to develop guidance to assist farmers with reporting, the Court delayed issuing the mandate on two separate occasions.

For the guidance and more information about reporting requirements, please visit: https://www.epa.gov/animalwaste.

United States Environmental Protection Agency

Office of Land and Emergency Management

520-F-17-001
January 2018
www.epa.gov/animalwaste

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

Overview

In 2008, EPA published a final rule that exempted farms from reporting hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and only large concentrated animal feeding operations (or CAFOs) were subject to the Emergency Planning and Community Right to Know Act (EPCRA) reporting. A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the DC Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms.

What needs to be reported?

Typical hazardous substances associated with animal wastes include ammonia (NH_3) and hydrogen sulfide (H_2S). Both have a reportable quantity (RQ) of 100 pounds. If a farm releases ammonia and/or hydrogen sulfide in amounts ≥ the RQ (100 lbs) within a 24-hour period, then the farm owner or operator must notify the National Response Center (NRC).

Why do I have to comply?

A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the DC Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms.

When do I have to comply?

Farms do not have to begin reporting until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017. The court is expected to issue the mandate on January 22, 2018. No reporting is necessary until the mandate is issued.

How do I report for CERCLA?

Farms with animal operations must comply with CERCLA section 103 reporting requirements for air releases of hazardous substances from animal waste at their farms. Farms may follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to:

- Notify the NRC at: farms@uscg.mil. See **CERCLA Reporting Process.**
- Submit an initial written notification to the EPA Regional Office (Continuous Release Reporting Form); and
- One year later submit an additional follow-up written notification to the EPA Regional Office.

CERCLA Continuous Release Reporting Process

Step 1: Provide the 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) release (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: Submit an initial written notification to the EPA Regional Office (https://www.epa.gov/epcra/cr-ems-regional-contacts) for the area where the release occurs, within 30 days of the NRC notification. 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.

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,

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020448-00001

animal feeding operations, nurseries, other horticultural operations, and aquaculture. For more information, see: https://www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020448-00002

How often do I need to estimate emissions?

You must annually review emissions from the farm. You'll also need to estimate emissions following any significant changes in operations that may result in statistically significant increases (SSI) in emissions.

How can I reduce emissions?

EPA and United States Department of Agriculture (USDA) developed a reference guide that provides conservation measures for reducing air pollutant emissions and/or reducing air quality impacts from livestock and poultry operations. See: https://www.epa.gov/afos-air/agricultural-air-quality-conservation-measures-reference-guide-poultry-and-livestock.

Are there additional continuous release reporting requirements?

You must immediately notify the NRC of any SSI or of a change in previously submitted release information. This is an ongoing requirement and is most likely to be triggered by:

- An increase in the number of animals maintained on the farm (beyond the range used for the initial report) or
- A significant change (or disruption) in waste handling systems or procedures.

Estimating Emissions

EPA has emission estimate resources available which may assist farmers in estimating emissions. Farmers may also use other models in estimating emissions. Monitoring data is not required.

You may also establish estimated 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.

Farmers should keep a copy of the calculation for future reference.

For more information, please see the Resources link at: https://www.epa.gov/animalwaste

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 section 103?

Yes. 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 aggregate 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: https://www.epa.gov/epcra/cr-erns-regional-contacts
- Continuous Release Reporting Forms: https://www.epa.gov/animalwaste
- National Response Center- 800-424-8802 or farms@uscg.mil.

Questions?

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

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020448-00003

Draft Article for State + Ag Associations to Add to their Newsletters

Soon, owners and/or operators of farms with animal operations (which includes ranching operations) will be required to begin reporting releases of hazardous substances to the air from animal waste.

In 2008, the U.S. Environmental Protection Agency (EPA) published a rule that exempted most farms from reporting hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and only large concentrated animal feeding operations (CAFOs) were subject to the Emergency Planning and Community Right-to-Know Act (EPCRA) reporting. Typical hazardous substances associated with animal wastes include ammonia (NH_3) and hydrogen sulfide (H_2S). However, a number of citizen groups challenged the validity of the rule and in April, 2017, the U.S. Court of Appeals for the District of Columbia Circuit struck down the rule, eliminating the reporting exemptions for farms. EPA sought and was granted additional time from the Court to delay the effective date of the ruling until January 22, 2018, so that EPA could develop guidance materials to help farmers understand their reporting obligations. No reporting is required until the Court issues its order, or mandate, enforcing the April, 2017 decision. Once the mandate is issued, farms should begin reporting. Farms may follow a streamlined reporting process, the first step of which is to submit an initial continuous release notification to the National Response Center for qualifying releases that occur within a 24-hour period.

The reporting requirement allows continuous releases to be reported in ranges. Farmers may need to report their releases in broad ranges to reflect the high degree of variability of these types of releases. Farmers will also need to submit a written notification to the EPA regional office for the location where the release occurs within 30 days of the initial notice, as well as a one-time first anniversary follow-up report to their appropriate EPA Regional Office.

The EPA has emission estimate resources available which may assist farmers in estimating emissions. Farmers may also use other models in estimating emissions. Estimated quantities of releases by farmers can be based on: past release data; engineering estimates; their knowledge of the facility's operations and release history; or their best professional judgment. Monitoring data is not required. Farmers should keep a copy of the calculation for future reference. https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources

To help meet reporting requirements, the Continuous Release Reporting Form and checklist can be found on EPA's website: https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances. Once the Continuous Release Reporting form and the first anniversary follow-up report have been submitted, farmers do not need to report any additional releases unless a Statistically Significant Increase (SSI) occurs.

Commented [LJ1]: We should clarify whether the form meets the requirement for the 30 day written notice, or the one year follow up. It suggests they are separate things, but previously we haven't specified that the form needs to be submitted, to whom, and by when.

Resources:

www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources

www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances.

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 1/5/2018 7:21:50 PM
To: Taylor, Trish [Taylor.Trish@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials

Fyi .. we should meet before the end of the day to determine where we are on all of this thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Subramanian, Hema
Sent: Friday, January 05, 2018 2:19 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Inserted some suggestions for the comms blurbs below in green.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Jennings, Kim
Sent: Friday, January 05, 2018 11:40 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials

Hi,

FYI, here is the latest which went to Nancy. Please feel free to edit if you have any suggestions. You may want to include Nancy in any changes so she is aware you have seen it.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division

U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Taylor, Trish
Sent: Friday, January 05, 2018 11:20 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>
Subject: FW: ACTION CERCLA EPCRA Ag rule comms materials

Hi Nancy,

I just received an email from Kim Jennings letting me know that she is on the phone with the Ag Advisor and his office has agreed to her recent changes below, in red.

Thanks,
Trish

From: Jennings, Kim
Sent: Friday, January 05, 2018 11:07 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Hi Trish,

Patty and Latosha are out today. When is the call, I don't have an invitation for it.

I am OK with the materials attached. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

Message

From: Harwood, Jackie [Harwood.Jackie@epa.gov]
Sent: 12/20/2017 3:19:53 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Janifer, Pamela [Janifer.Pamela@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; ODea, Elise [odea.elise@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: Part 2, CERCLA/EPCRA Animal Waste Guidance with SEPW Majority staff

Thanks Patty – I'll be coming over.

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Gioffre, Patricia
Sent: Wednesday, December 20, 2017 9:32 AM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; ODea, Elise <odea.elise@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: Part 2, CERCLA/EPCRA Animal Waste Guidance with SEPW Majority staff

RID staff will be meeting in the 6th Floor conference room for this call. You are welcome to join us in WJC North 6528.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

-----Original Appointment-----
From: Janifer, Pamela
Sent: Tuesday, December 19, 2017 3:24 PM
To: Janifer, Pamela; Jennings, Kim; Lewis, Jen; Gioffre, Patricia; Harwood, Jackie; Indermark, Michele; Principe, Vanessa; Thomas, Latosha; Clark, Becki; Salo, Earl; Swenson, Erik; ODea, Elise
Cc: Cheatham, Reggie
Subject: Part 2, CERCLA/EPCRA Animal Waste Guidance with SEPW Majority staff
When: Wednesday, December 20, 2017 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: Conference Call: 1[redacted]

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 11/10/2017 8:37:06 PM
To: Thomas Hebert [tom.hebert@bayardridge.com]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: Re: Only 1 CR-ENRS # being given out in reply to emails listing multiple facilities at multiple locations

Hi Tom,

While the system is set up to take emails, the guidance has not been revised to explain the issue you have discussed below. For all farm owners/operators that report there will be only one generic number. Each farm will NOT receive a unique number. Unfortunately the NRC could not create an email system in such a short timeframe to generate unique numbers. That number is what the farm owner/operator includes on their written follow-up report and the email from the NRC serves as your confirmation that you reported.

Thanks,
Kim

On Nov 10, 2017, at 10:09 AM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:

> Kim,
>
> I have heard reports from producers (their consultants, actually), having dozens of farms to report CR's from to the NRC, that they were directed by the NRC to send them an email list. These emails sent the NRC a table that listed the farms, locations, release estimates, and a column to the right for where the CR-ENRS # could be provided and emailed back.
>
> For example, one producer submitted 40 farms in the email. The email they received back from the NRC a few hours later included only 1 CR-ENRS # for all 40 farms. These are different facilities.
>
> This has happened to more than 1 producer. They now don't know what to do with their written reports for each of the farms, having only 1 CR # for all the farms submitted.
>
> I assume you all have heard this from others, but just in case, I am passing it along as I know this needs to be fixed.
>
> But do you have any counsel as to how these submitters get this cleared up for the farms already submitted and having only 1 CR# for them all? I have advised them to sit tight on their written reports until this gets cleared up.
>
> Let me know if you have any questions.
>
> Tom Hebert
> Consultant to United Egg Producers

Message

From: Thomas Hebert [tom.hebert@bayardridge.com]
Sent: 11/10/2017 3:08:40 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: Only 1 CR-ENRS # being given out in reply to emails listing multiple facilities at multiple locations

Kim,

I have heard reports from producers (their consultants, actually), having dozens of farms to report CR's from to the NRC, that they were directed by the NRC to send them an email list. These emails sent the NRC a table that listed the farms, locations, release estimates, and a column to the right for where the CR-ENRS # could be provided and emailed back.

For example, one producer submitted 40 farms in the email. The email they received back from the NRC a few hours later included only 1 CR-ENRS # for all 40 farms. These are different facilities.

This has happened to more than 1 producer. They now don't know what to do with their written reports for each of the farms, having only 1 CR # for all the farms submitted.

I assume you all have heard this from others, but just in case, I am passing it along as I know this needs to be fixed.

But do you have any counsel as to how these submitters get this cleared up for the farms already submitted and having only 1 CR# for them all? I have advised them to sit tight on their written reports until this gets cleared up.

Let me know if you have any questions.

Tom Hebert
Consultant to United Egg Producers

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 12/18/2017 2:24:22 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Roache, Brendan [Roache.Brendan@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: ACTION: Draft of Communications Plan for Farms on Complying with Reporting Requirements for Air Emissions from Animal Waste
Attachments: Animal Waste Emissions Reporting Requirements Communications Plan (DRAFT 1.22.17).docx

Hi All,

Here is the most recent draft of the comms plan for the animal waste rule/reporting requirements (1/22 or later). If you could send me any additional comments that you have by tomorrow COB, that would be great. Thanks!

Note: The highlighted areas are things that carried over from the last comms plan from October (related to the guidance). We may not need them anymore, so please let me know.

Latosha Thomas
U.S. Environmental Protection Agency
Office of Emergency Management
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 3/28/2018 5:17:49 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: FW: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

Importance: High

FYI

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

From: Thomas, Latosha
Sent: Wednesday, March 28, 2018 1:16 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting
Importance: High

Hi,

Here are the latest TPs for CERCLA/EPCRA reporting. OEM + OGC just finished reviewing. I wanted OLEM to weigh in quickly, since these are for the R6 Administrator. Thanks!

CERCLA/EPCRA REPORTING REQUIRMENTS FOR FARMS

TALKING POINTS:

- On March 23, 2018, the Consolidated Appropriations Act, 2018 (Omnibus Bill), was signed into law. Title XI of the Omnibus Bill, called the "Fair Agricultural Reporting Method Act" or "FARM Act", exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.

Deliberative Process / Ex. 5

BACKGROUND:

- In 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to reporting under section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and section 304 of the Emergency Planning and

Community Right-to-Know Act (EPCRA). For EPCRA reporting, the rule exempted farms that contained fewer than a certain number of animals from reporting.

- Citizen groups challenged the 2008 final rule, and on April 11, 2017, the rule was vacated by the D.C. Circuit Court of Appeals.

- The D.C. Circuit has stayed issuance of a mandate vacating the 2008 final rule until May 1, 2018. Once the court issues the mandate, the reporting requirements will go back into effect for air releases of hazardous substances from animal waste at farms.

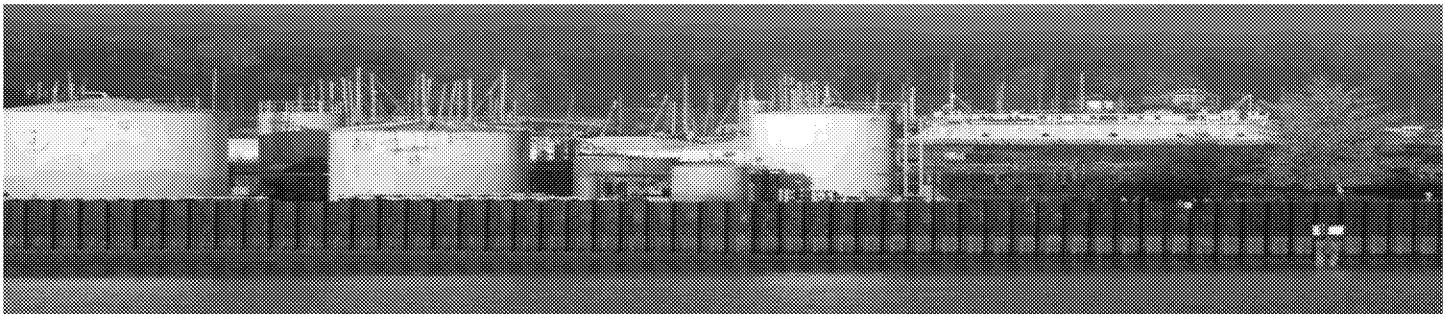
- The "FARM Act", passed by Congress as part of the Omnibus Bill on March 23, 2018, exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.

- EPA is revising the CERCLA/EPCRA guidance for reporting air releases from animal waste at farms and the frequently asked questions (FAQs) at www.epa.gov/animalwaste to reflect the recent passage of the "FARM Act".

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: [EPA] [SERC-TERC.Updates@epa.gov]
Sent: 11/28/2017 7:06:59 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: [serc_terc_monthly_update] FLASH Update #2: Nov 2017



SERC-TERC Flash Update

Hello SERCs, TERCs, and Federal Partners.

Here is a late-breaking / time-sensitive item of interest:

Hot Topic

EPA Provides Update on **CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms**

- On November 22, 2017, the DC Circuit Court of Appeals granted EPA's motion to further stay the mandate until January 22, 2018.
  - Farms with continuous releases do not have to submit their initial continuous release notification until the DC Circuit Court of Appeals issues its order, or mandate, enforcing the Court's opinion of April 11, 2017.
    - No reporting is necessary until the mandate is issued.
  - To expedite initial continuous release notification to the National Response Center, the temporary email option may be used.
    - This option avoids potential large call volumes and delays.
    - It allows one email notification for owners/operators with multiple farms.
- For more information: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

PLEASE NOTE: The next regular edition of *SERC-TERC Updates* should arrive in early December 2017.

The purpose of the *SERC-TERC Updates* is to identify and share new policies, guidance, and training resources that may be useful to the State Emergency Response Commissions (SERCs) and Tribal Emergency Response Commissions (TERCs)

Environmental Protection Agency / Department of Homeland Security & US Coast Guard
Department of Labor & Occupational Safety and Health Administration / Department of Transportation
Bureau of Alcohol, Tobacco, Firearms and Explosives / Department of Agriculture

---
You are currently subscribed to serc_terc_monthly_update as: cheatham.reggie@epa.gov

To unsubscribe, send a blank email to leave-1682746-2412814.059f45c0556239a909bec28d933d9982@lists.epa.gov

For problems with this list, contact serc_terc_monthly_update-Owner@lists.epa.gov
---

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 11/27/2017 7:45:20 PM
To: Taylor, Trish [Taylor.Trish@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Hull, George [Hull.George@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]
Subject: RE: CERCLA/EPCRA mandate stayed until January 22
Attachments: Press Release on Animal Waste Extension_PG.DOCX

Hi Trish,

Here is the press release for the extension. Thanks to George for his work on this! RID management and OGC have reviewed. Thanks!

From: Taylor, Trish
Sent: Monday, November 27, 2017 11:49 AM
To: Thomas, Latosha <Thomas.Latosha@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hull, George <Hull.George@epa.gov>
Subject: RE: CERCLA/EPCRA mandate stayed until January 22

Great Thanks. I asked for a deadline and will let you know as soon as I hear back. However, I would consider it a quick turn-around, since it'll have to be reviewed/approved by Barry before it goes to OPA.

From: Thomas, Latosha
Sent: Monday, November 27, 2017 11:36 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hull, George <Hull.George@epa.gov>
Subject: RE: CERCLA/EPCRA mandate stayed until January 22

Hi Trish,

We're on it. When do we need to have this to you today?

From: Taylor, Trish
Sent: Monday, November 27, 2017 11:34 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Hull, George <Hull.George@epa.gov>
Subject: FW: CERCLA/EPCRA mandate stayed until January 22
Importance: High

Hi Latosha,

OPA would like to put a press release out today about the extension. Below is the one we used in October. Could you update it to reflect the new information?

Thanks so much.
Trish

EPA Releases Guidance on Reporting Air Emissions of Hazardous Substances from Animal Waste at Farms

10/26/2017
Contact Information:
(press@epa.gov)

(WASHINGTON) — Today, EPA is releasing guidance to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting deadline, currently set for November 15, 2017

"EPA is working diligently to address undue regulatory burden on American farmers," **said Administrator Scott Pruitt.** "While we continue to examine our options for reporting requirements for emissions from animal waste, EPA's guidance is designed to help farmers comply with the current requirements."

On December 18, 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date by which farms must begin reporting these releases to November 15, 2017. Unless the court further delays this date, all farms (including those previously exempted) that have releases of hazardous substances to air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must provide notification of such releases.

The EPA guidance information includes links to resources that farmers can use to calculate emissions tailored to specific species of livestock. To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms.
EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

This is also online at: https://www.epa.gov/newsreleases/epa-releases-guidance-reporting-air-emissions-hazardous-substances-animal-waste-farms

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 11/14/2017 2:08:06 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Michaud, John [Michaud.John@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]
Subject: Waterkeeper -- briefs filed in the last week
Attachments: ENV_DEFENSE-#825819-v1-2017-11-13_EPA_Reply_in_Support_of_Motion_for_Fur....pdf; ENV_DEFENSE-#825823-v1-2017-11-13_Waterkeeper_28j_Letter.pdf; ENV_DEFENSE-#825311-v1-2017-11-09_Waterkeeper_Opposition_to_Motion_for_S....pdf; ENV_DEFENSE-#825231-v1-2017-11-09_NPPC_Reseponse_in_Support_of_Motion_fo....pdf

Good morning,

Attached are all the briefs filed in the litigation in the last week. This includes (1) NPPC's brief in support of additional time, (2) Waterkeeper's opposition to more time, which includes a motion for the court to clarify the mandate (to address our preliminary interpretation) and retain jurisdiction for 3 years, (3) EPA's reply brief in support of more time, and (4) a 28(j) letter filed by Waterkeeper yesterday, which argues that because the NRC is now accepting email notifications, NPPC's reason for asking for additional time is now moot.

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

ARGUED DECEMBER 12, 2016
DECIDED APRIL 11, 2017

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WATERKEEPER ALLIANCE, ET AL.,	)	
Petitioners,	)	
v.	)	Nos. 09-1017 & 09-1104 (Consolidated)
U.S. ENVIRONMENTAL PROTECTION AGENCY,	)	
Respondent.	)	

NATIONAL PORK PRODUCERS COUNCIL'S AND U.S. POULTRY & EGG ASSOCIATION'S BRIEF IN SUPPORT OF EPA'S MOTION FOR FURTHER STAY OF ISSUANCE OF MANDATE

Respondent-Intervenors National Pork Producers Council ("NPPC") and U.S. Poultry & Egg Association ("USPOULTRY")[1] respectfully submit this brief in support of EPA's motion to further stay the issuance of the mandate, Doc. 1702059.

[1] NPPC and USPOULTRY are both respondent-intervenors in Case No. 09-1017. NPPC is the petitioner in Case No. 09-1104, and USPOULTRY is a petitioner-intervenor in that case.

INTRODUCTION

On August 16, 2017, this Court partially granted EPA's motion to stay issuance of the mandate, staying the mandate through November 14, 2017, with the opportunity for EPA to request a further extension. *See* Doc. 1702059 at 2. Since that time, EPA has released preliminary guidance attempting to answer questions regarding the CERCLA and EPCRA reporting requirements and setting forth the Agency's preliminary interpretation of the "used in routine agricultural operations" exception to the EPCRA reporting requirement. *Id.* at 3. Despite this progress, and for the reasons discussed more fully below, the Court should continue to stay the mandate so that EPA can complete what it started and provide farmers more specific and final guidance before they must estimate and report emissions.

LEGAL STANDARD

EPA has ably set forth the prevailing case law with regard to staying the mandate, Doc. 1702059 at 4–5.

ARGUMENT

I. Emissions Estimation and Release Reporting Continue to Present Difficulties for Farmers.

As described in NPPC and USPOULTRY's brief in support of EPA's motion to stay issuance of the mandate, the dual requirements of emissions estimation and release reporting have caused farmers confusion and concern. Doc. 1686173 at 3–8; *see also* Declaration of Reginald Cheatham (Doc. No. 1702059)

("Cheatham Decl.") ¶ 6 (noting EPA receipt of inquiries from farms and farm representatives since this Court's ruling on the merits). The last time reporting requirements went into effect, neither the reporters nor the recipients of the reports were adequately advised as to what was required. As a result, reports were of questionable accuracy and had minimal usefulness. Doc. 1686173 at 8–14; *see also* Second Declaration of Michael C. Formica (attached) ("2d Formica Decl.") ¶ 2.

Nothing has changed with respect to the science of emissions estimation on farms since the time of this Court's ruling—scientists have still not coalesced around a recommended emissions estimation method. Farmers, the vast majority of whom have no legal counsel at the ready to advise them, still struggle with interpreting unfamiliar terms in EPA's regulations, *see* Doc. 1686173 at 6–8, and they also struggle with making an estimate in the absence of a consensus regarding how best to estimate emissions. Farmers would benefit from further direction from EPA after EPA has received comments on the preliminary guidance; they should not be penalized in the interim, or face potential citizen suits, for submitting a report that later turns out not to conform to EPA's final position. *See generally id.* at 12; *see also* Cheatham Decl. ¶ 6.

II. The National Response Center Is Not Yet Ready to Process Telephone Reports from Farmers on or About November 15.

The National Response Center ("NRC") is still not equipped to handle the volume of communications it will likely receive. 2d Formica Decl. ¶¶ 3–7. At an October 18, 2017 meeting that included numerous NRC officials, Michael Formica was told that NRC does not have a sufficient number of telephone operators nor the technology to possibly handle the thousands of calls likely to be made by farmers reporting ammonia emissions from animals from their farms under CERCLA. 2d Formica Decl. ¶ 5.

In an email to the office of Senator Fischer, who serves on the Committee that oversees NRC, NRC official Jim Morrow described the risks of an influx of calls from farmers reporting continuous releases of ammonia on or about November 15:

> The function of the National Response System (NRS) is to coordinate information to allow for timely incident responses. This hinges on the ability for the NRC to receive, process, and in turn disseminate notifications of these incidents to federal, state, local and tribal response agencies.
>
> The NRC currently fields over 55,000 phone calls and processes over 32,000 incident reports annually. At the current NRC resource levels, an influx of calls will cause tremendous wait times for all callers. This may result in extreme delays in incident notifications, or even failure altogether in receiving reports and disseminating time critical incident information.

The full text of this email is attached to the Second Declaration of Michael Formica as Exhibit A.

Even aside from the problems that the sheer volume of calls will produce, we have learned that NRC is mishandling the relatively few reports that it has recently received from farmers. A November 6, 2017 continuous release report by a chicken producer, who notified NRC that the report was about a continuous release in Arkansas of ammonia due to breakdown from manure, resulted in automatic notice to *20 different federal, state, and local emergency response agencies*. Within 15 minutes, one of those agencies telephoned the producer to get the exact location of the release so it could respond to the emergency. *See* Second Declaration of Paul J. Bredwell III (attached) at ¶¶ 6-8.

Mr. Bredwell has heard from USPOULTRY members about similar automatic reports that NRC generated for farms in Virginia and Texas. *See id.* at ¶¶ 9-10. During a November 8, 2017 meeting in south Texas, he reviewed a copy of an NRC incident report issued to a producer following an initial call to report the continuous release of ammonia from a poultry farm. Although the report notified the NRC that the source of the emissions was the ammonia generated during the natural breakdown of manure and no emergency response was necessary, the NRC sent notifications to multiple state and federal agencies. The list of Texas agencies that received these reports may have been longer than the Arkansas list. *See id.* at ¶10.

III. EPA Has Begun the Necessary Work of Providing Guidance to Farmers Following this Court's Ruling, But It Needs Time to Fully Address the Issues.

EPA has recognized the difficulties that the reporting requirements have caused and has undertaken to clarify farmers' emissions estimation obligations and facilitate accurate and streamlined reporting. Cheatham Decl. ¶¶ 5, 7. To this end, EPA's final guidance will, among other things, identify emissions calculation methods that it will accept. *Id.* ¶ 7. EPA is also working on a new reporting form that will, we hope, be easier for farmers to use (and for NRC to process). *Id.* NPPC and USPOULTRY, and their members, appreciate the great strides EPA has made on an abbreviated timeframe.

However, EPA is still taking public comment on this guidance, *id.*: it is not final and could look quite different after EPA has evaluated public comments. Additionally, EPA has yet to release its new reporting form. Delaying the mandate for another 60 days would allow EPA to complete its work. Final guidance and a new reporting form would provide more legal certainty to farmers and more beneficial information to the public.

Once EPA finalizes its guidance and new reporting form, farmers still need time to review and develop an understanding of what is required of them. As described in NPPC's and USPOULTRY's brief in support of EPA's motion to stay issuance of the mandate (and supporting declarations), the "vast majority" of

farmers have little or no experience with environmental reporting and lack staff or outside legal counsel to advise and assist with reporting requirements. *See* Doc. 1686173 at 7. And in some parts of the country, small farms may not learn of the new requirements immediately. EPA's requested stay will hopefully provide enough time for farmers to clear these hurdles.

CONCLUSION

Because EPA has made progress, but has not completed its task of guiding farmers as to what they should report and how they should report it, NPPC and USPOULTRY support EPA's motion for a continued stay of issuance of the mandate.

DATED: November 9, 2017

Respectfully submitted,

/s/ David Y. Chung

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CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 1,337 words, calculated using the Word Count feature of Microsoft Word 2010. This brief complies with the typeface and type-style requirements of Rule 27(d)(1)(E) because it has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in Times New Roman and 14 point font.

/s/ David Y. Chung
David Y. Chung

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2017, I caused copies of the foregoing brief to be served by the Court's CM/ECF system, which will send a notice of the filing to all registered CM/ECF users.

/s/ David Y. Chung
David Y. Chung

ARGUED DECEMBER 12, 2016
DECIDED APRIL 11, 2017

Nos. 09-1017(L), 09-1104

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WATERKEEPER ALLIANCE, ET AL.

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

PETITIONS FOR REVIEW OF FINAL ACTION
OF THE ENVIRONMENTAL PROTECTION AGENCY

SECOND DECLARATION OF MICHAEL C. FORMICA

I, Michael C. Formica, hereby declare:

1. I am currently employed by the National Pork Producers Council (NPPC), in its Washington, D.C. public policy office, where I serve as the Assistant Vice President & Legal Counsel, Domestic Affairs. This declaration is made based upon my own personal knowledge and is offered in support of a request that the Court in the above-captioned matter continue to stay the mandate.

2. In my previous declaration in support of staying issuance of the mandate in this case, I wrote about my previous experiences in 2009 when the larger hog farmers believed that they would be expected to file EPCRA reports on emissions of ammonia from animal waste from their farms. There was no accepted way to estimate those emissions, and the agencies that received those reports generally did not know what to do with them. Doc. 1686173 ¶¶ 6–10.

3. After meeting with representatives of the U.S. Coast Guard's National Response Center ("NRC") on October 18, 2017, and multiple continued communications with various EPA officials regarding the reporting obligation of livestock producers, including as recently as this morning, I believe that the NRC has still not yet found a workable method to handle the volume of phone calls that would be made to NRC on or about November 15 if the mandate in this case is not stayed.

4. NRC officials at the October 18, 2017 meeting identified themselves as Commander McSorley, U.S. Coast Guard; Commander Weaver, U.S. Coast Guard; LCDR James Morrow, U.S. Coast Guard (LCDR Morrow is the Deputy Senate Liaison for the U.S. Coast Guard); and Kevin Smith, the Director of the National Response Center. Ms. Jessica Clowser, who works on the staff of Senator Deborah Fischer of Nebraska, organized the October 18, 2017 meeting. Senator Fischer a member of the Senate's Commerce, Science & Transportation

Committee which has oversight over the U.S. Coast Guard and the NRC. I attended this meeting on behalf of NPPC.

5. At the meeting, the NRC Director informed us that the NRC does not have a sufficient number of telephone operators nor the technology to possibly handle the thousands of calls likely to be made by farmers reporting ammonia emissions from animals from their farms under CERCLA. NRC said that it is considering various options to handle these calls, such as: establishing a separate telephone number for reports by farmers; or, because the circumstances are not emergencies, arranging for telephone reports to be forwarded to the U.S. Department of Agriculture or another entity better equipped to handle them, which would then put such reports in a format that could subsequently be sent to the NRC.

6. On November 3, 2017, Ms. Clowser forwarded to me an email (attached as Exhibit A to this declaration) that she received from Mr. Morrow, which I quote below:

> Jessica,
>
> I just received the answer from your previous request...
>
> QUESTION: What are the implications of receiving an influx of agricultural reports and the impacts this will have on the NRC's ability to respond to real emergencies?
>
> ANSWER:
> National Response Center (NRC) operations will be significantly impacted

by an influx of agricultural reports. The NRC is the single Federal point of contact for the reporting of all oil and hazardous material, railroad, and maritime security incidents occurring in the United States and its territories. The NRC is beholden to all 15 member agencies of the National Response Team and associated stakeholder agencies for timely notification of these reports to launch the appropriate response actions that may mitigate threats to the public and the environment. The function of the National Response System (NRS) is to coordinate information to allow for timely incident responses. This hinges on the ability for the NRC to receive, process, and in turn disseminate notifications of these incidents to federal, state, local and tribal response agencies.

The NRC currently fields over 55,000 phone calls and processes over 32,000 incident reports annually. At the current NRC resource levels, an influx of calls will cause tremendous wait times for all callers. This may result in extreme delays in incident notifications, or even failure altogether in receiving reports and disseminating time critical incident information.

v/r,

Jim

LCDR Jim Morrow
U.S. Coast Guard
Deputy Senate Liaison

7. The information I have received from the NRC confirms my fears that although the NRC is aware of the problem of handling reports from farmers, it has not yet put mechanisms in place to handle such calls. A stay of the mandate would provide the NRC additional time to establish procedures that would help avoid the problems that occurred in 2009 that made the reporting a fiasco.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of November, 2017, in Washington, D.C.

/s/
Michael C. Formica

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2017, I caused copies of the foregoing Second Declaration of Michael C. Formica to be served by the Court's CM/ECF system, which will send a notice of the filing to all registered CM/ECF users.

/s/ David Y. Chung
David Y. Chung

ARGUED DECEMBER 12, 2016
DECIDED APRIL 11, 2017

Nos. 09-1017(L), 09-1104

IN THE UNITED STATES COURT OF APPEALS
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Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

PETITIONS FOR REVIEW OF FINAL ACTION
OF THE ENVIRONMENTAL PROTECTION AGENCY

SECOND DECLARATION OF PAUL J. BREDWELL III

I, Paul J. Bredwell III, hereby declare and submit the following in support of a continued stay of the mandate in the above-captioned action:

1. I am the Vice President of Environmental Programs for the U.S. Poultry & Egg Association (USPOULTRY), the world's largest and most active poultry organization. I have held my position with USPOULTRY for ten years and one month. During that period, I have been engaged in all aspects of poultry

and egg production. This includes all aspects of environmental issues associated with raising poultry, including byproducts generated while the birds grow.

2. In 1986, I graduated from the Georgia Institute of Technology with a Bachelor's Degree in Civil Engineering. I currently hold a Professional's Engineering License in the states of Georgia, Tennessee, and South Carolina.

3. Prior to joining USPOULTRY I was employed as a consultant engineer and provided civil and environmental consulting services for multiple poultry companies in the United States over a period of 15 years.

4. USPOULTRY is a non-profit organization that progressively serves its poultry and egg members through research, education, communications and technical services. The association aspires to be the leading technical resource and voice for the industries it serves. Members of USPOULTRY include producers and processors of broilers, turkeys, ducks, eggs, and breeding stock, as well as allied companies. Formed in 1947, the association has affiliated organizations in 26 states and has member companies worldwide.

5. In my role as Vice President of Environmental Programs, I frequently communicate with poultry companies, state poultry associations, and poultry and egg producers to identify the impact that various state and federal regulations will impose on them. In keeping with USPOULTRY's mission to provide technical assistance, our Association has proactively communicated about reporting under

the Comprehensive Environmental Response, Compensation & Liability Act of 1980 (CERCLA) since the court issued its ruling in April of 2017, especially as those reporting requirements now relate to the preliminary reporting guidance issued by the Environmental Protection Agency on October 27, 2017.

6. On November 7, 2017, I received a call from a USPOULTRY member who is currently an environmental health and safety (EHS) professional for a poultry integrator company. The EHS professional alerted me to two situations that occurred on November 6, 2017 after a poultry producer that raises chickens for the integrator called the National Response Commission (NRC) to initiate a CERCLA release report.

7. The EHS professional explained that the producer informed the call center they were calling to report a continuous release of ammonia from a farm in Arkansas, the report did not require an emergency response, and the ammonia generated was a result of the natural breakdown of manure. The NRC, however, proceeded to notify twenty additional agencies. The following agencies are notified automatically of releases in Arkansas by the NRC reporting system:

a. Arkansas Department of Environmental Quality (Command Center)

b. Arkansas Department of Environmental Quality (Government Copy of Report)

c. Arkansas Department of Health and Human Services (Main Office – Division of Health)

d. Arkansas Poison Center (Main Office)

e. Arkansas State Emergency Services (Main Office)

f. U.S. Centers for Disease Control (GRASP)

g. U.S. Department of Homeland Security Defense Threat Reduction Agency (Chemical and Biological Technologies)

h. U.S. Department of Transportation Crisis Management Center (Main Office)

i. Cont Release (Main Office)

j. Cont Release 6 (Main Office)

k. U.S. EPA Region VI (Main Office)

l. Memphis Police Department

m. National Infrastructure Coordination Center (Main Office)

n. National Oceanic and Atmospheric Administration Rpts for Arkansas

o. National Response Center Headquarters (Main Office)

p. Reporting Party (RP Submitter)

q. Sector Lower Mississippi River (Auto NRC Notifications)

r. Shelby Sheriff's Office (Criminal Intelligence Unit)

s. Transportation Security Administration Arkansas (Command Center)

t. U.S. Coast Guard District 8 (Main Office)

8. The NRC reported the leak as anhydrous ammonia and within 15 minutes of the producer calling the NRC, the State Emergency Response Commission for Arkansas was calling the producer to ask the farm's exact location in order to respond to an emergency. It is particularly interesting to note that the farm is located more than 200 miles from the Memphis police department, one of the agencies included in the notification effort.

9. The EHS professional also informed me of a similar series of events resulting from another continuous release report for a farm in Virginia, which generated a similar list of reports to Virginia emergency response agencies.

10. Finally, during a November 8, 2017 meeting in south Texas, a different USPOULTRY member allowed me to review a copy of an NRC incident report issued to a producer following an initial call to report the continuous release of ammonia from their poultry farm. Despite reporting the source of the emissions was the ammonia generated during the natural breakdown of manure and no emergency response was necessary, the NRC sent notifications to multiple state and federal agencies. The list of Texas agencies that received the emergency release reports identified above may have been longer than the Arkansas list.

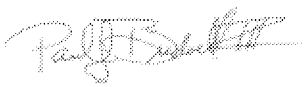
11. It is evident that the NRC and the numerous state environmental response centers are not yet responding appropriately to continuous release reports from farms. These events confirm the likelihood of fire departments all over the

county responding to non-existent emergencies prompted by the notification of the continuous release reports of the low-level emission of ammonia resulting from the natural break down of manure.

12. These events also confirm the need to inform and educate the NRC and regional and local emergency response agencies about the eventual reporting mandate before those calls are made. An extension of the stay of the mandate to report is not only justified but crucial.

I declare under penalty and perjury that the foregoing is true and correct.

Executed this 8th day of November, 2017, in Fayetteville, Arkansas.



Paul J. Bredwell III, P.E.
Vice President – Environmental Programs
U.S. Poultry & Egg Association

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2017, I caused copies of the foregoing Second Declaration of Paul J. Bredwell III to be served by the Court's CM/ECF system, which will send a notice of the filing to all registered CM/ECF users.

/s/ David Y. Chung
David Y. Chung

ARGUED DECEMBER 12, 2016
DECIDED APRIL 11, 2017

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WATERKEEPER ALLIANCE, *et al.*,	)	
	)	
Petitioners,	)	
	)	Nos. 09-1017 &
v.	)	09-1104 (Consolidated)
	)	
U.S. ENVIRONMENTAL PROTECTION AGENCY,	)	
	)	
Respondent.	)	
	)	

WATERKEEPER PETITIONERS'
OPPOSITION TO MOTION FOR FURTHER STAY OF MANDATE AND
CROSS-MOTION FOR CLARIFICATION OF MANDATE

Petitioners Waterkeeper Alliance, Sierra Club, Humane Society of the United States, Environmental Integrity Project, and Center for Food Safety (collectively, "Waterkeeper Petitioners") hereby oppose the Motion for Further Stay of Issuance of Mandate of Respondent U.S. Environmental Protection Agency ("EPA" or the "Agency") [Doc. 1702059] ("Motion for Further Stay"), and cross-move the Court to: (i) clarify the mandate by supplementing its April 11, 2017 Opinion in this matter; and (ii) retain jurisdiction over this matter for three years after issuance of the mandate to ensure EPA's compliance.

The mandate at issue in EPA's motion and Waterkeeper Petitioners' cross-motion will vacate a final rule adopted by EPA in 2008—CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances From Animal Waste at Farms, 73 Fed. Reg. 76,948 (Dec. 18, 2008) (codified at 40 C.F.R. pts. 302 & 355) ("Final Rule"). The Final Rule exempted emissions of hazardous substances from animal waste at animal feeding operations ("AFOs") from the general requirement that facilities must report all releases of hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, and the Emergency Planning and Community Right-to-Know Act ("EPCRA"), 42 U.S.C. § 11001 *et seq.* In April 2017, this Court found EPA's AFO exemption unlawful. *See* Op. 18 (Apr. 11, 2017) [Doc. 1670473].

This Court has already stayed the mandate for 90 days, through November 14, 2017, Order (Aug. 16, 2017) [Doc. 1689073], based on EPA's representation in July 2017 that it needed time to "develop guidance for farms on how to measure or estimate their emissions in order to come into compliance with the reporting requirements" of CERCLA and EPCRA. EPA's Mot. to Stay Issuance of Mandate 4 (July 17, 2017) [Doc. 1684518] ("July Stay Motion"). On October 25, 2017, EPA released "preliminary guidance" documents. *See* EPA, CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from

Animal Waste at Farms ("Interim Guidance") (November 1, 2017 version attached as Attachment 1); EPA, Does EPA interpret EPCRA Section 304 to require farms to report releases from animal waste? (Oct. 25, 2017) ("EPCRA Q&A") (attached as Attachment 2).

EPA now seeks additional time, claiming it needs to finalize the interim guidance and to continue work on its "preliminary interpretation" of EPCRA. Mot. for Further Stay 2, 3. But in fact, EPA is *not* seeking time to help AFOs "come into compliance," but rather time to promulgate an illegal rule so that they *never* have to comply. EPA's "preliminary interpretation" would thus violate the Court's mandate by directing AFOs that they *need not* comply with EPCRA. In an about-face from the Agency's prior positions, EPA's interim guidance documents adopt an industry theory in order to immediately exempt *all* AFOs from EPCRA's reporting requirement. This new exemption has an even broader effect than the Final Rule this Court found to be illegal.[1] And EPA sidesteps the required rulemaking procedure of the Administrative Procedure Act by having this

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[1] In EPA's own words, the illegal Final Rule was "narrowly crafted" because it required larger AFOs to report releases from animal waste into air under EPCRA, and required all AFOs to report releases into media other than air (*e.g.*, water) or from sources other than animal waste (*e.g.*, ammonia tanks). *See* EPA Br. at 49–51 (Apr. 18, 2016) [Doc. 1609103]. But EPA's sweeping new EPCRA interpretation would eliminate these carve-outs, and exempt *any* release from *any* source on *any* AFO.

exemption take immediate effect, even before the start of its proposed rulemaking process.

The Court should not further delay issuance of the mandate in order to give EPA more time to effectuate its illegal interpretation of EPCRA. Moreover, because this interpretation is at odds with the Court's ruling, it cannot stand. The Court's Opinion means what it says: not only was the Final Rule's exemption illegal, EPA has no "discretion to fashion *other exemptions*" from the EPCRA reporting requirement. Op. 12 (emphasis added).

Waterkeeper Petitioners therefore respectfully request that the Court: deny the request for further stay of the mandate; clarify that its mandate does not allow the blanket EPCRA exemption that EPA now seeks to create; and retain jurisdiction for three years, or as long as the Court deems sufficient, to ensure that the reporting requirements in EPCRA and CERCLA are finally enforced as to AFOs, after nearly a decade during which EPA has tried multiple ways to thwart and delay implementation, resulting in denial of basic public health information to rural communities across the country.

STATEMENT OF FACTS

In its Opinion vacating the Final Rule, this Court recognized that AFOs have "substantial" emissions of "serious pollutants" that can cause people to "become seriously ill and even die[]." Op. 2, 14. Information about these pollutants is thus

critically important to state and local regulators and response agencies, *see id.* at 15–16, and the public has a statutory right to this information, *see id.* at 9-11. But for over a decade, EPA has sought to undermine and delay enforcement of CERCLA and EPCRA's "sweeping reporting mandate," *id.* at 12, thereby denying communities across the country basic information that they can use to protect their families' health.

A. Prior EPA Efforts to Evade CERCLA/EPCRA Reporting Requirements

In 2005, EPA first undermined the CERCLA/EPCRA reporting mandates by entering into an agreement with thousands of AFOs—including over 90% of large AFOs—to suspend the Agency's CERCLA/EPCRA reporting enforcement while it developed methodologies to estimate air emissions from AFOs.[2] *See* Waterkeeper Pet'rs' Opening Br. 11–12 (Apr. 18, 2016) [Doc. 1609280]. EPA has delayed its

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[2] As this Circuit recognized, this agreement contains "no statement with regard to substantive statutory standards" and is therefore an exercise of the Agency's enforcement discretion and not its rulemaking power. *Ass'n of Irritated Residents v. EPA*, 494 F.3d 1027, 1034 (D.C. Cir. 2007); *see also id.* at 1033 ("Petitioners argue that the Agreement is intended to 'prescribe law' because it grants an exemption from the Acts for a specified period of time. We disagree. The Agreement merely defers enforcement of the statutory requirements . . ."). Though EPA's Interim Guidance misrepresents this agreement by claiming covered AFOs "are not expected to report air releases of hazardous substances from animal wastes under CERCLA and EPCRA," Interim Guidance at "Frequent Questions," the agreement does not affect AFOs' underlying obligation to comply with statutory reporting requirements, which can still be enforced through citizen suits against covered AFOs.

development and publication of these estimating methodologies for over a decade. According to a recent EPA Office of Inspector General report, EPA represented that it would begin publishing these methodologies by 2009, but as of May 2017, EPA had still "not finalized its work plan or established timeframes to finish the methodologies." Office of Inspector General, EPA, Improving Air Quality: Eleven Years After Agreement, EPA Has Not Developed Reliable Emission Estimation Methods to Determine Whether Animal Feeding Operations Comply With Clean Air Act and Other Statutes, Report No. 17-P-0396, at 10–11 (Sept. 19, 2017) ("OIG Report") (attached as Attachment 3). Covered AFOs have thus enjoyed a "virtual free pass" from EPA enforcement of statutory violations for over a decade, *Ass'n of Irritated Residents*, 494 F.3d at 1039 n.3 (Rogers, J., dissenting), and with no end in sight.

In 2008, EPA undermined the statutes' reporting mandate for a second time by promulgating the illegal Final Rule, which this Court vacated six months ago. In response to petitions to review that Rule, in 2010, EPA moved this Court for voluntary remand without vacatur "to reevaluate the policy choices reflected in the Final Rule," representing that the Agency "inten[ded] to consider vacatur of all or part of the Final Rule." EPA's Reply to Pet'r's Opp'n to EPA's Mot. for Voluntary Remand at 1, 4 (Aug. 9, 2010) [Doc. 1259656] (citations omitted). This Court granted remand without vacatur that year, Order (Dec. 10. 2010) [Doc.

1272527], but EPA sat on the remanded rule for five years, until the Court recalled its previous mandate in response to a motion from Waterkeeper Petitioners. Order (Sept. 23, 2015) [Doc. 1574476]. As a result of EPA's delay in reevaluating its regulation, the illegal Final Rule exempted AFOs from CERCLA/EPCRA reporting for nearly a decade—and to this very day.

B. EPA'S October 25, 2017 Interim Guidance and EPCRA Q&A

Now, in a third and last-ditch attempt to subvert implementing EPCRA with respect to AFOs, EPA has resuscitated an industry theory for exempting *all* AFOs from *all* EPCRA reporting. On October 25, 2017, EPA published an "interim guidance," the stated purpose of which is "to assist farms in complying with requirements to report air releases of hazardous substances from animal waste under CERCLA and EPCRA." Interim Guidance at "Purpose." However, in an Orwellian twist, despite having the stated purpose of "assist[ing] farms in complying with . . . EPCRA," *id.*, the Interim Guidance actually exempts AFOs from reporting under EPCRA. Specifically, the Interim Guidance states: "EPA interprets the statute to exclude farms that use substances in 'routine agricultural operations' from reporting under EPCRA section 304." *Id.* at "Frequent Questions." Linked to this Interim Guidance is a separate document entitled, "Does EPA interpret EPCRA Section 304 to require farms to report releases from animal waste?" ("EPCRA Q&A"). That document explains

> As written, EPCRA section 304 requires all facilities "at which a hazardous chemical is produced, used or stored" to report releases of reportable quantities of any EPCRA Extremely Hazardous Substance and of any CERCLA hazardous substance. Congress, however, created an exception relevant to farms. As indicated above, EPCRA reporting turns on whether a facility produces, uses, or stores a hazardous chemical. The term "hazardous chemical,"[3] as defined in EPCRA sections 329(5) and 311(e), does not include "any substance to the extent it is used in routine agricultural operations."
>
> Therefore, *if a farm only uses substances in "routine agricultural operations", the farm would not be a facility that produces, uses or stores "hazardous chemicals," and would therefore not be within the universe of facilities which are subject to EPCRA section 304 release reporting.* Because such farms fall outside of EPCRA section 304, they are not required to report any releases of EPCRA extremely hazardous substances or CERCLA hazardous substances, including any releases from animals or animal waste.
>
> . . . .
>
> EPA thus interprets the phrase "used in routine agricultural operations" to include, for example, the handling and storage of waste for potential use as fertilizer. In creating the routine agricultural operation exception, Congress demonstrated its intent to treat farms differently than other types of facilities. EPA does not believe Congress intended the generation, handling or storage of animal waste to subject farms to reporting if

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[3] The terms "hazardous chemical" and "extremely hazardous substance" have distinct uses under EPCRA. EPCRA reporting requirements apply to releases of "extremely hazardous substances." 42 U.S.C. § 11004(a). *See infra* Argument II.B.3.

> they do not otherwise produce, use or store hazardous chemicals.

EPCRA Q&A (emphasis added).[4] Thus, EPA's Interim Guidance rewrites EPCRA's "used in routine agricultural operations" provision to apply to substances "produced" or "stored" in routine agricultural operations, expanding an exemption that, by the terms of the statute, applies only to substances "used" in routine agricultural operations. *See infra* Argument II.B.3. On the basis of this misreading of EPCRA, the Interim Guidance directs all AFOs that they need not comply with the EPCRA reporting mandate. *See* Interim Guidance at "Frequent Questions."

EPA explains that it "intends to conduct a rulemaking to clarify its interpretation of 'used in routine agricultural operations' as it pertains to EPCRA reporting requirements." Interim Guidance at "Frequent Questions"; *see also* EPCRA Q&A. Nevertheless, EPA intends to implement this new EPCRA

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[4] *See also* EPA, CERCLA and EPCRA Reporting Requirements of Air Releases of Hazardous Substances from Animal Waste at Farms 1 (Nov. 6, 2017) (attached as Attachment 4) ("Do I Need to Submit an EPCRA Continuous Release Report? Not for routine agricultural operations. EPA interprets the statute to exclude farms that use substances in 'routine agricultural operations' from reporting under EPCRA 304. This encompasses regular and routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture.").

exemption immediately.[5] *See* Mot. for Further Stay 3 ("The preliminary guidance consists of . . . EPA's preliminary interpretation of EPCRA to exclude farms that use substances in routine agricultural operations from reporting under EPCRA section 304, until the Agency completes a rulemaking on the interpretation of 'used in routine agricultural operations' as it pertains to EPCRA reporting requirements.").[6]

Prior to the issuance of the Interim Guidance, EPA had expressly and repeatedly rejected the EPCRA theory it now espouses. Specifically, on at least three occasions, EPA has stated that EPCRA applies to AFOs' emissions and that the exemption of a "substance to the extent it is *used* in routine agricultural

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[5] Indeed, AFOs are already relying on the Interim Guidance and EPCRA Q&A to claim that they have no legal obligation to report under EPCRA. *See* Defendant's Supplemental Citation of Authority in Support of its Response to Plaintiff's Motion for Partial Summary Judgment at 3–4, *Don't Waste Arizona v. Hickman's Egg Ranch* (D. Ariz. 2017) (No. 16-cv-03319-GMS) (attached as Attachment 5).

[6] EPA seeks to promulgate this EPCRA exemption entirely outside of the rulemaking process required by the Administrative Procedure Act ("APA"), 5 U.S.C. § 553. *See* EPA Mot. 3. But EPA's EPCRA exemption is a legislative rule that "adopts a new position inconsistent with existing regulations, [and] otherwise effects a substantive change in existing law or policy," and therefore can only be promulgated through formal rulemaking. *Mendoza v. Perez*, 754 F.3d 1002, 1021 (D.C. Cir. 2014) (citing *Nat'l Family Planning & Reprod. Health Ass'n, Inc. v. Sullivan*, 979 F.2d 227, 237 (D.C. Cir. 1992); *Shalala v. Guernsey Mem'l Hosp.*, 514 U.S. 87 (1995)).

operations" from EPCRA's definition of "hazardous chemical," 42 U.S.C. § 11021(e)(5) (emphasis added), does not exempt all farms from EPCRA reporting.

First, in the Preamble to the Final Rule, EPA confirms that EPCRA reporting applies to AFOs' emissions, stating, "Owners and operators of farms, like all other facilities, are required to report the release of hazardous substances into the environment in accordance with . . . EPCRA section 304." 73 Fed. Reg. at 76,951. In commenting on the Proposed Rule, industry cited EPCRA's "routine agricultural operations" provision to argue that AFOs should be exempt from reporting. However, EPA flatly rejected this reading, responding: "Based on the language of [EPCRA], there is no indication that Congress meant to exclude emissions from manure from reporting requirements under [this statute]." EPA, Resp. to Comments 15 (Dec. 12, 2008) [JA614].

Second, EPA directly addressed the issue in its Response Brief in this litigation. EPA Br. at 37–38 & n.22 (Apr. 18, 2016) [Doc. 1609103]. There, EPA clarified that the Agency's statement in the Response to Comments—that "there is no indication that Congress meant to exclude emissions from manure from [EPCRA] reporting requirements"—was a "direct response" to industry's theory that AFOs are exempt from EPCRA reporting because of "the exclusion of substances 'used in routine agricultural operations' from the scope of 'hazardous chemicals,'" among other industry arguments. *Id.*

Third, EPA also rejected this argument in Petitioner National Pork Producers Council's ("NPPC's") Western District of Wisconsin challenge to the Final Rule, *National Pork Producers Council v. Jackson*, 638 F. Supp. 2d 1020 (W.D. Wis. 2009). In response to NPPC's argument that the "routine agricultural operations" provision exempted all AFOs from EPCRA reporting, EPA wrote,

> The exception for "routine agricultural operations" is quite obviously directed at farms or other agricultural operations, but that does not mean that farms are not subject to EPCRA in the first instance . . . As noted in *Sierra Club, Inc. v. Tyson Foods, Inc.*, 299 F. Supp. 2d 693, 713–14 (W.D. Ky. 2003), operating a farm or animal feeding operation and utilizing a covered substance in "routine agricultural operations," are not necessarily synonymous. The question of whether a particular farm falls within the "routine agricultural operations" exception depends on a factual determination to be made based on the specific farm being subjected to a specific enforcement action.

Reply Brief for Defendant at 12–13, *Nat'l Pork Producers Council v. Jackson*, 638 F. Supp. 2d 1020 (W.D. Wis. 2009) (No. 09–cv–73–slc), 2009 WL 1630976 (attached as Attachment 6). EPA succeeded in dismissing NPPC's challenge to the Final Rule, which NPPC based on the theory that the "routine agricultural operations" provision exempted all AFOs from all EPCRA reporting. *See Nat'l Pork Producers Council*, 638 F. Supp. 2d at 1023.

EPA has thus thrice rejected the same EPCRA exemption it now adopts without going through proper rulemaking procedures.[7]

ARGUMENT

I. THE COURT SHOULD NOT ALLOW AN ADDITIONAL STAY OF THE MANDATE.

"A motion to stay the issuance of a mandate will not be granted unless the motion sets forth facts showing good cause for the relief sought." D.C. Cir. R. 41(a)(2). Courts consider traditional stay factors when determining whether good cause for staying the mandate has been shown. *See California v. Am. Stores Co.*, 492 U.S. 1301, 1304–07 (1989) (considering whether movant for stay of mandate has made adequate showing of irreparable injury, probability of success, and balance of equities in favor of stay); *United States v. Microsoft Corp.*, No. 00-5212, 2001 WL 931170, at *1 (D.C. Cir. Aug. 17, 2001) (denying stay of mandate for failure to show "substantial harm"); *see also Natural Res. Def. Council v. EPA*, 489 F.3d 1250, 1263 (D.C. Cir. 2007) (Randolph, J., concurring) (decisions on

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[7] In addition to these prior express rejections of the EPCRA theory that EPA now espouses, EPA's prior enforcement actions against AFOs for violations of the EPCRA reporting mandate are implicit admissions by EPA that the "routine agricultural operations" provision does not exempt all AFOs from all EPCRA reporting. *See, e.g.*, Consent Decree Between United States of America and Citizens Legal Environmental Action Network, Inc. and Premium Standard Farms, Inc. and Continental Grain Co., Inc., *Citizens Legal Envtl. Action Network v. Premium Standard Farms, Inc.*, No. 97-6073-CV-SJ-6 (W.D. Mo. Jan. 23, 2002), http://www2.epa.gov/sites/production/files/documents/psfcd.pdf.

motions to stay the vacatur of an agency rule are to be "made in accordance with this court's long-standing principles governing stays—irreparable harm, probability of success, public interest, and so forth.").

None of these factors warrant a further delay in issuing the mandate. First, the balance of the equities weighs strongly in favor of denial of the stay because EPA seeks additional time to undermine, rather than further, implementation of the Court's Opinion. In its original motion to stay the mandate, EPA told the Court that it needed "time to develop guidance for farms on how to measure or estimate their emissions in order to come into compliance with the reporting requirements." July Stay Mot. 4. But EPA has instead abused this time to develop an Interim Guidance that would thwart the Court's ruling and the EPCRA statute. *See infra* Argument II. The Court should not give EPA more time to pursue its impermissible ends. *See Siggers v. Tunica Cty. Bd. of Supervisors*, 502 U.S. 933, 935 (1991) (Blackmun, J., dissenting) ("The mere passage of time does not create a balance of equities in the county's favor in the face of the county's failure to comply with [statutory] requirements . . .").

In addition, no party will suffer irreparable harm if the mandate were to issue as currently scheduled. EPA has now released the guidance that it claimed

was necessary for AFOs to estimate their emissions.[8] *See* Interim Guidance. EPA has thus satisfied the rationale for its original stay. *See* July Stay Mot. 4. Nevertheless, EPA now seeks time to accept comments on the Interim Guidance—including the illegal EPCRA interpretation—and to develop an AFO-specific continuous release report. *See* Mot. for Further Stay 5–6. It is notable that EPA adopted its illegal interpretation of EPCRA and claimed that it has immediate effect *without following APA-mandated procedures*, yet requests an additional delay of the mandate under the guise of seeking comments on its Interim Guidance. The Court should not countenance EPA's use of notice and comment *only* when it serves the Agency's interests in delay. Moreover, nothing prevents AFOs with continuous releases from using the Interim Guidance to complete and submit the currently available continuous release report form, notwithstanding any amendments to the guidance EPA may issue later. *See* Comments of the Dairy Education Alliance et al. Ex. B (Mar. 27, 2008) [JA533–41] (AFO release report using generally applicable continuous release form).

Finally, the public interest weighs heavily in favor of denial of the stay. EPA has been denying communities their statutory right to information about

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[8] Though EPA continues to delay in finalizing its official emission estimation methodology, *see generally* OIG Report, EPA's Interim Guidance now provides links to pre-existing, external methods to estimate emissions that EPA will deem acceptable until it finalizes its own methods, *see* Interim Guidance at "Resources."

emissions for over a decade. Now, with its new EPCRA exemption, EPA intends to deny the public's access to that information in perpetuity. EPA has acted against the public interest for long enough; this Court must not allow any further delay of Congress's mandate or the Court's own.

II. THE COURT SHOULD CLARIFY THAT ITS MANDATE DOES NOT ALLOW FOR EPA'S NEW EPCRA EXEMPTION.

EPA's Interim Guidance and EPCRA Q&A show that EPA has misunderstood the Court's Opinion in this matter. To correct this misunderstanding, Waterkeeper Petitioners ask that when the Court issues the mandate, it clarify that the Opinion's analysis of EPCRA does not allow the exemption EPA has announced in its Interim Guidance and EPCRA Q&A. This Court has the authority to clarify its mandate and should do so for three reasons: first, the Court already held that EPCRA does not provide leeway for any additional exceptions; second, the Court already implicitly rejected EPA's newly adopted interpretation; and third, EPA's proposed interpretation is contrary to the plain meaning of EPCRA.

A. The Court Has Broad Authority to Clarify its Mandate.

This Court has broad authority to clarify that the construction of EPCRA in the Interim Guidance and EPCRA Q&A is inconsistent with the Court's Opinion. In *NetCoalition v. Securities and Exchange Commission*, 715 F.3d 342 (D.C. Cir. 2013), this Court held that it may "correct any misconception of [its] mandate by .

. . [an] administrative agency subject to [its] authority." *Id.* at 354 (quoting *Office of Consumers' Counsel, State of Ohio v. Fed. Energy Regulatory Comm'n,* 826 F.2d 1136, 1140 (D.C. Cir. 1987) (per curiam)). If the Court can correct "a misconception of its mandate" after the mandate issues, it can surely take steps to ensure that any incipient misconception of the mandate is foreclosed when it first issues the mandate. *See Greater Boston Television Corp. v. Fed. Commc'n Comm'n*, 463 F.2d 268, 278 (D.C. Cir. 1971) ("An appellate court . . . has continuing power to accept and pass upon a petition to clarify an outstanding mandate.") (collecting cases); *cf. Potomac Elec. Power Co. v. Interstate Commerce Comm'n*, 702 F.2d 1026, 1032 (D.C. Cir.), *supplemented*, 705 F.2d 1343 (D.C. Cir. 1983) ("*PEPCO II*") (citing *Floersheim v. Engman*, 494 F.2d 949 (D.C. Cir. 1973) (finding that the Court has an "inherent power to construe the mandate of [its] earlier decision."); *Finberg v. Sullivan*, 658 F.2d 93, 97 n.5 (3d Cir. 1980) ("Because the obligations of the parties are not fixed until the Court's mandate

issues, it would appear to follow that the Court retains authority to amend its judgment until it issues its mandate.").[9]

B. The Court Should Clarify that its Mandate Does Not Allow the Sweeping EPCRA Exemption EPA Seeks to Adopt.

1. The Opinion Forecloses the Interpretation of EPCRA Set Forth in the Interim Guidance and EPCRA Q&A.

This Court should clarify that its April 2017 Opinion does not allow the blanket EPCRA exemption that EPA now seeks to implement in its Interim Guidance. That Opinion held that both CERCLA and EPCRA contain "sweeping reporting mandate[s]" without any "language of delegation" to EPA. Op. 12. EPA thus has no "discretion to fashion other exemptions" from the statutes' mandates. *Id.*; *see also id.* 11–12 (not listing the "routine agricultural operations" provision on which EPA now relies as an example of statutory exemptions from the CERCLA/EPCRA reporting requirement for AFOs). Nor does EPA's general

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[9] Pursuant to Fed. R. App. P. 41(a), "[u]nless the court directs that a formal mandate issue, the mandate consists of a certified copy of the judgment, a copy of the court's opinion, if any, and any direction about costs." "While a mandate can be a formal order, it usually consists of nothing more than a certified copy of the judgment and copies of any opinion and direction as to costs that the court may have issued." *United States v. Campbell*, 168 F.3d 263, 267 n.3 (6th Cir. 1999) (quoting 16A Charles Alan Wright, Arthur R. Miller & Edward H. Cooper, Federal Practice and Procedure § 3987, at 687 (1996)). This Court thus can clarify its mandate either by issuing a formal mandate or order, or by supplementing its April 11, 2017 Opinion prior to issuance of the mandate. *See Greater Boston Television*, 463 F.2d at 277 (finding that a court's inherent power and 28 U.S.C. § 2106 both authorize the court to "affirm, modify, or vacate any judgment or order.").

rulemaking authority under these statutes "give the agency carte blanche to ignore the statute whenever it decides the reporting requirements aren't worth the trouble," *id.* at 13, because "[a]n agency may not rewrite clear statutory terms to suit its own sense of how the statute should operate," *id.* (quoting *Util. Air Regulatory Grp. v. E.P.A.*, __ U.S. __, 134 S. Ct. 2427, 2446 (2014)). Finally, this Court held that the many benefits of release reporting by AFOs—including reporting to state and local agencies under EPCRA—prevents EPA from crafting a reporting exemption under the *de minimis* doctrine. Op. 13–18.

Contrary to this Court's holding that EPCRA's "sweeping reporting mandate" forbids EPA from creating or expanding reporting exemptions, Op. 12, EPA now attempts to stretch EPCRA's limited exemption of facilities to the extent they "use" hazardous chemicals in routine agricultural operations until it exempts all AFOs from all EPCRA reporting. This Court held that the few EPCRA provisions that exempt reporting must, if anything, be narrowly read. On the face of EPCRA's "sweeping reporting mandate," Op. 12, EPA has no discretion to fashion an equally sweeping exemption from that mandate.

2. The Court Already Implicitly Rejected EPA's New Interpretation of EPCRA.

The Court's Opinion tacitly rejects EPA's interpretation of the "routine agricultural operations" EPCRA exemption. EPA's newly adopted EPCRA interpretation was squarely before this Court in NPPC's petition for review of the

EPCRA portions of the Final Rule—a petition that this Court dismissed. NPPC argued that "manure that is 'used in routine agricultural operations' is excluded from the definition of 'hazardous chemical' and thus, is not subject to any of EPCRA's requirements." NPPC Opening Br. 20–21 (Apr. 18, 2016) [Doc. 1609137] (citing 42 U.S.C. §§ 11021(e), 11049); *see also id.* at 6 n.3 ("farms that release hazardous chemicals as part of routine agricultural operations are not subject to EPCRA reporting requirements"); NPPC Reply Br. 13 n.5 (Apr. 18, 2016) [Doc. 1609140]. This Court acknowledged NPPC's arguments against the Final Rule's EPCRA carve-out, Op. 7, but nevertheless dismissed NPPC's petition when it vacated the Final Rule, *id.* at 18.

To the extent that this Court dismissed NPPC's interpretation of the "routine agricultural operations" provision in an implicit manner only, it is because EPA expressly *rejected* that interpretation in this litigation, so the Court had no reason to directly address the issue. *See supra* Statement of Facts. Moreover, EPA is judicially estopped from arguing that the "routine agricultural operations" provision exempts all farms from all EPCRA reporting because it succeeded in dismissing NPPC's petition in this litigation, as well as NPPC's claim in the Western District of Wisconsin, based on EPA's prior, contrary position. *See supra* Statement of Facts; *see also Aera Energy LLC v. Salazar*, 642 F.3d 212, 219 (D.C. Cir. 2011) (quoting *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001)) ("Where

a party assumes a certain position in a legal proceeding, and succeeds in maintaining that position, he may not thereafter, simply because his interests have changed, assume a contrary position . . . .").

3. EPA's New Interpretation Cannot Be Squared with the Plain Meaning of EPCRA.

Furthermore, on its face, EPA's newly adopted EPCRA exemption violates the clear language of the statute and cannot stand. Under EPCRA, any facility that "produce[s], use[s], or store[s]" a "hazardous chemical" must report releases of "extremely hazardous substances" above reportable quantities. 42 U.S.C. § 11004(a). EPCRA defines "hazardous *chemical*" based on the definition in Occupational Safety and Health Administration ("OSHA") regulations, with certain added exceptions.[10] *See* 42 U.S.C. §§ 11021(e), 11049(5). EPCRA defines "extremely hazardous *substance*," meanwhile, as a substance included in EPA's list of such substances. *See* 42 U.S.C. §§ 11002(a), 11049(3); 40 C.F.R. pt. 355, app. A.

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[10] OSHA defines "hazardous chemical" as "any substance, or mixture of substances" "which is classified as a physical hazard or a health hazard, a simple asphyxiant, combustible dust, pyrophoric gas, or hazard not otherwise classified." 29 C.F.R. § 1910.1200(c).

Ammonia and hydrogen sulfide are classified as both "hazardous chemicals" and "extremely hazardous substances" under EPCRA.[11] Because these pollutants are "hazardous chemicals" under EPCRA, and AFOs produce these "serious pollutants," Op. 2, AFOs are facilities at which hazardous chemicals are "produced" and therefore must report under EPCRA.[12] 42 U.S.C. § 11004(a).

EPCRA excludes from the definition of "hazardous chemical" "[a]ny substance to the extent it is *used* in routine agricultural operations." 42 U.S.C. § 11021(e)(5) (emphasis added). But that provision does not exempt AFOs from reporting under EPCRA, because the gaseous ammonia and hydrogen sulfide that are emitted from AFOs are not "used" by AFOs in any sense of the word. *See* Op. 14–15 (quoting Final Rule, 73 Fed. Reg. at 76,957) (explaining that, rather than being used in agricultural operations, "hydrogen sulfide . . . and ammonia 'are

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[11] OSHA classifies anhydrous ammonia and hydrogen sulfide as "toxic and reactive *highly hazardous chemicals* which present a potential for a catastrophic event at or above [a] threshold quantity." 29 C.F.R. § 1910.119 app. A (emphasis added); *see also* 29 C.F.R. § 1910.1000 tbl.Z-1 (listing ammonia and hydrogen sulfide as air contaminants). These substances are therefore "hazardous chemicals" under EPCRA. *See* 42 U.S.C. §§ 11021(e), 11049(5). In addition, ammonia and hydrogen sulfide both appear in EPA's list of EPCRA "extremely hazardous substances." 40 C.F.R. pt. 355, app. A.

[12] AFOs may produce, use, or store other substances, in addition to ammonia and hydrogen sulfide, that would satisfy EPCRA's broad definition of "hazardous chemical." This is an additional reason they are subject to the EPCRA reporting requirement.

rapidly released from the manure [into air] and may reach toxic levels or displace oxygen, increasing the risk to humans and livestock'" as a byproduct of pit agitation). The Western District of Kentucky directly addressed this issue and concluded that chicken AFOs do not "use" the ammonia from chicken manure. It found:

> In the present case, Plaintiffs contend that the venting of gaseous ammonia into the atmosphere must be reported under EPCRA, not that the storage of chicken manure or the application of chicken manure to farm fields is subject to the reporting requirements. *The Defendants do not store gaseous ammonia in their chicken houses for agricultural use. They do not use this ammonia in an agricultural operation.* Instead, as pointed out by the Plaintiffs, the Defendants try to get rid of it because it is harmful to the chickens. Accordingly, the Court finds that the routine agricultural use exemption does not apply to the facts of this case.

Sierra Club, Inc. v. Tyson Foods, Inc., 299 F. Supp. 2d 693, 713–14 (W.D. Ky. 2003) (emphasis added).

EPA's Interim Guidance now construes this "routine agricultural operations" provision as exempting all AFOs from all EPCRA reporting, in contravention of the plain reading of the statute. Congress required reporting by facilities where a hazardous chemical is "produced, used, or stored," 42 U.S.C. § 11004(a), but exempted from the definition of hazardous chemical only those substances "to the extent [they are] used" in routine agricultural operations, *id.* § 11021(e)(5). Congress was clear that this exception applies to a substance only to "to the extent"

it is used in routine agricultural operations. *Id.* Under any plain reading of the statute, the phrase "produced, used, or stored" is broader than the term "used." The reporting mandate—which applies to facilities that "produce[], use[], or store[]" hazardous chemicals—must therefore be broader than its exemption—which applies only to those chemicals "used" in routine agricultural operations.

In contravention of the plain terms of EPCRA, EPA's Interim Guidance treats the phrase "produced, used, or stored" as coextensive with the term "used." *See* EPCRA Q&A ("if a farm only *uses* substances in 'routine agricultural operations,' the farm would not be a facility that *produces, uses or stores* 'hazardous chemicals'") (emphasis added). EPA's contorted reading of EPCRA would have the narrow exception swallow the broad mandate. Specifically, EPA treats the words "produced" and "stored" "as stray marks on a page—notations that Congress regrettably made but did not really intend." *Advocate Health Care Network v. Stapleton*, __ U.S. __, 137 S. Ct. 1652, 1659 (2017). But a plain reading must "give effect, if possible, to every clause and word" of EPCRA. *Id.* (quoting *Williams v. Taylor*, 529 U.S. 362, 404 (2000)); *see also TRW Inc. v. Andrews,* 534 U.S. 19, 31 (2001) (quoting *Duncan v. Walker*, 533 U.S. 167, 174 (2001)) ("It is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence,

or word shall be superfluous, void, or insignificant.") (internal quotation marks omitted).

EPA's guidance contorts EPCRA's language to find a total AFO exemption, but "[t]he problem with this argument is that" EPA can "cite no authority which exempts animal production facilities from the reporting requirements of EPCRA . . . . If Congress had intended such a result, it could have excluded animal production facilities, such as poultry and swine, from the reporting requirements." *Sierra Club, Inc. v. Tyson Foods, Inc.*, 299 F. Supp. 2d 693, 706 (W.D. Ky. 2003); *cf.* 42 U.S.C. § 11023(b)(1) (specifying Standard Industrial Classification for which EPCRA Toxic Release Inventory provisions apply, but not including agricultural industries); 42 U.S.C. § 9601(14) (exempting petroleum and natural gas products from CERCLA's definition of "hazardous substance").

A plain reading of EPCRA does not permit the contorted statutory construction that EPA sets forth to justify its newest AFO exemption.

* * *

With its Interim Guidance and EPCRA Q&A, EPA is running roughshod over the Court's Opinion and the plain language of EPCRA, not to mention the Administrative Procedure Act. Since the mandate has not yet issued, this Court should use the issuance of the mandate as an opportunity to clarify that its Opinion does not allow EPA to implement or otherwise promulgate its new, total EPCRA

exemption. *See Dilley v. Alexander*, 627 F.2d 407, 411 (D.C. Cir. 1980) ("There could be no more good cause provided, nor injustice incurred, than by the misconstruction of our mandate by the [agency] . . . below."). Given EPA's storied history of attempts to evade enforcing CERCLA and EPCRA by any means necessary, *see supra*, Waterkeeper Petitioners additionally request that the Court retain jurisdiction for three years, or until such time as the Court deems necessary to ensure that EPA will implement and enforce Congress's reporting mandate.

CONCLUSION

For the reasons set forth above, Waterkeeper Petitioners respectfully request that the Court deny EPA's Motion for Further Stay of Mandate; issue a formal mandate or supplemental opinion that clarifies that the Court's April 11, 2017 Opinion does not allow EPA to exempt all AFOs from EPCRA reporting; and retain jurisdiction for three years after issuance of the mandate, or whatever time the Court deems reasonable.

Dated: November 9, 2017

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CERTIFICATE OF COMPLIANCE

This brief complies with the requirements of D.C. Cir. R. 27(c) because it contains 6,031 words, excluding any accompanying documents authorized by Fed. R. App. P. 27(a)(2)(B).

This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface (Microsoft Word 2010 Times New Roman) in 14 point font.

This brief has been scanned for viruses and is virus free.

Dated: November 9, 2017

/s/ Jonathan J. Smith

CERTIFICATE OF SERVICE

I hereby certify that on November 9, 2017, I filed the above motion with the Court's CM/ECF system, which will send notice to all parties. Counsel for EPA has agreed to waive service of paper copies for Mr. Jeffrey H. Wood, Acting Assistant Attorney General, U.S. Department of Justice.

Dated: November 9, 2017

/s/ Jonathan J. Smith

Attachment 1

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

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

Attention!

Farms with continuous releases must submit their initial continuous release notification on November 15, 2017.

- Overview
- Reporting Exemption and Resulting Litigation
- Purpose
- Frequent Questions
- Resources

Overview

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right to Know Act (EPCRA) require facilities to report releases of hazardous substances that are equal to or greater than their reportable quantities (RQ) within any 24-hour period. Following a hazardous substance reportable release, a facility owner or operator must notify federal authorities under CERCLA and state and local authorities under EPCRA.

Reporting Exemption for Animal Waste and Resulting Litigation

On December 18, 2008, EPA published a final rule that exempted most farms from certain release reporting requirements in CERCLA and EPCRA. Specifically, the rule exempted farms releasing hazardous substances from animal waste to the air above threshold levels from reporting under CERCLA. For EPCRA reporting, the rule exempted reporting of such releases if the farm had fewer animals than a large concentrated animal feeding operation (CAFO).

In short, all farms were relieved from reporting hazardous substance air releases from animal waste under CERCLA, and only large CAFOs were subject to EPCRA reporting.

A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations.

Unless the DC Circuit Court takes further action, the court's ruling takes effect on November 15, 2017.

Purpose

EPA developed this interim guidance to assist farms in complying with requirements to report air releases of hazardous substances from animal waste under CERCLA and EPCRA. EPA welcomes comments and suggestions from the regulated community and the public on these resources and other additional resources that should be included here. Please email comments or suggestions by November 24, 2017, to: CERCLA103.guidance@epa.gov. EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations.

Frequent Questions

What are my requirements to report air releases from animal waste under CERCLA section 103?

Farm owners/operators must comply with CERCLA section 103 reporting requirements for air releases of hazardous substances from animal waste at their farms. Farm owners/operators must notify the National Response Center (NRC) at 1-800-424-8802 when their facilities have air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period.

Alternatively, you can follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to:

- Call the NRC at 1-800-424-8802 and identify your reportable release as an "initial continuous release notification;
- Submit an initial written notification to the EPA Regional Office;
- One year later submit an additional follow-up written notification to the EPA Regional Office.

For more information on continuous release reporting, see: How do I report a continuous release under CERCLA? and Resources.

What are my requirements to report under EPCRA section 304?

EPA interprets the statute to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. For more information, see: EPCRA Q&A. EPA intends to conduct a rulemaking to clarify its interpretation of "used in routine agricultural operations" as it pertains to EPCRA reporting requirements.

When do I have to comply?

Unless the DC Circuit Court takes further action, the court's ruling takes effect on November 15, 2017. Starting on this date, farms releasing hazardous substances to air from animal wastes, equal to or greater than their reportable quantities, within any 24-hour period, must notify the NRC. For farms with continuous releases, this means that the initial continuous release notification needs to be made as of the effective date of the Court action (currently November 15, 2017).

What substances need to be reported?

Typical hazardous substances associated with animal wastes include ammonia and hydrogen sulfide. Both ammonia and hydrogen sulfide have a reportable quantity of 100 lbs. If a farm releases ammonia and/or hydrogen sulfide in amounts ≥ the reportable quantity (100 lbs) within a 24-hour period, then the farm owner or operator must notify the NRC. For a complete list, see: CERCLA hazardous substances and their reportable quantities (RQs).

Do I have to report when I apply fertilizers or pesticides to crops?

No, farm owners/operators do not need to report the normal application of fertilizers (including normal application of manure as a fertilizer) or the handling, storage or application of pesticide products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, under CERCLA section 103, any spills or accidents involving these substances must be immediately reported to the NRC when they meet or exceed the reportable quantity.

Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

At this time, farm owners/operators in compliance with their Animal Feeding Operation Air Compliance Agreement (70 FR 4958) are not expected to report air releases of hazardous substances from animal wastes under CERCLA and EPCRA. Per their Agreement, participants must report air releases of hazardous substances equal to or exceeding the hazardous substances' reportable quantities under CERCLA when EPA completes the National Air Emissions Monitoring Study.

For additional information on EPCRA reporting, see: EPCRA Q&A.

How do I estimate the releases for reporting?

Some farms that raise animals will have reportable releases of ammonia and/or hydrogen sulfide (i.e. release of ≥ 100 lbs in a 24-hour period) from animal wastes. These resources may assist farmers in estimating emissions.

EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time. CERCLA section 103 allows "continuous releases" to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.

How can I reduce emissions?

EPA and United States Department of Agriculture (USDA) developed a reference guide that provides options for improving air quality from livestock and poultry operations. The guide provides a compilation of conservation measures for reducing air pollutant emissions and/or reducing air quality impacts from livestock and poultry operations.

Who do I notify if I need to report?

You must immediately notify the NRC at **1-800-424-8802** when you have a release of any CERCLA hazardous substance at or above its reportable quantity within any 24-hour period. However, there is an exception for the normal application of fertilizers or the handling, storage or application of pesticide products as described above.

Can I request an extension?

No, CERCLA section 103 requires the facility owner or operator to immediately notify the NRC of a reportable release of a hazardous substance.

The one exception is for farm owners/operators participating in the Agency's Animal Feeding Operation Air Compliance Agreement, and that are in compliance with their Agreements. For more information, see: Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

Do I have to notify the NRC every time my emissions exceed the reportable quantity in a 24-hour period?

No. If your farm has releases that are continuous and stable in quantity and rate, you can follow a streamlined reporting process known as "continuous release reporting." EPA considers emissions from animal waste to be continuous and stable in quantity and rate, and therefore eligible for this streamlined reporting option.

For more information on the regulation and guidance for continuous release reporting requirements, see: Resources.

How do I report a continuous release under CERCLA?

You may follow these steps to report air emissions from animal wastes (e.g. ammonia and hydrogen sulfide releases):

Step 1: Notify the NRC at **1-800-424-8802**.

In order to qualify as a continuous release notification, **the caller must inform the NRC representative that this is an "initial continuous release notification."**

Provide the NRC representative with:

- The name and location of the farm
- The name(s) of the hazardous substance(s) released

The NRC representative will provide an identification number (CR-ERNS) for your farm. You will have to use this number for any follow-up report or notification that is required under the continuous release reporting requirements.

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

Step 2: Submit an initial written notification to the EPA Regional Office.

Submit an initial written notification to the EPA Regional Office for the area where the release occurs, within 30 days of the call to the NRC.

Farms can use this continuous release reporting form to provide the initial written notification. *Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs.* ***Farms not reporting under EPCRA should not send information to the LEPCs and SERCs.***

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

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

Within 30 days of the first anniversary date of the initial written notification (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist you with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

Are there additional continuous release reporting requirements?

There are two additional types of continuous release reporting requirements:

- statistically significant increase (SSI) notification and
- notification of changes to previously submitted continuous release information.

You must immediately notify the NRC of any statistically significant increases (SSI) or of a change in previously submitted release information. This is most likely to be triggered by:

- an increase in the number of animals maintained on the farm (beyond the range used for the initial report) or
- a significant change (or disruption) in waste handling systems or procedures.

This is an ongoing requirement.

What is an SSI?

An SSI is an episodic release of a hazardous substance that exceeds the release quantity described in the upper bound of the normal range of the facility's continuous release report. The normal range includes all releases of a hazardous substance (from all sources at the facility) occurring over any 24-hour period under normal operating conditions during the preceding year.

Only those releases that are both continuous and stable in quantity and rate may be included in the normal range.

How often do I need to estimate emissions?

You must annually review emissions from the farm. You'll also need to estimate emissions following any significant changes in operations that may result in SSI in emissions.

A farm owner/operator filed the continuous release and one-time anniversary report to comply with CERCLA section 103 for their facility before the 2008 exemption. If the information is still valid, do they have to file again?

No, if there have been no SSI in emissions or other changes to the report filed before 2008, then the farm owner/operator need not submit another report.

Resources

40 CFR part 302 - Designation, Reportable Quantities, and Notification

Reporting Requirements for Continuous Releases of Hazardous Substances

Emission Estimates

Farm owners/operators may consider any of the resources provided in this section (or any other studies available to you) for estimating releases. You can also coordinate with your trade associations or the land-grant universities in your area (see Appendix A.3: List of AFO Air Quality Programs & Land-Grant Universities available in reference guide).

You may establish estimated 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.

Monitoring data is not required.

Disclaimer: This listing does not constitute EPA endorsement. These are provided solely as available resources for farms to use while EPA finalizes its methodologies for estimating air emissions of ammonia and hydrogen sulfide from animal wastes. Farms may use any other approaches that are available to develop these estimates.

Dairy Operations

To estimate ammonia and hydrogen sulfide emissions from dairy operations, see: Dairy Report worksheet (3 pp, 87 K, About PDF)(go to page 3) EXIT . Emission estimates are inclusive of ammonia emissions from animal pen surfaces and the runoff holding pond(s). Ammonia emission rates vary between summer and winter months. The worksheet indicates that hydrogen sulfide levels are fairly stable throughout the year.

Although the Dairy Report includes a draft letter and template for continuous release reports for dairy operations, please use the continuous release reporting form.

(Source: These emission estimates are based on research data collected by Texas AgriLife Research, Texas AgriLife Extension Service, Texas A&M University, USDA-Agricultural Research Service, and West Texas A&M University.)

Swine operations

To estimate ammonia and hydrogen sulfide emissions from swine operations, see: Swine Report worksheet (4 pp, 91 K, About PDF) (go to page 3) EXIT . The worksheet considers typical confinement housing and manure storages that are located in a temperate climate. Emission rates are provided for shallow and deep storage pits.

Although the Swine Report worksheet includes a draft letter and template for continuous release reports for swine operations, please use the continuous release reporting form.

(Source: The emissions estimates are derived from research reported by:
Gay, S.W., D.R. Schmidt, C.J. Clanton, K.A. Janni, L.D. Jacobson, S. Weisberg. 2003. Odor, Total Reduced Sulfur and Ammonia Emissions from Animal Housing Facilities and Manure Storage Units in Minnesota. Applied Engineering in Agriculture, 19(3) 347-360, ASABE, St. Joseph, MI. and:
Jacobson, L.D., A.J. Heber, S.J. Hoff, Y. Zhang, D.B. Beasley, J.A. Koziel, and B.P. Hetchler. 2006. Aerial Pollutants Emissions from Confined Animal Buildings. Summary report, Ag Air Workshop, USDA-IFAFS research and demonstration program.) This study indicates that these values are a good faith estimate of emissions from swine operations using typical confinement housing and manure storages and located in a temperate climate.)

Poultry Operations

Ammonia and Hydrogen Sulfide Emission Rates for Poultry Operations (3 pp, 36 K, About PDF) EXIT provides ammonia and hydrogen sulfide emission rates for poultry operations, including broilers, laying hens and turkeys. This study lists emission rates for various housing type for each species. It also includes instructions for using the emission rates to calculate emissions for these substances, as well as examples on calculating emissions.

(Source: Hongwei Xin, Robert Burns and Hong Li. January 2002. Ammonia (NH3) and Hydrogen Sulfide (H2S) Emission Rates for Poultry Operations. Agricultural and Biosystems Engineering Dept., Iowa State University, Ames, Iowa.)

General emission estimates for ammonia from beef, dairy, horse, swine, poultry operations

An ammonia emissions estimator (2 pp, 16 K, About PDF) EXIT is available for beef, dairy, horse, poultry (broiler, turkey, and ducks), and swine. This study was completed by the University of Nebraska on ammonia losses from animal housing facilities in various conditions (i.e. open dirt lots, on cool and humid days) for different species. Example ammonia emissions estimator worksheets are available for swine and cattle:

- Swine example (2 pp, 31 K, About PDF) EXIT for calculating emissions of ammonia for a farm that houses 5,000 swine.
- Cattle example (2 pp,33 K, About PDF) EXIT for calculating emissions of ammonia for a beef feedlot with 1,000 head of cattle.

(Source: Rick Stowell and Rick Koelsch, University of Nebraska.)

A summary of the resources above are included in the following table:

The following links exit the site EXIT

Resources for Emissions Estimates

Type	Ammonia	Hydrogen Sulfide	Inputs
Beef	Ammonia emissions estimator (2 pp, 31 K, About PDF) Cattle example (2 pp,33 K, About PDF)	--	- Number of animals - Animal housing - Manure storage
Dairy	Dairy Report worksheet (3 pp, 87 K, About PDF) (see page 3)	Dairy Report worksheet (3 pp, 87 K, About PDF) (see page 3)	- Number of animals - Season
	Ammonia emissions estimator (2 pp, 16 K, About PDF)	--	- Number of animals - Animal housing - Manure storage
Swine	Swine Report worksheet (4 pp, 91 K, About PDF) (see page 3)	Swine Report worksheet (4 pp, 91 K, About PDF) (see page 3)	- Number of swine - Facility type - Manure system
	Ammonia emissions estimator (2 pp, 16 K, About PDF) Swine example (2 pp, 31 K, About PDF)	--	- Number of animals - Animal housing - Manure storage

Type	Ammonia	Hydrogen Sulfide	Inputs
Poultry	Ammonia and Hydrogen Sulfide Emission Rates for Poultry Operations (3 pp, 36 K, About PDF)	Ammonia and Hydrogen Sulfide Emission Rates for Poultry Operations (3 pp, 36 K, About PDF)	- Number of animals - Poultry type - Housing type
	Ammonia emissions estimator (2 pp, 16 K, About PDF)	--	- Number of animals - Animal housing - Manure storage
Horse	Ammonia emissions estimator (2 pp, 16 K, About PDF)	--	- Number of animals - Animal housing - Manure storage

LAST UPDATED ON OCTOBER 26, 2017

Attachment 2

Does EPA interpret EPCRA Section 304 to require farms to report releases from animal waste?

EPA interprets the statute to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304.

As written, EPCRA section 304 requires all facilities "at which a hazardous chemical is produced, used or stored" to report releases of reportable quantities of any EPCRA Extremely Hazardous Substance and of any CERCLA hazardous substance. Congress, however, created an exception relevant to farms. As indicated above, EPCRA reporting turns on whether a facility produces, uses, or stores a hazardous chemical. The term "hazardous chemical," as defined in EPCRA sections 329(5) and 311(e), does not include "any substance to the extent it is used in routine agricultural operations."

Therefore, if a farm only uses substances in "routine agricultural operations", the farm would not be a facility that produces, uses or stores "hazardous chemicals," and would therefore not be within the universe of facilities which are subject to EPCRA section 304 release reporting. Because such farms fall outside of EPCRA section 304, they are not required to report any releases of EPCRA extremely hazardous substances or CERCLA hazardous substances, including any releases from animals or animal waste.

Based on the language of the statute described above, EPA believes Congress did not intend to impose EPCRA reporting requirements on farms engaged in routine agricultural operations. The statute does not define "routine agricultural operations," and EPA has previously identified examples of routine agricultural operations. Those examples were not intended to be exhaustive. EPA clarifies here that it interprets the term "routine agricultural operations" to encompass regular and routine operations at farms, animal feeding operations, nurseries, other horticultural operations and aquaculture.

Additionally, as stated in previous policy interpretations, the following are examples of substances used in routine agricultural operations:

- Paint used for maintaining farm equipment;
- Fuel used at the farm to operate machinery or to heat buildings in a farm for housing animals; and
- Chemicals used for growing and breeding fish and aquatic plants in an aquacultural operation.

These examples were not intended to be exhaustive. EPA interprets the statute to include other substances used in routine agricultural operations, including animal waste stored on a farm and animal waste that is used as fertilizer. EPA also notes that use of a substance in routine agricultural operations includes the storage of that substance necessitated by such use. To illustrate based on one of the examples cited above, an inherent part of using fuel to operate machinery is storage of that fuel.

EPA clarifies here that, just as an aquacultural operation involving the feeding and breeding of fish would be considered a routine agricultural operation, the feeding and breeding of animals, as well as the expected handling and storage of the animals' waste, would also be considered a routine agricultural operation. EPA thus interprets the phrase "used in routine agricultural operations" to include, for example, the handling and storage of waste for potential use as fertilizer. In creating the routine agricultural operation exception, Congress demonstrated its intent to treat farms differently than other types of facilities. EPA does not believe Congress intended the generation, handling or storage of animal waste to subject farms to reporting if they do not otherwise produce, use or store hazardous chemicals.

Under EPA's interpretation, a farm where substances are used only in routine agricultural operations is not within the scope of EPCRA section 304; however, farms are still required to report releases of CERCLA hazardous substances under CERCLA 103 (see EPA's implementing regulations at 40 CFR part 302 and the continuous release reporting form).

Note: EPA intends to conduct a rulemaking on the interpretation of "used in routine agricultural operations" as it pertains to EPCRA reporting requirements.

Attachment 3

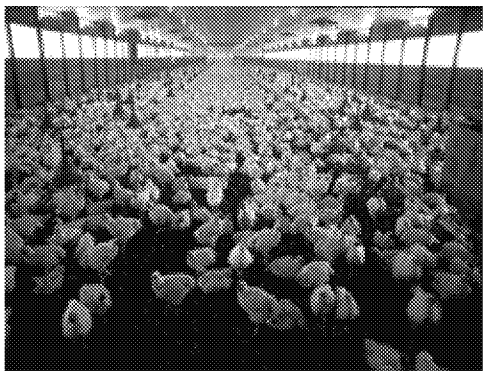
U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Improving air quality

Eleven Years After Agreement, EPA Has Not Developed Reliable Emission Estimation Methods to Determine Whether Animal Feeding Operations Comply With Clean Air Act and Other Statutes

Report No. 17-P-0396 **September 19, 2017**



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Abbreviations

AFO	Animal Feeding Operation
CAA	Clean Air Act
CAFO	Concentrated Animal Feeding Operation
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
DQO	Data Quality Objective
EEM	Emissions Estimating Methodology
EPA	U.S. Environmental Protection Agency
EPCRA	Emergency Planning and Community Right-to-Know Act
GAO	U.S. Government Accountability Office
NAEMS	National Air Emissions Monitoring Study
NAS	National Academy of Sciences
OAQPS	Office of Air Quality Planning and Standards
OIG	Office of Inspector General
PM	Particulate Matter
SAB	Science Advisory Board
USDA	U.S. Department of Agriculture
VOC	Volatile Organic Compound

Cover photos: Hogs (left) and chickens (right) in confined spaces at animal feeding operations. (EPA photos)

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17-P-0396
September 19, 2017

U.S. Environmental Protection Agency
Office of Inspector General

At a Glance

Why We Did This Review

We conducted this review to determine what actions the U.S. Environmental Protection Agency (EPA) has taken to evaluate air emissions from animal feeding operations.

The EPA estimates there are about 18,000 large animal feeding operations nationwide, which can potentially emit air pollutants in high-enough quantities to subject these facilities to Clean Air Act and other statutory requirements. A lack of reliable methods for estimating these emissions prevented the EPA and state and local agencies from determining whether these operations are subject to statutory requirements.

In 2005, the EPA and the animal feeding operations industry entered into a compliance agreement to address this challenge. As part of this agreement, the industry agreed to fund an air emissions monitoring study that the EPA would use to develop improved emission estimating methodologies for the industry.

This report addresses the following:

- *Improving air quality.*

Send all inquiries to our public affairs office at (202) 566-2391 or visit www.epa.gov/oig.

Listing of OIG reports.

Eleven Years After Agreement, EPA Has Not Developed Reliable Emission Estimation Methods to Determine Whether Animal Feeding Operations Comply With Clean Air Act and Other Statutes

What We Found

Until the EPA develops sound methods to estimate emissions, the agency cannot reliably determine whether animal feeding operations comply with applicable Clean Air Act requirements.

The industry-funded National Air Emissions Monitoring Study (NAEMS) and the EPA's analyses of the study's results comprised the agency's primary actions to evaluate air emissions from animal feeding operations over the past decade. The NAEMS monitoring was completed more than 7 years ago at a cost of about $15 million, but the EPA had not finalized any emission estimating methodologies for animal feeding operations. In addition, the EPA had only drafted methodologies for about one-fourth of the emission source and pollutant combinations studied in the NAEMS. The EPA expected to develop and begin publishing emission estimating methodologies by 2009, so the methodologies could be used by the EPA, state and local agencies, and industry operators to determine the applicability of Clean Air Act and other statutory requirements.

Delays in developing the emission estimating methodologies stemmed from limitations with NAEMS data, uncertainty about how to address significant feedback from the EPA's Science Advisory Board, and a lack of EPA agricultural air expertise and committed resources. The EPA had not finalized its work plan or established timeframes to finish the methodologies. As a result, the applicability of requirements to control emissions from individual animal feeding operations remained undetermined, enforcement protections for consent agreement participants remained in effect longer than anticipated, and a number of agency actions on animal feeding operation emissions continued to be on hold. Further, because the EPA had not conducted systematic planning, the agency was at risk of developing emission estimating methodologies that cannot be widely applied to animal feeding operations.

Recommendations and Planned Corrective Actions

We recommend that the EPA conduct systematic planning for future development of emission estimating methodologies. Based on the results of this planning, the EPA should determine whether it can develop emission estimating methodologies of appropriate quality for each of the emission source and pollutant combinations studied. If the EPA determines that it cannot develop certain emission estimating methodologies, it should notify agreement participants and end civil enforcement protections. For the emission estimating methodologies that can be developed, the EPA should establish public milestones for issuing the draft methodologies. The EPA agreed with our recommendations, and we accepted the agency's planned corrective actions.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 19, 2017

MEMORANDUM

SUBJECT: Eleven Years After Agreement, EPA Has Not Developed Reliable Emission Estimation Methods to Determine Whether Animal Feeding Operations Comply With Clean Air Act and Other Statutes
Report No. 17-P-0396

FROM: Arthur A. Elkins Jr.

TO: Sarah Dunham, Acting Assistant Administrator
Office of Air and Radiation

Lawrence Starfield, Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this evaluation was OPE-FY16-0018. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

In accordance with EPA Manual 2750, your office provided planned corrective actions in response to the OIG recommendations. We consider the planned corrective actions for all recommendations to be acceptable. Therefore, you are not required to provide a written response to this final report. The OIG may make periodic inquiries on your progress in implementing these corrective actions. Please update the EPA's Management Audit Tracking System as you complete planned corrective actions.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1
Introduction

Purpose

We conducted this evaluation to determine what actions the U.S. Environmental Protection Agency (EPA) has taken to evaluate air emissions from animal feeding operations (AFOs), including the status of the National Air Emissions Monitoring Study (NAEMS).

Background

AFOs are agriculture operations where animals are kept and raised in confined areas. The U.S. Department of Agriculture (USDA) has estimated that there are about 450,000 AFOs nationwide. While the majority of these are small operations with fewer than 300 animals, the EPA has estimated there are more than 18,000 large AFOs[1] that may raise thousands of animals. For more than two decades, movements to improve profitability within the agriculture industry have resulted in larger AFO facilities that often are geographically concentrated. As facility size has increased and greater numbers of animals are housed in confined spaces, concerns have arisen regarding these facilities' impacts on the environment and public health.

The EPA regulates certain larger AFOs under the Clean Water Act's National Pollutant Discharge Elimination System permit program, which regulates the discharge of pollutants to the waters of the United States. AFO air emissions are not regulated by any AFO-specific standards under the Clean Air Act (CAA), but AFOs that emit air pollutants in sufficient quantities can trigger CAA permit requirements. In the late 1990s, the EPA recognized that it did not have sufficient AFO air emissions data to develop reliable emission estimating methodologies (EEMs) for determining whether individual AFOs are subject to CAA permit requirements or emission reporting requirements under two other statutes: the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA).[2] Both CAA permitting requirements and CERCLA/EPCRA release

---

[1] EPA water regulations define AFOs and a subset of larger AFOs called concentrated animal feeding operations (CAFOs), and the Clean Water Act includes CAFOs as a type of point source. The CAA does not define or reference these terms, and the EPA's Office of Air and Radiation does not distinguish between an AFO and a CAFO. Thus, we use the term "AFO" throughout our report, even when referring to a facility that would meet the definition of a CAFO under the Clean Water Act.

[2] EPCRA and CERCLA require facilities to report emissions of certain hazardous substances if they are released in quantities at or above certain thresholds. This includes two hazardous substances commonly released by AFOs: ammonia and hydrogen sulfide.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00046

reporting requirements are triggered only if a facility emits certain pollutants at or above specific regulatory thresholds.

The agency began discussions with representatives of the AFO industry in 2001 to address uncertainty in determining the applicability of statutory requirements for air emissions. As a result, the EPA and certain sectors of the AFO industry[3] (e.g., pork and broiler producers, egg layers, and dairy) negotiated a consent agreement, which was published in 2005[4] and entered into by AFO owners/operators who elected to participate. Under this agreement, participating AFO owners/operators agreed to pay a civil penalty, comply with all applicable requirements of the agreement, and participate (if selected) in a national monitoring study. The AFO sectors agreed to fund the monitoring study to provide data the EPA would use to develop EEMs for various AFO pollutants and emission sources.

Air Emissions From AFOs

AFOs can release several pollutants, including but not limited to: ammonia, hydrogen sulfide, particulate matter (PM), volatile organic compounds (VOCs) and hazardous air pollutants. AFO air emissions come from lagoons, barns and other structures, and manure spread on fields. Table 1 lists the key pollutants emitted from AFOs, along with their common emission sources and associated health and air quality effects.

Table 1: Emission sources and health effects of key pollutants from AFOs

Pollutant	Common emission sources	Health and air quality effects
Ammonia (NH_3)	Decomposition of animal manure.	Can cause severe cough and chronic lung disease. It also contributes directly to the formation of $PM_{2.5}$, and deposition can impact sensitive ecosystems.
Volatile organic compounds (VOCs)	Animal feed and waste.	Can cause eye, nose and throat irritation; damage to liver, kidney and central nervous system; and cancer. VOCs also contribute to the formation of ground-level ozone.
Particulate matter (PM)*	Dry manure, bedding and feed materials, and dirt feed lots.	Exposure is linked to a variety of problems, including decreased lung function, increased respiratory symptoms, and premature death in people with heart or lung disease.
Hydrogen Sulfide (H_2S)	Decomposition of animal manure stored in wet conditions such as lagoons.	Can cause eye and respiratory irritation at lower concentrations. At higher concentrations, paralysis of the respiratory center can lead to rapid death. Excess emissions can contribute to the formation of $PM_{2.5}$ and acid rain.

Source: EPA Office of Inspector General (OIG) analysis.

* PM includes both fine particles ($PM_{2.5}$,) and coarser particles (PM_{10}).

[3] According to the EPA, state and local agencies, and an environmental organization also participated in initial discussions on the agreement.

[4] Animal Feeding Operations Consent Agreement and Final Order, 70 Fed. Reg. 4958-4977 (Jan. 31, 2005).

AFOs can be located near residences, and some communities have multiple AFOs nearby. For example, several counties in eastern North Carolina have the highest concentration of swine AFOs in the United States. Some studies have raised concerns that lower-income and minority communities are disproportionately impacted by air emissions from AFOs. Studies conducted in North Carolina found that residents living near swine AFOs were disproportionately low-income people of color. Air pollution from these AFOs is associated with the potential health impacts listed in Table 1 above, as well as a reduced quality of life due to persistent odors[5] and declining property values.[6]

Highlights from external studies on impacts from AFO air emissions:

- **Residential property values were reduced by an average of almost 23 percent within 1.25 miles of a large swine AFO.[a]**
- **The closer children go to school near a large AFO, the greater the risk of asthma symptoms.[b]**
- **Living in close proximity to large swine AFOs may result in impaired mental health and negative mood states, such as tension, depression or anger.[c, d]**

[a] Simons, R.A. et al., 2014. The Effect of a Large Hog Barn Operation on Residential Sales Prices in Marshall County, KY. JOSRE. 6(1).
[b] Mirabelli, M. C. et al., 2006. Asthma Symptoms Among Adolescents Who Attend Public Schools That Are Located Near Confined Swine Feeding Operations. Pediatrics. 118;66-75.
[c] Bullers, S., 2005. Environmental Stressors, Perceived Control, and Health: The Case of Residents Near Large-Scale Hog Farms in Eastern North Carolina. Human Ecology. 33(1).
[d] Schiffman, S. S. et al., 1995. The Effect of Environmental Odors Emanating From Commercial Swine Operations on the Mood of Nearby Residents. Brain Research Bulletin. 37(4): 369-375.

Characterizing air emissions from AFOs is difficult due to a number of factors. AFOs can have many and varied sources of air emissions, including barns, houses, feedlots, pits, lagoons, basins and manure spray fields. Each of these emission sources can emit a variety of air pollutants, and emission rates can fluctuate depending on climate and geographical conditions, among other factors. Further, characterizing AFO air emissions requires expertise in multiple scientific disciplines, including animal nutrition, AFO practices and atmospheric chemistry.

The EPA and the USDA have been collaborating on a manual of voluntary best management practices to provide AFO owner/operators and state and local governments with options to reduce AFO air emissions. The manual contains best management practices for reducing particulate matter, ammonia, hydrogen sulfide, and other air emissions through various aspects of AFO management, including feed management, manure management, land application, and other areas. The EPA plans to publish the manual before the end of 2017, pending agency administration approval.

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[5] Odors are not regulated by the EPA, but may be addressed under some state and local laws.
[6] Simons, R.A. et al., 2014. The Effect of a Large Hog Barn Operation on Residential Sales Prices in Marshall County, KY. JOSRE. 6(1).
Kim, J. et al., 2009. A Spatial Hedonic Approach to Assess the Impact of Swine Production on Residential Property Values. Environ Resource Econ. 42: 509-534.

National Academy of Sciences Report on AFO Air Emissions

In 2001, the EPA and USDA jointly requested that the National Academy of Sciences (NAS) evaluate the body of scientific information used for estimating various kinds of air emissions from AFOs. In 2003, the NAS reported[7] that accurate emissions estimates were needed to determine AFOs' potential impacts and to assess the implementation of measures to control emissions. The NAS also reported that the EPA had not dedicated the necessary resources to estimate AFO air emissions, and that the agency's approach to estimating emissions was inadequate. That approach involved deriving emission factors from published emissions data, as well as gathering emission factors from existing literature. These emission factors were then applied to representative farms to estimate annual mass emissions. The NAS reported that this approach did not account for the variability among AFOs (e.g., differences in geography and climate) and thus cannot adequately estimate air emissions from an individual AFO.

The NAS recommended that the EPA develop a "process-based" approach to estimate AFO air emissions. The NAS favored such an approach for most types of emissions as the primary focus for both short- and long-term research,[8] but also stated that short-term research should focus on providing "defensible estimates of air emissions that could be used to support responsible regulation."[9] The NAS described process-based models as mathematical models "that describe the movement of various substances of interest at each major stage of the process of producing livestock products: movement into the next stage, movement in various forms to the environment, and ultimately movement into products used by humans."[10]

Air Compliance Agreement With AFO Industries

In 2002, spurred in part by uncertainty about emission levels from AFOs and concerns about applicability of CAA requirements, representatives of the pork, egg producers, and other AFO sectors proposed a plan to EPA officials to produce air emissions monitoring data from AFOs. Negotiations between the EPA and AFO sectors[11] lasted for more than 2 years before an agreement was finalized in 2005. As a condition of the 2005 Air Compliance Agreement (henceforth, the "Agreement"), the industry agreed to fund a large-scale emissions monitoring study. The EPA was to use the emissions monitoring data to develop EEMs that

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[7] *Air Emissions from Animal Feeding Operations: Current Knowledge, Future Needs*, NAS National Research Council (2003).
[8] 2003 NAS report, pp. 152-153.
[9] 2003 NAS report, p. 25.
[10] 2003 NAS report, p. 9.
[11] Participating AFO sectors included egg layers, broiler chickens, dairy cattle and swine. The turkey sector was a part of the negotiations as well, but not enough turkey AFO owners/operators signed up to fund monitoring. The Agreement did not cover beef cattle.

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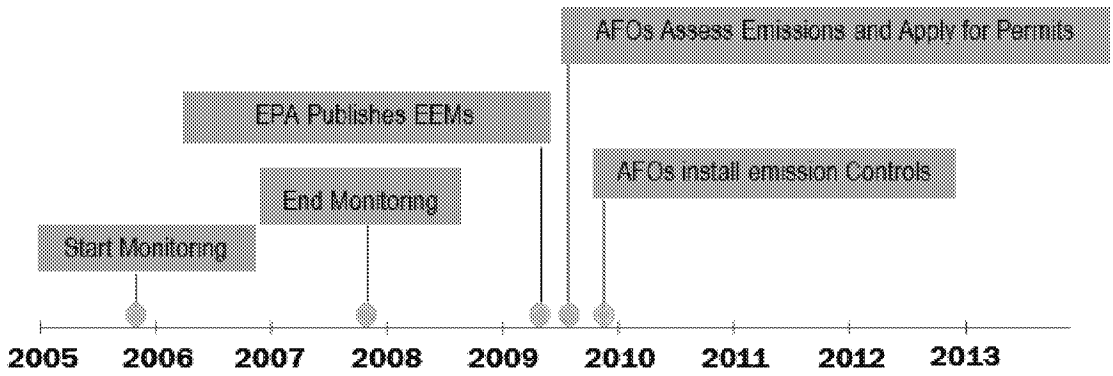
AFOs could apply to estimate their emissions and determine the applicability of CAA permitting and CERCLA/EPCRA release reporting requirements. Once a facility applied the EEMs to determine its emissions, the facility was to submit all required CAA permit applications and/or report any hazardous substance releases requiring notice under CERCLA/EPCRA.[12]

The Federal Register Notice (henceforth, the "Notice") that published the Agreement included the EPA's expectation that the emissions monitoring study would begin in 2005 and last 2 years. The Notice also described the EPA's expected timeframes for completing the tasks subsequent to the study. Based on these original expectations, the EPA would begin publishing final EEMs in 2009, and AFOs would have obtained any necessary permits and installed emission controls by 2010. Figure 1 shows the timing for these different activities.

Figure 1: Expected timeframes for monitoring study and EEM development



Source: OIG analysis of the Notice publishing the Agreement. 70 Fed. Reg. 4958-4977 (Jan. 31, 2005).

[12] In a 2008 rule, the EPA exempted from CERCLA Section 103 reporting requirements all releases of hazardous substances to the air from animal waste at AFOs. The rule also exempted such releases from EPCRA Section 304 reporting requirements, except when AFOs confine a number of animals at or above the large CAFO threshold, as defined under Clean Water Act regulations. However, on April 11, 2017, the U.S. Court of Appeals for the District of Columbia Circuit ruled in favor of a group of environmental organizations that challenged the exemption and ordered that the 2008 rule be vacated (*Waterkeeper Alliance et al. v. EPA*). On July 17, 2017, the EPA filed a motion requesting the Court grant a stay of the ruling for six months to allow the EPA time to develop guidance for farms on reporting requirements. On August 16, 2017, the Court ordered a stay of the ruling through November 14, 2017. The EPA has 75 days from August 16, 2017, to request an extension of the stay if needed.

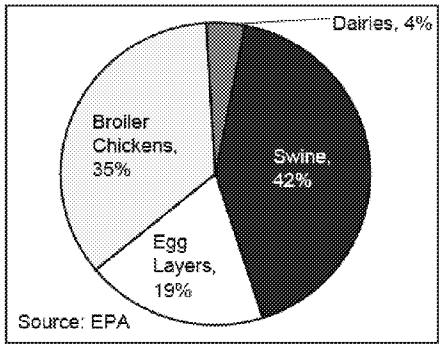
Primary provisions for AFOs participating in the Air Compliance Agreement include:

- **Pay up to $2,500 per farm to fund a 2-year emissions study.**
- **Agree to make their property available for emissions monitoring if selected as a monitoring site for the study.**
- **Pay a civil penalty ranging from $200 to $1,000, depending on the size and number of AFOs covered by the participant's Air Compliance Agreement.**
- **Receive protection from enforcement actions for civil violations of the CAA, CERCLA and EPCRA, to last until either (1) the EPA finalizes EEMs, or (2) the EPA notifies the facility that it was unable to finalize EEMs.**

Under the Agreement, participating AFOs were granted a release and covenant not to sue for potential CAA, CERCLA and EPCRA violations alleged in the Agreement (henceforth, "civil enforcement protections") until the EEMs are developed and AFOs apply for applicable CAA permits and report qualifying releases under CERCLA and EPCRA, or the EPA determines it cannot develop EEMs and notifies Agreement participants accordingly.

The EPA entered into 2,568 separate agreements with AFO owners and operators, which covered about 13,900 AFOs in 42 states. According to the EPA, these 13,900 AFOs comprise more than 90 percent of the largest AFOs in the United States. Figure 2 illustrates the percentage of all Agreement participants by type of animal raised.

Figure 2: Agreement participants by type of animal raised



Monitoring Study Methodology

About $15 million was collected from the AFO sectors participating in the Agreement to fund the NAEMS emissions study. The NAEMS protocol provided the framework for the field sampling plan, and was developed through a collaborative effort of industry experts, university scientists, EPA and other government scientists, and other stakeholders knowledgeable in the field. The Agricultural Air Research Council—a nonprofit organization established by industry—was responsible for managing and disbursing funds for the study.

The Agricultural Air Research Council was also responsible for selecting a Science Advisor to develop a detailed study design and quality assurance plan, and to oversee the emissions monitoring work, including work conducted by the contracted principal investigators. The principal investigators—most of whom were researchers at land grant universities with expertise in animal agriculture and/or emissions measurement—carried out the monitoring at selected sites. EPA staff did not collect monitoring data, but conducted audits at monitoring sites to ensure that proper techniques and protocols were followed.

Monitoring was conducted at 27 total sites (i.e., specific sources of emissions such as a barn or a lagoon).[13] Measurements of ammonia, particulate matter (PM_{10} and $PM_{2.5}$),[14] total suspended particulates, VOCs, hydrogen sulfide, and carbon dioxide[15] were taken at broiler chicken, egg layer, swine, and dairy confinement sites (e.g., houses and barns). Measurements of ammonia, hydrogen sulfide, and VOCs were taken at swine and dairy open-source sites (e.g., lagoons and basins). Figure 3 shows the location of monitoring sites across the country.

Figure 3: NAEMS monitoring site locations

Source: OIG analysis of NAEMS site reports.

Other types of measurements were also taken at monitoring sites to help characterize emissions. These measurements included meteorological data (such as temperature and wind speed), and information on the number of animals at AFO monitoring locations, how the animals were housed, and how their waste was managed. The Agreement stated that the EPA would use data from the NAEMS and any other relevant data to develop EEMs.

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[13] The 27 monitoring sites were located at 23 AFOs. Monitoring was conducted at two sites (emission sources) for four of the 23 participating AFOs.

[14] PM_{10} describes inhalable particles with diameters that are generally 10 micrometers and smaller. $PM_{2.5}$ describes fine inhalable particles with diameters that are generally 2.5 micrometers and smaller.

[15] While carbon dioxide was measured at confinement sites as part of the NAEMS, the EPA never intended to create EEMs for carbon dioxide emissions.

Responsible Offices

The EPA office primarily responsible for development of the Agreement was the Office of Enforcement and Compliance Assurance. The EPA office responsible for developing EEMs from the NAEMS data is the Office of Air Quality Planning and Standards within the EPA's Office of Air and Radiation, while the Office of Research and Development plays a supporting role.

Scope and Methodology

We conducted our performance audit from April 2016 through May 2017, in accordance with generally accepted government auditing standards. Those standards require that we obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

To address our objective, we identified and reviewed applicable statutes, regulations, policies and guidance, including sections of the CAA and the Clean Water Act, CAA permitting requirements and thresholds, and the Agreement and associated monitoring protocol. To help us determine the status of the EPA's NAEMS, as well as other efforts to evaluate AFO air emissions, we obtained and reviewed EPA emission reports and analyses, NAEMS-related reports and studies, an EPA Science Advisory Board (SAB) report, and documents related to EPA legal proceedings.

To determine state efforts to address AFO air emissions, we reviewed state regulations and programs for a selected number of states. We also reviewed petitions requesting that the EPA regulate AFO air emissions, and an administrative complaint alleging discrimination against minorities in North Carolina in permitting AFOs. In addition, we reviewed academic studies and reports to determine AFO air emissions and health impacts, and potential disparate impacts in overburdened communities.

We interviewed EPA staff and managers in the Office of Air Quality Planning and Standards, the Office of Enforcement and Compliance Assurance, the Office of Research and Development, the Office of Civil Rights, the Office of Water, and EPA Region 4 (which covers North Carolina), to gain an understanding of EPA actions to evaluate and address AFO air emissions. We also interviewed the following stakeholders to discuss the Agreement and the history and status of the NAEMS:

- USDA's Natural Resources Conservation Service staff.
- SAB members who reviewed the EPA's draft EEMs.
- An AFO industry advisor.
- AFO academic researchers at Purdue University, North Carolina State University, and University of North Carolina-Chapel Hill.

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In addition, we interviewed organizations (Sierra Club, Food & Water Watch, EarthJustice, Waterkeeper Alliance) that submitted CAA petitions to regulate AFO emissions. We also interviewed organizations that submitted a Title VI administrative complaint (the North Carolina Environmental Justice Network and the Rural Empowerment Association for Community Help) alleging discrimination in AFO permitting in North Carolina.

To assess internal controls, we reviewed EPA policies and guidance on quality assurance, including the following:

- The EPA's Quality Policy.
- The EPA's Procedure for Quality Policy.
- The EPA's *Guidance on Systematic Planning Using the Data Quality Objectives Process.*
- The EPA's Office of Air Quality Planning and Standards' Quality Management Plan.

We also reviewed the quality assurance project plans developed for the NAEMS and early draft EEM development.

Prior Report

In September 2008, the U.S. Government Accountability Office (GAO) issued a report on AFOs titled *Concentrated Animal Feeding Operations: EPA Needs More Information and a Clearly Defined Strategy to Protect Air and Water Quality from Pollutants of Concern* (GAO-08-944). GAO reported that the EPA did not have the data needed to effectively regulate CAFO air emissions; specifically, the EPA lacked data on air emission from CAFOs, which the EPA is trying to address through the NAEMS. GAO found that the EPA lacked consistent and accurate data for CAFOs regulated under the Clean Water Act, and that such data—like the locations of the CAFOs—could assist with an assessment of CAFO air emissions. GAO reported that two, then-recent decisions by the EPA suggest that the agency had not yet determined how it intended to regulate air emissions from CAFOs:

- The EPA proposed to exempt releases to the air of hazardous substances from farm manure from both CERCLA and EPCRA notification requirements.

- The EPA stated it will not make key regulatory decisions on how federal air regulations apply to CAFOs until after the NAEMS is completed.

GAO recommended that the EPA (1) reassess the data collection efforts of the NAEMS, and (2) establish a strategy and timetable for developing process-based emission estimating protocols for CAFOs. GAO determined that the EPA has implemented the first recommendation but has not completed the second one.

Chapter 2
EPA Plans for Finalizing EEMs Were Not Accomplished and Potential Air Quality Impacts Continue

The EPA had not published any final EEMs for AFOs, and had not finalized its workplan or established timeframes for completing them. Moreover, progress had been limited since 2013, when the EPA's SAB concluded that draft EEMs developed by the EPA should not be applied on a national scale as intended, and made several recommendations to improve the EPA's statistical analyses. At the time of the Agreement in 2005, the EPA expected that it would begin publishing final EEMs in 2009. Further, the EPA expected that by 2010 the AFO industry would have used the EEMs to assess their emissions, apply for any applicable CAA permits, and install any necessary emission reduction controls.

The EPA collaborated with a committee of external stakeholders to develop a protocol they believed would provide sufficient, representative data for the EPA's EEM development efforts. However, public comments submitted to the EPA on the planned NAEMS protocol, and the 2008 GAO report, questioned whether the NAEMS would provide enough data to produce scientifically and statistically valid EEMs. As a result of the delays, individual AFOs have not applied EEMs to determine whether their air emissions were significant enough to require CAA permits and related emissions controls, while civil enforcement protections for Agreement participants remained in effect.

Development of EEMs Is Years Behind Schedule

Based on the original expectations for completion of the tasks in the Notice, the NAEMS monitoring would have been completed in 2007, and the EPA would have begun publishing EEMs in 2009. By 2010 all facilities would have done the following:

1. Applied the EEMs to determine whether they met or exceeded CAA permitting and/or CERCLA/EPCRA release reporting thresholds, and whether permitting and reporting were required.

2. Submitted any required CAA permit applications and CERCLA/EPCRA release notifications.

3. Implemented the mitigation and emission control requirements described in their permits. At this point, the protections from civil enforcement actions under the Agreement would have ended for participating AFOs.

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However, EPA staff told us that this timeline did not account for time required for the EPA's Environmental Appeals Board to approve individual agreements, which took longer than anticipated and was not completed until December 2006. Further, it did not account for monitoring that occurred on a rolling basis, and thus took more than 2 years to complete.

The NAEMS monitoring was completed in early 2010, about 2 years later than originally expected. The EPA began developing draft EEMs after monitoring was completed. In 2012, the EPA placed its draft EEMs on its public website for public comment. Draft EEMs covered eight[16] of the 36[17] emission source and pollutant combinations described in the Agreement. The EPA's Office of Air and Radiation also submitted the draft EEMs to the SAB to obtain feedback on EEM development and related questions. The SAB conducted its review of draft EEMs in 2012 and issued its final report[18] on April 19, 2013.

At the time we finished our review in May 2017, the EPA had not finalized any draft EEMs, or developed any additional draft EEMs. According to the 2005 Agreement, the EPA expected to begin publishing final EEMs within 18 months after completion of the NAEMS monitoring.

Figure 4 shows a timeline of expected and actual NAEMS and EEM development activities up to the 2013 SAB final report.

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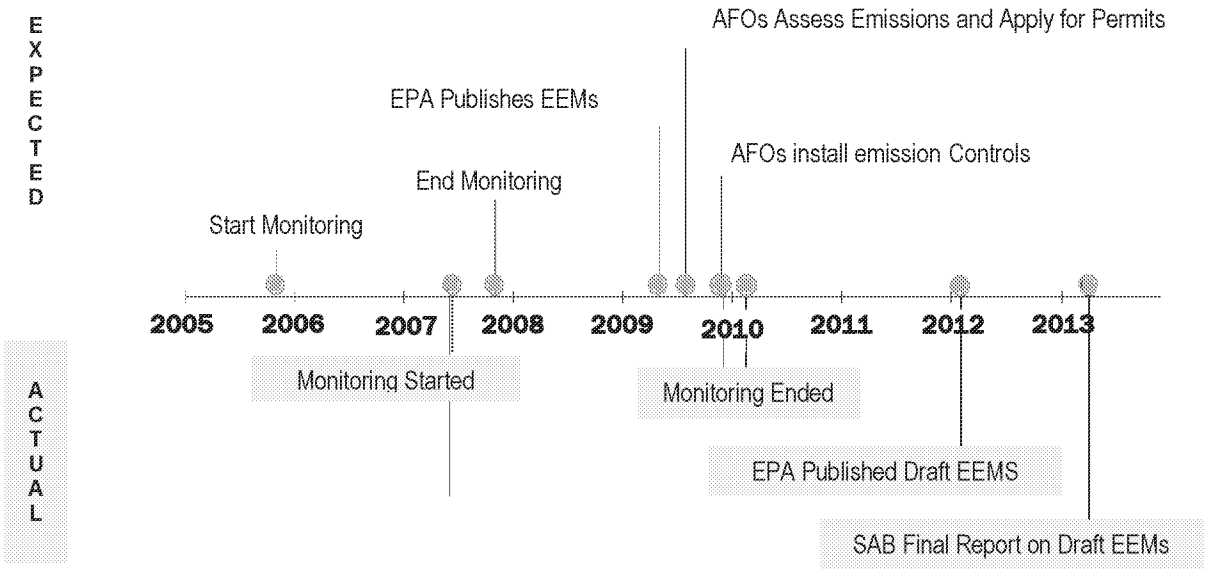
[16] These included EEMs to estimate six different types of emissions from broiler chicken houses, and EEMs to estimate ammonia emissions from dairy and swine lagoons/basins. Also, see Table 2.

[17] According to the Office of Air and Radiation, the number of EEMs that will ultimately be developed will be influenced by factors such as differences in production, management and building conditions, as well as availability of sufficient data.

[18] *SAB Review of Emissions-Estimating Methodologies for Broiler Animal Feeding Operations and for Lagoons and Basins at Swine and Dairy Animal Feeding Operations*, EPA-SAB-13-003 (2013).

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00056

Figure 4: Expected and actual NAEMS/EEM development timeline



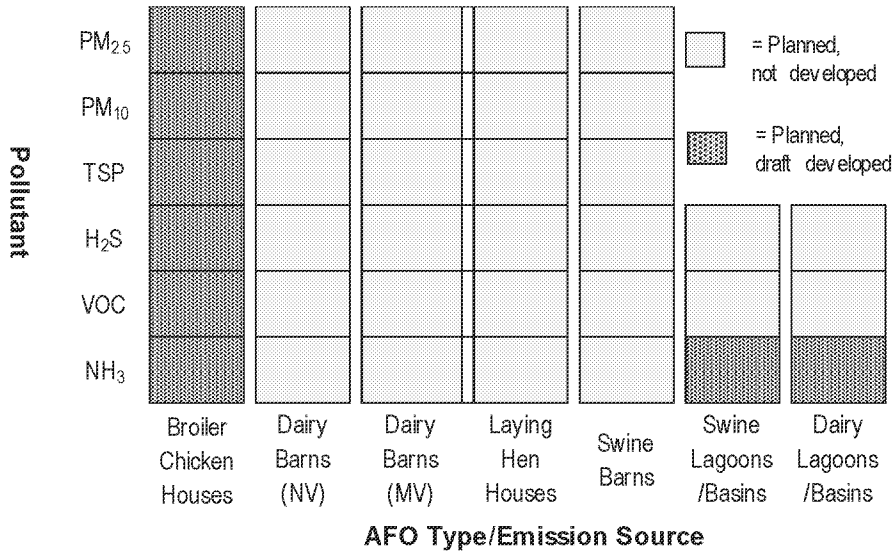
Source: OIG analysis of EPA documents.

Responding to SAB Concerns and a Lack of Resources Slowed Development of EEMs

The SAB identified several concerns with the draft EEMs, and the Office of Air and Radiation did not agree with some of the concerns. Since that time, EEM development slowed considerably, as the EPA decided how to address the SAB's concerns. The EPA also encountered resource constraints and a lack of available technical expertise.

Table 2 shows all emission source and pollutant combinations from the Agreement,[19] and the draft EEMs that were developed and submitted to the SAB for review.

Table 2: Status of EEM development



Source: OIG analysis.

$PM_{2.5}$:	Particulate matter < 2.5 micrometers	H_2S:	Hydrogen Sulfide
PM_{10}:	Particulate matter < 10 micrometers	VOC:	Volatile organic compounds
TSP:	Total suspended particulates	NH_3:	Ammonia

SAB Review of Draft EEMs and EPA Response

The SAB concluded that the data and methodology used to develop the draft EEMs limited the ability of the models to estimate emissions beyond the small number of AFOs in the NAEMS data set. Specifically, the SAB concluded that the number of sites monitored was too small relative to the size of the industry; the models were based on variables that did not accurately predict emissions; the EPA should not have combined swine and dairy lagoon/basin data; and there were significant limitations with the VOC data for broiler houses. Thus, the SAB recommended that the EPA not apply the current version of the EEMs beyond the AFOs in the EPA's dataset.

[19] This included EEMs for both naturally ventilated (NV) and mechanically ventilated (MV) dairy barns, as discussed in the Agreement.

The SAB made a number of other recommendations, including having the EPA do the following:

- Expand its dataset by collecting data from monitoring efforts outside of the NAEMS, and using NAEMS data that were initially excluded due to the EPA's data completeness criteria.
- Not generate an EEM for VOC emissions from broiler operations based on current data limitations.
- Separate swine and dairy lagoon/basin data that had been combined for EEM development.

The SAB also advocated a process-based modeling approach to EEM development. The NAS had advocated a process-based modeling approach to estimating emissions in its 2003 report. Further, in its 2008 report, GAO recommended that the EPA establish a strategy and timetable for developing process-based emission estimating protocols for CAFOs. The SAB noted the following:

> Process-based models would be more likely to be successful in representing a broad range of conditions than the current models because process-based models represent the chemical, biological and physical processes and constraints associated with emissions.

According to the Notice publishing the Agreement, the EPA believed process-based modeling to be a large and complex, multiyear research effort. Therefore, the EPA planned to develop an interim modeling approach, which would be a critical first step to developing a process-based modeling approach. The modeling approach the EPA ultimately selected for the draft EEMs used a statistical software program to analyze the various measurements taken during the NAEMS and identify those variables that predict emissions. The SAB recognized that the EPA may need to apply statistical approaches to assess emissions while it was developing and evaluating process-based models, and thus made recommendations to improve the EPA's chosen approach, as discussed above.

Prior Stakeholder Feedback Questioned the NAEMS Monitoring Approach

The SAB's concerns about the number of monitoring sites being able to support statistically based EEMs was raised in public comments on the Agreement and protocol before the EPA began developing EEMs, and was also raised by GAO in its 2008 report on the EPA's efforts to characterize AFO pollution.

After the NAEMS protocol was made available for public comment in 2005, a number of external groups expressed concerns about the study design and whether it would lead to credible scientific data. Some commenters noted that the number of

sites was too limited to account for all the differences in types of manure management systems, building types, ventilation rates, feeding practices, animal type/age, animal management practices, geography and climate. The commenters noted that even for the types of AFOs monitored, there may not be a sufficient number of samples to establish statistically valid EEMs. Similarly, in its 2008 report, GAO cautioned that the NAEMS may not supply the data needed for the EPA to develop comprehensive EEMs. Further, the GAO report stated that members of the USDA Agricultural Air Quality Task Force had raised concerns about the quality and quantity of data collected, and had pushed for the EPA to review the first 6 months of monitoring data to determine whether the study needed to be revised to yield more useful information.

According to the NAEMS Science Advisor, the NAEMS protocol could be viewed as a compromise between compliance-minded EPA, budget-minded industry, and publication-minded universities. The protocol developers decided on an approach that focused on collecting a comprehensive set of monitoring data (i.e., 2 years of monitoring many different AFO conditions and parameters) at a smaller number of sites, as opposed to collecting a smaller set of data at more sites. According to the EPA, costs were a factor in this decision because mobilizing and demobilizing equipment and then re-deploying at new sites would have depleted funds that could be used for monitoring. The protocol developers believed the chosen monitoring plan would produce sufficient data for EEM development if the selected monitoring sites represented how the majority of animals are raised in the different AFO sectors.

Although the monitoring protocol was developed as a joint effort of researchers knowledgeable about AFO operations and/or monitoring techniques, there was no comprehensive internal or external assessment to determine the amount of data needed to produce scientifically and statistically sound EEMs that could be extrapolated nationwide. The EPA did not perform such an assessment prior to the NAEMS, in part, because it did not know which variables would most impact air emissions at AFOs, and the agency wanted to see the data before selecting a modeling approach for EEM development. Also, the NAEMS protocol and detailed monitoring plans were not peer reviewed to ensure that the NAEMS would provide sufficient data for the EPA to produce a comprehensive suite of EEMs.

EPA's EEM Development Activities Since 2013 Have Been Limited

The EPA planned to continue EEM development using its statistically based approach, and had addressed some of the SAB's recommendations by acquiring additional data sets from other external studies, and reassessing data completeness criteria for the NAEMS. However, the draft EEMs that were submitted to the SAB for review had not been revised, and the EPA had not begun developing EEMs for the remaining 28 emission source and pollutant combinations.

A lack of expertise and resources slowed the agency's work on the EEMs in recent years. According to EPA managers, the agency in recent years did not have staff with combined expertise in agricultural emissions, air quality and statistical analysis. At the time the NAEMS protocol was developed, the EPA had more applicable expertise, but the key staff involved in the NAEMS protocol development retired. Further, competing priorities resulted in the EPA's Office of Air and Radiation putting the EEM effort largely on hold. The EPA had dedicated few agency resources to develop EEMs since the SAB's 2013 final report. The few remaining agency staff who worked on the NAEMS and subsequent data analysis were reassigned to other work, and the EPA stopped funding the contract for NAEMS analysis.

The EPA's most recent draft EEM development work plan, dated March 2016, provided a general framework for how the EPA intended to finish all planned EEMs. The draft plan stated that a new staff person with appropriate expertise, along with student contractor support, would complete the EEMs. The EPA hired the new staff person and a student contractor in January 2017 but had not yet finalized timeframes for completing EEM development.

AFO Air Emissions Remain Largely Uncharacterized and Important Agency Actions Are on Hold

Eleven years after the Agreement was entered, and 7 years after NAEMS monitoring was completed, the EPA, state, local and tribal permitting authorities, and AFO owners/operators, did not have scientifically defensible EEMs needed to make CAA and CERCLA/EPCRA compliance determinations. In addition, the civil enforcement protections for the approximately 14,000 AFOs that participated in the Agreement remained in effect more than 6 years after intended expiration, and several important EPA actions were on hold pending development of the EEMs.

CAA Permit and CERCLA/EPCRA Reporting Determinations Have Not Been Made

Per the Agreement, facilities were not required to determine whether CAA permitting and CERCLA/EPCRA reporting requirements apply to them until the EPA publishes final EEMs. However, once final EEMs are published, participating AFOs are required to use the EEMs to estimate their emissions and come into compliance with applicable CAA and CERCLA/EPCRA requirements.

The Agreement states that a source with emissions exceeding CAA major source permitting thresholds[20] would have to do one of the following:

1. Apply for and obtain a permit that contains a federally enforceable limitation or condition that limits the potential emissions to less than the applicable major source threshold for the area where the source is located.

2. Install either best available control technology in attainment areas,[21] or lowest achievable emission rate technology in nonattainment areas;[22] and then obtain a federally enforceable permit that incorporates the appropriate best available control technology or lowest achievable emission rate limit.

Delays in issuing the EEMs resulted in facilities continuing to have civil enforcement protections even if their emissions were exceeding CAA permit or CERCLA/EPCRA reporting thresholds. Given the lack of reliable EEMs, it was difficult to estimate how many facilities could be exceeding these thresholds. However, monitoring conducted as part of an EPA enforcement case in 2003 demonstrated that some large AFOs can exceed the 250-tons-per-year permitting threshold for PM emissions. That monitoring showed total PM emissions of 550 and 700 tons per year at two large egg-layer AFOs.

The NAEMS Science Advisor analyzed NAEMS data for the pork and egg-layer industries, which indicated that pork and egg-layer AFOs could frequently exceed the EPCRA reporting threshold for ammonia of 100 pounds per day. This analysis indicated that pork and egg layer AFOs were unlikely to exceed 250 tons per year of PM_{10} or VOC emissions. However, the Science Advisor's analysis did not address whether pork or egg-layer AFOs would trigger permitting requirements in poor air quality areas where regulatory thresholds are lower.

Paragraph 38 of the Agreement required the EPA to end civil enforcement protections for those emission sources/types for which the EPA determined it was unable to develop EEMs. As described earlier, the SAB concluded in its 2013 report that the EPA did not have sufficient data to develop an EEM for VOC emissions from broiler houses. Further, more than 7 years since completion of the NAEMS, the EPA had only developed draft EEMs for eight of a possible 36 emission source and pollutant combinations. However, the EPA had not yet determined that it could not develop any of the EEMs, and thus has not waived enforcement protections for any of the emissions sources covered under the 2005 Agreement.

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[20] Applicable regulatory thresholds range from 10 tons per year in areas with very poor air quality (called extreme nonattainment areas) to 250 tons per year in areas with adequate air quality (called attainment areas).
[21] A geographic area is generally designated as being in attainment for a particular criteria air pollutant if the concentration of that pollutant is found to be at or below the regulated or "threshold" level for the associated National Ambient Air Quality Standard.
[22] A geographic area is generally designated as being in nonattainment for a particular criteria air pollutant if the concentration of that pollutant is found to exceed the regulated or "threshold" level for the associated National Ambient Air Quality Standard.

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Agency Actions on Hold

Delays in completing EEMs have also caused important agency efforts to address or mitigate AFO air emissions to remain on hold. The EPA stated it would not take the following actions until the EEMs are finalized because they are needed to inform the agency's decision-making:

Responding to citizen petitions to regulate AFOs. The EPA has received petitions to address AFO emissions in regulations beyond the current permitting CAA provisions, which include a 2009 petition to list and regulate AFOs as a source category under CAA Section 111, and a 2011 petition to regulate ammonia as a criteria pollutant under CAA Sections 108 and 109. EPA staff told us they did not plan to evaluate the need for additional regulations as laid out in these petitions until the EEMs are finalized.

Defining "source" for aggregation purposes. The aggregation of sources pertains to how many individual emission sources are counted together to determine whether a facility exceeds CAA major source status, and thus impacts how many facilities could exceed permitting thresholds. For example, if a barn at an AFO rather than the entire AFO is a "source," fewer AFOs could be impacted by CAA permitting requirements. The EPA had not issued guidance on this issue, and said it planned to do so after developing the EEMs.

In our view, final EEMs are also necessary for the EPA to develop compliance and enforcement strategies for Agreement non-participants, and to assess whether AFO emissions may contribute to disproportionate health risks to certain communities.

Conclusion

The EPA's ability to characterize and address AFO air emissions is unchanged since its 2005 Agreement with the AFO industry intended to produce reliable emissions estimation methods. As a result, individual AFOs have not estimated their emissions to determine whether they are required to implement controls to reduce emissions and/or report their emissions to the appropriate emergency responders. Additionally, other important agency actions pertaining to AFO air emission estimates continue to be on hold.

Timeframes for completing EEM development were uncertain, as staffing and contract support needed to finish EEMs only recently became available and the EPA had not yet finalized its work plan at the time we completed our review. Further, SAB concerns about the EPA's EEM development methodology have not been resolved. Despite these uncertainties, parties to the 2005 Agreement continue to receive protections from civil enforcement actions. We make recommendations in Chapters 3 and 4 of this report.

Chapter 3
EPA Needs to Implement Systematic Planning to Assure That EEMs Have Sufficient Quality

The EPA's planning for EEM development did not describe the desired level of quality needed for the EEMs' intended purpose of estimating individual AFO air emissions nationwide. The establishment of such criteria is a key component of systematic planning for agency projects. In accordance with the agency's data quality policies, EPA organizations should conduct systematic planning to ensure that projects will result in scientific products that are defensible and useful for their intended purpose. The agency's most recent EEM development draft work plan used the terms "appropriate" and "meaningful" to describe final EEM products, but did not explain how those terms would be used to evaluate the quality or acceptability of the final EEMs.

As noted in Chapter 2, the agency's SAB concluded that the EPA's 2012 draft EEMs were not suitable for their intended purpose. Consequently, if the agency does not fully implement systematic planning for future EEM development, the EPA is at risk of producing additional draft EEMs that are not sufficient for estimating air emissions at individual AFOs across the United States.

EPA Quality System

The EPA's Procedure for its Quality Policy[23] establishes management principles and responsibilities for ensuring that EPA products and services meet agency quality-related requirements, and are of sufficient quality for their intended use and support the EPA's mission to protect human health and the environment. The policy applies to agency products and services developed for external distribution or dissemination. Each EPA organization is responsible for implementing the EPA Quality Policy and Program within its organization. Requirements for implementing the program include conforming to the minimum specifications of the American National Standards Institute and the American Society for Quality Control standard, ANSI/ASQC E4-1994.[24]

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[23] EPA Chief Information Officer's CIO Order 2106-P-01.0 (October 20, 2008).
[24] *Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs,* the American National Standards Institute and the American Society for Quality Control (1994). This standard is the basis for the EPA's Quality System.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00064

At the project level, these minimum specifications include the following:

- Using a systematic planning approach (e.g., the data quality objectives process) to develop acceptance or performance criteria covered by the EPA Quality Policy.

- Having approved quality assurance project plans, or equivalent documents, for all applicable tasks involving environmental data.

To implement the EPA's Quality Policy, each EPA organization must develop a quality management plan that describes its quality system, documents its quality policies, and identifies the environmental programs to which the quality system applies. The EPA's Office of Air Quality Planning and Standards (OAQPS) developed a quality management plan that describes options for ensuring that OAQPS projects are of appropriate quality for their intended purpose. These options include elements of systematic planning to ensure that quality considerations are built into a product at the beginning, and consist of (1) developing a quality assurance project plan or similar document, and/or (2) conducting pre-dissemination review (e.g., peer review) of information.

According to the OAQPS quality management plan, quality documentation describes in detail the activities that must be implemented to assure that the results of work will satisfy the stated performance criteria. The performance criteria may be stated in the form of data quality objectives (DQOs). DQOs are qualitative or quantitative statements that clarify project technical and quality objectives, define the appropriate type of data, and specify tolerable levels of potential decision errors (e.g., uncertainty) that will be used as the basis for identifying the data needed to support decisions. EPA quality assurance guidance[25] recommends that systematic planning include DQOs when data are to be used to make a regulatory decision or emission estimations.

The DQO process is the agency's recommendation when data are to be used to make some type of decision (e.g., compliance or noncompliance with a standard) or estimation (e.g., ascertain the mean concentration level of a contaminant).

Guidance on Systematic Planning Using the Data Quality Objectives Process, EPA QA/G-4, February 2006

Further, DQOs should be specified for a project before the agency develops its plan for collecting the data, since the DQOs will drive key data collection decisions. For estimation, the guidance states that DQOs are typically expressed in terms of acceptable uncertainty (e.g., width of an uncertainty band or interval) associated with a point estimate at a desired level of statistical confidence.

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[25] The EPA's *Guidance on Systematic Planning Using the Data Quality Objectives Process* (2006).

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00065

The OAQPS quality management plan also provides for the pre-dissemination review of OAQPS information as a way to provide assurance that quality has been built into the information that the office disseminates. The quality management plan cites peer review as an example of pre-dissemination review, and notes that it can be appropriate to incorporate the pre-dissemination review for project planning documents, such as the quality assurance project plan, prior to beginning the project.

EPA Has Not Fully Implemented a Systematic Planning Process to Assure a Desired Level of Quality for EEMs

The EPA's planning process for EEM development had yet to establish data quality objectives describing the performance or acceptance criteria for the final EEMs. While extensive planning went into assuring the quality of the monitoring data collected during the NAEMS, this planning did not describe the desired quality of the end products resulting from EPA analysis of the NAEMS data (i.e., the EEMs), or the type and extent of emissions monitoring data needed to produce EEMs of desired quality.

Planning for Draft Development of EEMs Was Not Systematic

Ideally, under a systematic planning process, a methodology for producing a final product at the desired quality is determined up front. This methodology then drives the data collection efforts. When data are to be used to make some type of decision or estimation, the EPA recommends that the desired level of quality be expressed in the form of DQOs. As noted in Chapters 1 and 2, the EPA collaborated with external scientists to develop the monitoring protocol. However, several factors influenced the scope of the NAEMS, and that effort was not specifically designed to produce data to satisfy acceptance criteria for the EEMs. Among these factors was that, prior to the study, the EPA did not know which variables most impact air emissions at AFOs. Thus, the EPA tried to create an EEM development methodology using the data that was available from the NAEMS.

> **Unless some form of planning is conducted prior to investing the necessary time and resources to collect data, the chances can be unacceptably high that these data will not meet specific project needs.**
>
> *Guidance on Systematic Planning Using the Data Quality Objectives Process*, EPA QA/G-4, February 2006

The NAEMS protocol stated that the NAEMS and subsequent data analyses and interpretation would allow the EPA and livestock and poultry producers to "reasonably determine" which AFOs were subject to CAA regulatory provisions and CERCLA/EPCRA reporting requirements. However, as part of its planning, the EPA did not define what was meant by "reasonably determine." The EPA developed a quality assurance project plan for its efforts to develop the draft EEMs that were published in 2012, but it focused on assessing the quality of incoming data from the NAEMS and other sources. The quality assurance project

plan did not include DQOs or other performance criteria defining the acceptable level of uncertainty for EEM predictions, or the quality control measures the EPA would use to assure its statistical models were scientifically and statistically sound.

The EPA had its draft EEMs peer reviewed by the SAB, but the agency did not involve the SAB in its planning process to ensure that the NAEMS would provide sufficient data for EEM development. As discussed in Chapter 2, the SAB concluded that the EPA's draft EEMs were not useful for making compliance determinations nationwide due to problems with the underlying data and analysis.

Plans for Completing Development of EEMs Can Be Strengthened

The EPA had not yet conducted systematic planning for the EEM completion effort, but had developed a draft work plan. That draft work plan contained little information about systematic planning to assure the quality of future EEMs. The plan did not address whether a quality assurance project plan would be developed, or commit to peer review of the planned methodology or the draft or final EEMs.[26]

The draft work plan described a future scoping study that would allow the EPA to plan activities and resources for developing "appropriate" EEMs, and stated that EEMs developed in the future would be tested to determine whether they can reproduce "meaningful" emissions estimates. However, the work plan did not define or establish acceptance criteria for "appropriate" or "meaningful" EEMs. Staff from OAQPS stated that they planned to make quality planning decisions once the new staff person had been hired to conduct the scoping study and subsequent EEM development.

Conclusion

As explained in the EPA's quality assurance guidance, systematic planning that defines the level of quality required for an end product should be conducted prior to data collection efforts, to reduce the risk that the data collected is not sufficient. Such planning for the EEMs was not conducted prior to the NAEMS or draft EEM development efforts, in part, because the EPA did not have a full understanding of the factors that influence AFO air emissions. Further, the NAEMS protocol and monitoring plans were not developed exclusively to provide data needed for EEM development. Based on its experience and peer review feedback in developing the initial set of draft EEMs, the EPA should be in a better position to conduct systematic planning for the EEM completion effort.

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[26] In the draft plan, the EPA stated it will provide developed EEMs to "appropriate stakeholders and possibly the Science Advisory Board" for review, and then modify the EEMs based on comments received. However, the plan does not commit to obtaining independent, external peer review of the EEMs or the planned methodology that will be used to develop the EEMs.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00067

Without adequate systematic planning, the EPA is at risk of spending additional time and resources to develop EEMs that still are not sufficient for estimating AFO emissions nationwide.

Recommendations

We recommend that the Assistant Administrator for Air and Radiation:

1. In accordance with EPA quality assurance guidance, conduct comprehensive systematic planning for future emission estimating methodology development through either the quality assurance project plan or pre-dissemination review processes.

    - If the EPA chooses to develop a quality assurance project plan, it should first develop data quality objectives for the emission estimating methodologies.

    - If the EPA chooses to conduct a pre-dissemination review, it should obtain independent, external feedback on the adequacy of its emission estimating methodologies development and plans prior to beginning the project.

2. Based on the results of systematic planning, determine and document the decision as to whether the EPA is able to develop scientifically and statistically sound emission estimating methodologies for each originally planned emission source and pollutant combination.

3. For the emission source and pollutant combinations for which the Office of Air and Radiation determines it can develop scientifically and statistically sound emission estimating methodologies, establish public milestone dates for issuing each draft emission estimating methodology. For any emission source and pollutant combinations for which the Office of Air and Radiation determines that it cannot develop scientifically and statistically sound emission estimating methodologies, notify the Office of Enforcement and Compliance Assurance of that determination.

We recommend that the Assistant Administrator for Enforcement Compliance and Assurance:

4. For any emission source and pollutant combinations for which the Office of Air and Radiation determines it cannot develop emission estimating methodologies, notify Air Compliance Agreement participants of this determination, and that the release and covenant not to sue for those emission sources and pollutant types will expire in accordance with paragraph 38 of the 2005 Air Compliance Agreement.

Agency Response and OIG Evaluation

The Office of Air and Radiation agreed with Recommendations 1, 2 and 3, and provided acceptable planned corrective actions and completion dates. The Office of Enforcement and Compliance Assurance agreed with Recommendation 4 and provided an acceptable corrective action plan.

The agency also provided technical comments that were incorporated into our final report as appropriate. Appendices A and B contain the responses to our report from the Office of Air and Radiation, and the Office of Enforcement and Compliance Assurance, respectively.

Chapter 4
EPA Has Not Updated Some Stakeholders and Public on Current Status of EEM Efforts

The 2005 Air Compliance Agreement between the AFO industry and the EPA generated significant stakeholder and public interest in AFO air emissions, and any actions the agency would take to address those emissions. Leading up to the monitoring study, and for 2 years after monitoring data was available, the EPA provided frequent public updates related to the NAEMS and EEMs. However, since the SAB's 2013 final report, the agency had provided only high-level updates to selected stakeholders. This left many stakeholders and the public uninformed about the current status of the work, the reasons for delays, and current timelines for finalizing the EEMs. The EPA should resume providing public updates on the status of EEM development through its website or other public means, to ensure the transparency of its process and accountability in setting completion dates.

EPA Provided Extensive Public Outreach During Early Stages

The EPA issued four press releases in 2006 announcing individual agreements entered into between the EPA and AFOs. Further, in the years after it received all monitoring data in 2010, the EPA provided frequent updates on EEM development efforts and the SAB's review of draft EEMs. In 2011, the EPA published data from the NAEMS monitoring, issued a Call for Information to collect information to supplement the NAEMS data, and updated the public on processes related to the planned SAB review. In 2012, the EPA released its draft EEMs for public comment.

EPA Has Not Publicly Communicated on EEM Development Efforts Since 2013

Since the EPA posted the SAB's 2013 final report on its public website, the EPA had not updated some stakeholders and the public on recent aspects of its NAEMS data analysis and EEM development efforts. An OAQPS manager told us that the agency planned to post final EEMs on its public webpage, but used other mechanisms to provide updates on the status of EEM development. Such updates were provided only upon request, and typically to groups with which the agency had regular contact, such as the USDA's Agricultural Air Quality Task Force. Numerous interested parties—including the SAB Chair, a SAB panel member, and three external groups—told us that they had no information about the ongoing NAEMS data analysis, the reasons for delays, or how long it might take the EPA to publish final EEMs.

Further, staff at the USDA told us that while they periodically received high-level updates from the EPA at Agricultural Air Quality Task Force and intra-agency

workgroup meetings, they were not aware of the EPA's current plans for completing EEM development. The EPA's 2016 update to the Agricultural Air Quality Task Force provided the SAB's recommendations regarding the draft EEMs, as previous updates had done, and stated that the EPA will continue developing EEMs to account for air emissions from AFOs.

Conclusion

Despite being years behind schedule in finalizing the EEMs, the EPA has not provided public updates since 2013 on the NAEMS data analysis and the agency's current efforts to finalize the EEMs. Thus, stakeholders and the public do not know where the EPA currently stands with respect to EEM development. To ensure transparency and accountability in completing EEMs for the $15 million investment in the NAEMS study, the EPA should provide public updates on the status of EEM development and establish public milestones for completion of each draft EEM.

Recommendation

We recommend that the Assistant Administrator for Air and Radiation:

5. Provide the public with the status of emission estimating methodology development and the agency's planned next steps for analyzing the National Air Emissions Monitoring Study data and finalizing the emission estimating methodologies, including the completion of milestone dates for each draft emission estimating methodology it plans to develop.

Agency Response and OIG Evaluation

The Office of Air and Radiation agreed with Recommendation 5, and provided an acceptable corrective action plan and completion date. The Office of Air and Radiation also provided technical comments that were incorporated into our final report as appropriate. Appendix A contains the Office of Air and Radiation's response to our report.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status[1]	Action Official	Planned Completion Date	Potential Monetary Benefits (in $000s)
1	23	In accordance with EPA quality assurance guidance, conduct comprehensive systematic planning for future emission estimating methodology development through either the quality assurance project plan or pre-dissemination review processes. o If the EPA chooses to develop a quality assurance project plan, it should first develop data quality objectives for the emission estimating methodologies. o If the EPA chooses to conduct a pre-dissemination review, it should obtain independent, external feedback on the adequacy of its emission estimating methodologies development and plans prior to beginning the project.	R	Assistant Administrator for Air and Radiation	3/31/18	
2	23	Based on the results of systematic planning, determine and document the decision as to whether the EPA is able to develop scientifically and statistically sound emission estimating methodologies for each originally planned emission source and pollutant combination.	R	Assistant Administrator for Air and Radiation	6/30/18	
3	23	For the emission source and pollutant combinations for which the Office of Air and Radiation determines it can develop scientifically and statistically sound emission estimating methodologies, establish public milestone dates for issuing each draft emission estimating methodology. For any emission source and pollutant combinations for which the Office of Air and Radiation determines that it cannot develop scientifically and statistically sound emission estimating methodologies, notify the Office of Enforcement and Compliance Assurance of that determination.	R	Assistant Administrator for Air and Radiation	6/30/18	
4	23	For any emission source and pollutant combinations for which the Office of Air and Radiation determines it cannot develop emission estimating methodologies, notify Air Compliance Agreement participants of this determination, and that the release and covenant not to sue for those emission sources and pollutant types will expire in accordance with paragraph 38 of the 2005 Air Compliance Agreement.	R	Assistant Administrator for Enforcement and Compliance Assurance	9/30/18[2]	
5	26	Provide the public with the status of emission estimating methodology development and the agency's planned next steps for analyzing the National Air Emissions Monitoring Study data and finalizing the emission estimating methodologies, including the completion of milestone dates for each draft emission estimating methodology it plans to develop.	R	Assistant Administrator for Air and Radiation	6/30/18	

[1] C = Corrective action completed.
R = Recommendation resolved with corrective action pending.
U = Recommendation unresolved with resolution efforts in progress.

[2] If applicable, based on the Office of Air and Radiation's determination in response to Recommendation 3.

Appendix A

Office of Air and Radiation Response to Draft Report

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 23 2017

OFFICE OF
AIR AND RADIATION

MEMORANDUM

SUBJECT: Response to the Office of Inspector General's Draft Report, *Emissions From Animal Feeding Operations Remain Largely Uncharacterized More Than 7 Years After Study Completed* (Project No. OPE-FY16-0018)

FROM: Sarah Dunham
Acting Assistant Administrator

TO: Carolyn Copper
Assistant Inspector General
Office of Program Evaluation
Office of Inspector General

The EPA's Office of Air and Radiation (OAR) appreciates the opportunity to review and comment on the Office of Inspector General (OIG) draft report titled "*Emissions From Animal Feeding Operations Remain Largely Uncharacterized More Than 7 Years After Study Completed.*" OAR agrees in general with the OIG's recommendations.

OAR's current task is the development of Emissions Estimating Methodologies (EEMs) for animal feeding operations (AFOs), using statistically-based methodologies to develop emissions factors for select types of AFOs from data collected through the National Air Emissions Monitoring Study (NAEMS). In partnership with the Office of Research and Development (ORD), we are undertaking this effort and incorporating a National Academy of Sciences (NAS) recommendation that the EPA develop an interim method for estimating emissions while we participate in a longer-term effort to develop process-based EEMs. In addition, our work will include objectives outlined in the 2005 Air Compliance Agreement (Agreement) the EPA entered into with participating AFOs. The AFO sectors represented in the Agreement covered the monitoring study costs. Individual participating AFOs did not directly pay monitoring study funds. The EPA remains committed to fulfilling this goal of developing EEMs for AFOs based on scientifically and statistically sound methods. The

statistically-based EEMs must also be easily implemented by the agricultural community and other users, and be based on non-proprietary inputs.

While we generally agree with your characterizations of the Agreement and the associated NAEMS, there are a few places where information in the draft report is slightly unclear where the information differs from our understanding of specific facts. Please refer to the attached list of these instances and suggested revisions intended to help clarify and improve the draft report's accuracy.

Below are OAR's responses to the OIG's specific recommendations (recommendation numbers 1, 2, 3 and 5), which we developed in consultation with ORD. On June 9, 2017, OECA provided a separate response to recommendation number 4 as it is assigned to their office. In the attached technical comments, we provide suggested additional detailed changes in the form of a markup.

Recommendation 1: In accordance with EPA quality assurance guidance, conduct comprehensive systematic planning for future emission estimating methodology development through either the quality assurance project plan or pre-dissemination review processes.

- **If the EPA chooses to develop a quality assurance project plan, it should first develop data quality objectives for the emission estimating methodologies.**
- **If the EPA chooses to conduct a pre-dissemination review, it should obtain independent, external feedback on the adequacy of its emission estimating methodologies development and plans prior to beginning the project.**

Response 1: OAR and ORD agree with this recommendation and have initiated development of a quality assurance project plan (QAPP) for evaluation of the data and completion of the EEMs. As part of the QAPP development, appropriate data quality objectives will be defined. We intend to make this document publicly available on our website (see below).

Planned completion date: FY 2018, Q2 (March).

Recommendation 2: Based on the results of systematic planning, determine and document the decision as to whether the EPA is able to develop scientifically and statistically sound emission estimating methodologies for each originally planned emission source and pollutant combination.

Response 2: OAR agrees with this recommendation. As noted, completion of this task is contingent upon the results and decisions made during the QAPP development. Upon completion of the QAPP, OAR and ORD will determine which EEMs can be completed and the appropriate schedules for their completion. We intend to make the schedules publicly available on our website (see below).

Planned Completion Date: As stated above, development of the QAPP is ongoing with completion anticipated in the second quarter of FY 2018. Upon completion of the QAPP, decisions

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00074

on EEM development and schedules will be determined and transmitted to the Office of Enforcement and Compliance Assurance (OECA). We anticipate that the schedules will be established in third quarter of FY 2018.

Recommendation 3: For the emission source and pollutant combinations for which the Office of Air and Radiation determines it can develop scientifically and statistically sound emission estimating methodologies, establish public milestone dates for issuing each draft emission estimating methodology. For any emission source and pollutant combinations for which the Office of Air and Radiation determines that it cannot develop scientifically and statistically sound emission estimating methodologies, notify the Office of Enforcement and Compliance Assurance of that determination.

Response 3: OAR agrees with this recommendation and will develop a schedule for completion of the EEMs after completion of data review and QAPP development, which is currently planned for completion in the second quarter of FY 2018.

Planned Completion Date: As stated above, development of the QAPP is ongoing with completion anticipated in the second quarter of FY 2018. Upon completion of the QAPP, decisions on EEM development and schedules will be determined and transmitted to OECA and made available to the public. We anticipate that the schedules will be established in the third quarter of FY 2018.

Recommendation 5: Provide the public with the status of emission estimating methodology development and the agency's planned next steps for analyzing the National Air Emissions Monitoring Study data and finalizing the emission estimating methodologies, including the completion milestone dates for each draft emission estimating methodology it plans to develop.

Response 5: OAR agrees with this recommendation and will post the schedule on our website for completion of the EEMs after completion of data review and QAPP development, which is currently planned for completion in the second quarter of FY 2018. We anticipate providing updates on our progress with subsequent website postings.

Planned Completion Date: As stated above, development of the QAPP is ongoing with completion anticipated in the second quarter of FY 2018. Upon completion of the QAPP, decisions on EEM development and schedules will be determined and milestones will be made available to the public. We anticipate that the schedules will be established in the third quarter of FY 2018.

If you have any questions regarding this response, please contact Mike Jones, Office of Air Quality Planning and Standards (OAQPS) Audit Liaison, at (919) 541-0528.

Attachment

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00075

Appendix B

Office of Enforcement and Compliance Assurance Response to Draft Report

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN - 9 2017

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Draft Report: "Emissions from Animal Feeding Operations Remain Largely Uncharacterized More Than 7 Years After Study Completed," Project No. OPE-FY16-0018 (May 12, 2017)

FROM: Lawrence E. Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance

TO: Carolyn Copper
Assistant Inspector General
Office of Program Evaluation
Office of Inspector General

Thank you for the opportunity to respond to the Office of Inspector General (OIG) Draft Report, "Emissions from Animal Feeding Operations Remain Largely Uncharacterized More Than 7 Years After Study Completed" (Draft Report). The Office of Enforcement and Compliance Assurance (OECA) appreciates OIG's careful examination of this issue, and we are committed to following the terms of the Animal Feeding Operations (AFO) Air Compliance Agreement (Agreement) and OIG's recommendation for OECA – Recommendation Number 4. We concur with Recommendation Number 4, and we provide a high-level intended corrective action with an estimated completion date below.

While we generally agree with your characterizations of the Agreement and its associated National Air Emissions Monitoring Study (NAEMS), there are a few places where the Draft Report is slightly unclear or where the information differs from our understanding of specific facts. Enclosed for your consideration, we include a list of these instances and suggested revisions intended to help clarify and improve the Draft Report's accuracy.

OECA has discussed the Draft Report with the Office of Air and Radiation (OAR) and we understand that OAR will be providing a separate response addressing the Draft Report's findings and recommendations for OAR – Recommendation Numbers 1, 2, 3, and 5.

OECA Response to Recommendation Number 4 – Concur

No.	Recommendation	High-Level Intended Corrective Action	Planned Completion Date
4	For any emission source and pollutant combinations for which the Office of Air and Radiation determines it cannot develop emission estimating methodologies, notify Air Compliance Agreement participants of this determination and that the release and covenant not to sue for those emission sources and pollutant types will expire in accordance with paragraph 38 of the 2005 Air Compliance Agreement.	If the EPA determines it cannot develop emission estimating methodologies for any emission source and pollutant combinations, OECA will notify Agreement participants in writing that the EPA has made such a determination and that the release and covenant not to sue will expire in accordance with paragraph 38 of the Agreement.	If necessary, OECA will complete the intended corrective action within 60 days of OAR finalizing its determination.

We concur with OIG's recommendation that OECA notify Agreement participants if OAR determines that it cannot develop emission estimating methodologies for any emission source and pollutant combinations. OECA notes that this recommendation will only require a corrective action if OAR determines it cannot develop emission estimating methodologies for any source and pollutant combinations. Paragraph 38 of the Agreement requires the EPA to notify Agreement participants in writing if the Agency makes such a determination. OECA intends to continue abiding by the Agreement's terms, and we will notify Agreement participants if the Agency determines it cannot develop emission estimating methodologies for any emission source and pollutant combinations.

If you have any questions regarding this response, please contact OECA Audit Liaison, Gwendolyn Spriggs, at 202.564.2439.

Attachment

cc: Susan Shinkman, OECA/OCE
Rosemarie Kelley, OECA/OCE
Lauren Kabler, OECA/OCE
Apple Chapman, OECA/OCE
Tim Sullivan, OECA/OCE

Gwendolyn Spriggs, OECA/OAP
Sarah Dunham, OAR
Robin Dunkins, OAR/OAQPS
Mike Jones, OAR/OAQPS

Appendix C

Distribution

The Administrator
Chief of Staff
Chief of Staff for Operations
Deputy Chief of Staff for Operations
Assistant Administrator for Air and Radiation
Assistant Administrator for Enforcement and Compliance Assurance
Agency Follow-Up Official (the CFO)
Agency Follow-Up Coordinator
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Career Deputy Assistant Administrator, Office of Air and Radiation
Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance
Audit Follow-Up Coordinator, Office of the Administrator
Audit Follow-Up Coordinator, Office of Air and Radiation
Audit Follow-Up Coordinator, Office of Enforcement and Compliance Assurance

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020968-00079

Attachment 4

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

Drafted: November 6, 2017

Step 1: Notify the NRC of an initial continuous release notification (1-800-424-8802). The NRC representative will provide an identification number (CR-ERNS) for your farm. **Note:** The NRC does not require personally identifiable information, such as an address for a private residence.

Step 2: Submit an initial written notification to the EPA Regional Office for the area where the release occurs, within 30 days of the call to the NRC. Use the Continuous Release Reporting Form (EPA Form 6100-10).

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

For Alaska, Idaho, Oregon, and Washington, submit reports to:

Erin Williams M/S OCE-101
U.S. EPA - Region 10
1200 Sixth Avenue, Suite 900
Seattle, Washington 98101
(206) 553-4627
williams.erin@epa.gov

For technical questions, call the EPCRA, RMP & OIL Information Center: 1-800-424-9346

Overview

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA) require facilities to report releases of hazardous substances that are equal to or greater than their reportable quantities (RQ) within any 24-hour period. Following a hazardous substance reportable release, a facility owner or operator must notify federal authorities under CERCLA and state and local authorities under EPCRA.

What Needs to Be Reported?

Typical hazardous substances associated with animal wastes include ammonia (NH3) and hydrogen sulfide (H2S). Both have a RQ of 100 pounds. EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time.

How do I Report for CERCLA?

CERCLA 103 allows continuous releases to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases. Once the Continuous Release Reporting Form and the first anniversary follow-up report have been submitted, farmers do not need to report any additional releases unless a Statistically Significant Increase (SSI) occurs. The Continuous Release Reporting Form (EPA Form 6100-10) and checklist can be found on the EPA website: https://www.epa.gov/epcra/appendix-b-reporting-requirements-continuous-releases-hazardous-substances

Do I Need to Submit an EPCRA Continuous Release Report?

Not for routine agricultural operations. EPA interprets the statute to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA 304. This encompasses regular and routine operations at farms, animal feeding operations, nurseries, other horticultural operations, and aquaculture.

How Do I Estimate the Releases for Reporting?

EPA has *Emission Estimates* resources available which may assist farmers in estimating emissions. Farmers may also use other models in estimating emissions. It is suggested that a copy of the calculation be retained for future reference. https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms#Resources

This document summarizes guidance available on EPA's website on CERCLA and EPCRA reporting requirements for air releases of hazardous substances from animal waste at farms. This is not intended to be official guidance but a useful resource for those looking for further information and for providing compliance assistance.

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

How do I Fill out Form 6100-10?

Form 6100-10 is broken into five (5) parts. Complete instructions are on the back of each part

- **Section I: General Information** – This entire section must be completed
- **Section II: Source Information Part A** – This entire section must be completed
  - Name of Source: Identify *each* continuous release source - provide a name that identifies the source in a manner easy for you (i.e. animal housing, manure storage, etc.)
  - Releases of this nature are "Continuous without interruption"
  - Brief statement: Briefly describe how the release is continuous and stable in quantity and rate (also provide an estimate of the surface area of the release source such as number of acres)
  - Identify how the release and calculated release amounts were estimated
- **Section II: Source Information Part B** – A separate Part B must be completed for each source
  - Name of Source from Part A
  - Affected Medium: AIR
- **Section II: Source Information Part C**– A separate Part C must be completed for each source
  - Name of Source from Part A
  - Estimate the Upper and Lower Bounds for the reportable hazardous chemicals
  - The two hazardous substances which farms will be reporting are:
    - Ammonia (NH3) – CASRN# 7664-41-7
    - Hydrogen Sulfide (H2S) – CASRN# 7783-06-4
  - Complete the Number of Days of Release (365 days), Total Quantity for the Year, and Period of the Release (12 months)
- **Section III: Substance Information** – A separate Part B must be completed for each Hazardous Substance
  - Fill in the upper bounds for each source and calculate the total SSI Trigger

Type of Animal	Minimum Head for 100-lbs NH3	Minimum Head for 100-lbs H2S
Dairy Cattle	1,429	746,269
Swine – Breeding, Shallow Pit	1,020	6,250
Swine – Breeding, Deep Pit	1,923	11,765
Swine – Farrowing, Shallow Pit	625	3,333
Swine – Farrowing, Deep Pit	4,545	35,714
Swine – Nursery, Shallow Pit	5,263	23,256
Swine – Nursery, Deep Pit	21,739	50,000
Swine – Grow-finishing, Shallow Pit	1,818	9,615
Swine – Grow-finishing, Deep Pit	2,703	12,500
Poultry – Broilers	21,020	3,846,150
Laying Hens – High Rise Houses	28,200	8,176,615
Laying Hens – Manure-Belt Houses	162,140	
Turkeys – 21-d brooding period	108,000	
Turkeys – 28-d brooding period	56,000	
Turkeys – 35-d brooding period	42,000	
Turkeys – 36-140-d toms on litter	12,970	

The adjacent table are minimum numbers of particular animals that may produce sufficient waste to result in meeting or exceeding the RQ for NH3 and H2S. **Note**: The total of emissions from all animals should be added together to report NH3 and H2S emissions. For example, a facility that has breeding and nursery animals should add the emissions from both together when determining total emissions from that farm. See EPA website for calculation worksheet: **https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms**

This document summarizes guidance available on EPA's website on CERCLA and EPCRA reporting requirements for air releases of hazardous substances from animal waste at farms. This is not intended to be official guidance but a useful resource for those looking for further information and for providing compliance assistance.

Attachment 5

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UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Don't Waste Arizona, Inc., a 501(c)(3) non-for-profit company organized under the laws of the State of Arizona, Plaintiff, v. Hickman's Egg Ranch, Inc., Defendant.	Case No. 2:16-CV-03319-JZB **DEFENDANT'S SUPPLEMENTAL CITATION OF AUTHORITY IN SUPPORT OF ITS RESPONSE TO PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant Hickman's Egg Ranch, Inc. ("Hickman's" or "Defendant"), hereby submits supplemental authority in support of its response to Plaintiff's pending Motion for Partial Summary Judgment based on guidance recently promulgated by the U.S. Environmental Protection Agency ("U.S. EPA") which exempts ammonia generated by animal wastes from reporting under the Emergency Planning and Community Right-to-Know Act ("EPCRA") at 42 U.S.C. § 11004(a)(1).

. . .

On October 26, 2017, the U.S. EPA issued Interim Guidance "to assist farms in complying with requirements to report air releases of hazardous substances from animal waste under CERCLA and EPCRA." U.S. EPA, "CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms," (hereinafter "Interim Guidance"). This Interim Guidance is directly relevant to this matter, and provides a clear exclusion for reporting of ammonia emissions from animal waste under EPCRA Section 304 for farms that use substances in "routine agricultural operations." U.S. EPA bases this interpretation on the definition of "hazardous chemical" under EPCRA Sections 329(5)[1] and 311(e), [2] which does not include "any substance to the extent is it used in routine agricultural operations." In additional guidance issued on October 25, 2017, U.S. EPA specifically states:

> Therefore, if a farm only uses substances in "routine agricultural operations", the farm would not be a facility that produces, uses or stores "hazardous chemicals," and would therefore not be within the universe of facilities which are subject to EPCRA section 304 release reporting. Because such farms fall outside of EPCRA section 304, they are not required to report any releases of EPCRA extremely hazardous substances or CERCLA hazardous substances, including any releases from animals or animal waste.
>
> Based on the language of the statute described above, EPA believes Congress did not intend to impose EPCRA reporting requirements on farms engaged in routine agricultural operations. The statute does not define "routine agricultural operations," and EPA has previously identified examples of routine agricultural operations. Those examples were not intended to be exhaustive. EPA clarifies here that it interprets the term "routine agricultural operations" to encompass regular and routine operations at farms, animal feeding operations, nurseries, other horticultural operations and aquaculture.

U.S. EPA, Office of Land and Emergency Management, "Does EPA interpret EPCRA Section 304 to require farms to report releases from animal waste?," October 25, 2017.

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[1] 42 U.S.C. §11049(5).
[2] 42 U.S.C. §11021(e)(5).

This Court's review of the EPA's guidance is governed by well-established principles of deference to the power of an administrative agency to interpret the statutes that it administers:

> We have long recognized that considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer, and the principle of deference to administrative interpretations.[3]
>
> > "has been consistently followed by this Court whenever decision as to the meaning or reach of a statute has involved reconciling conflicting policies, and a full understanding of the force of the statutory policy in the given situation has depended upon more than ordinary knowledge respecting the matters subjected to agency regulations. *See, e.g., National Broadcasting Co. v. United States*, 319 U.S. 190 [63 S.Ct. 997, 87 L.Ed. 1344]; *Labor Board v. Hearst Publications, Inc.*, 322 U.S. 111 [64 S.Ct. 851, 88 L.Ed. 1170]; *Republic Aviation Corp. v. Labor Board*, 324 U.S. 793 [65 S.Ct. 982, 89 L.Ed. 1372]; *Securities & Exchange Comm'n v. Chenery Corp.*, [332] 322 U.S. 194 [67 S.Ct. 1575, 91 L.Ed. 1995]; *Labor Board v. Seven–Up Bottling Co.*, 344 U.S. 344 [73 S.Ct. 287, 97 L.Ed. 377].
> >
> > ". . . If this choice represents a reasonable accommodation of conflicting policies that were committed to the agency's care by the statute, we should not disturb it unless it appears from the statute or its legislative history that the accommodation is not one that Congress would have sanctioned."

Chevron, U.S.A., Inc. v. Nat. Res. Def. Council, Inc., 467 U.S. 837, 844–45, 104 S. Ct. 2778, 2782–83, 81 L. Ed. 2d 694 (1984) (footnote omitted) (quoting *United States v. Shimer*, 367 U.S. 374, 382, 383, 81 S.Ct. 1554, 1560, 1561, 6 L.Ed.2d 908 (1961)).

Given this recent interpretation by U.S. EPA, which is directly relevant to this matter, Plaintiff is not entitled to partial summary judgment as a matter of law – to the contrary, Defendant is entitled to a judgment that ammonia emissions generated by

[3] Period is inserted as in original.

animal waste at its Arlington and Tonopah facilities represent "routine agricultural operations" that are exempt from EPCRA reporting under 42 U.S.C. §11021(e)(5).

DATED this 31st day of October, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on 31st day October, 2017 I electronically transmitted the foregoing to the Clerk's Office using the CM/ECF System for filing to the following CM/ECF participant:

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Attachment 6

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

NATIONAL PORK PRODUCERS COUNCIL, et al.,

Plaintiffs,

v. Case No. 3:09-cv-00073-slc

LISA P. JACKSON,
Administrator, U.S. EPA,

Defendant.

REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER TO THE COURT OF APPEALS FOR THE D.C. CIRCUIT

INTRODUCTION

Defendant's Motion to Dismiss raises a simple issue: should multiple challenges to a single agency rulemaking be permitted to proceed in separate courts, or should they instead be adjudicated by a single court so that all claims, by all parties, can be addressed in a coherent and consistent fashion? Applying basic concepts of fairness, avoidance of duplicative and inconsistent rulings, and judicial economy, all courts that have addressed this issue have declared that where jurisdiction over challenges to different portions of an agency rulemaking are, respectively, to be filed in a district court and in a court of appeals that has exclusive jurisdiction over at least one of the claims, the entire case *must* be heard by the court of appeals. While Plaintiffs try mightily to distinguish this unbroken line of cases, they are left merely to describe distinctions which have no bearing on the bases or rationale for the creation of this well-reasoned doctrine.

Plaintiffs assert that even if Counts II-IV of their Complaint -- which directly challenge the Rulemaking[1] simultaneously being challenged in the Court of Appeals for the D.C. Circuit -- may be appropriate for review by the D.C. Circuit, Count I of the Complaint nevertheless requires consideration by this Court because: (a) it is based on the underlying statute, not the Rulemaking at issue; and (b) it requires factual development. First, it is clear that the Court of Appeals can not rule on the validity of the exemptions granted by the Environmental Protection Agency ("EPA") in its Rulemaking without first considering what parties are subject to reporting requirements under the statute; the very issue that Plaintiffs raise in Count I of their Complaint.

Moreover, it is readily apparent that Count I of Plaintiffs' Complaint does not raise any actual controversy over which this Court has jurisdiction. Indeed, the reason Plaintiffs contend that Count I requires factual development is because no factual dispute has been presented to EPA. Plaintiffs do not allege that a *single* farmer or feed operation (including any of the farmers who submitted declarations in support of Plaintiffs' Motion for Summary Judgment),[2] has been denied application of the exception to reporting requirements available for "routine agricultural operations" that is the subject of Count I of the Complaint.

Regardless of how Plaintiffs characterize their claims, it is clear that they arise from the same EPA actions and involve the same operative facts and administrative record as those presently before the D.C. Circuit. While there otherwise might be jurisdiction to pursue Plaintiffs' EPCRA claims in this Court, the existence of the D.C. Circuit case forecloses that

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[1] The rulemaking being challenge is entitled "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms," 73 Fed. Reg. 76,948 (Dec. 18, 2008) (hereinafter the "Rulemaking").

[2] On March 20, 2009 Plaintiffs filed a Motion for Summary Judgment (Dkt. No. 21). All briefing on that Motion, as well as all discovery, has been stayed pending the decisions of the Court on Defendant's Motion to Dismiss. See Order at Dkt. No. 32.

opportunity. Plaintiffs can not circumvent this restriction by creating controversies that do not exist or asserting factual issues that are irrelevant and unripe.

PROCEDURAL UPDATE

In its opening brief in support of its Motion to Dismiss or in the Alternative to Transfer to the Court of Appeals filed on March 3, 2009 ("EPA Br."), Defendant Lisa Jackson (hereinafter "EPA") set forth the procedural posture of both this case and the pending case in the Court of Appeals, as of the date of the filing of its Motion on March 3, 2009. On March 23, 2009, Plaintiff National Pork Producers Council ("Pork Council"), which is also a Petitioner in the case before the Court of Appeals, filed a motion in the D.C. Circuit seeking to stay briefing with regard to all EPCRA claims. (A copy of that Motion was filed in this Court at Dkt. No. 33). On April 3, 2009, the Initial Petitioners in the D.C. Circuit case filed a response ("Initial Petitioners' Response," attached as Ex. A), stating that while they had no objection to a stay of the briefing schedule, the Court of Appeals had jurisdiction over the EPCRA claims as well as CERCLA claims. On April 6, 2009, EPA filed its own response, stating that it too had no objection to a stay of the entire briefing schedule pending this Court's ruling on the Motion to Dismiss, and that the Court of Appeals had jurisdiction over all claims, including the EPCRA claims presented in this action. Ex. B.

ARGUMENT

I. COUNTS II-IV OF THE COMPLAINT MUST BE ADJUDICATED IN THE COURT OF APPEALS

Plaintiffs do not dispute that Counts II-IV of their Complaint challenge the identical Rulemaking being challenged in the D.C. Circuit. Nor do Plaintiffs dispute that the Initial Petitioners in the Court of Appeals action are challenging EPA's Rulemaking as it relates to EPCRA as well as CERCLA, and do so based on the identical bases as Plaintiffs do here.

Compare Plaintiffs' challenge in this case ("In those Counts [II, III, and IV] the Farm Groups allege that the EPCRA rule is arbitrary, capricious, and abuse of discretion [and] in excess of EPA's authority . . . ." Plaintiffs' Opposition brief ("Opp. Br.") at 3), with Initial Petitioners' EPCRA challenge in the Court of Appeals (EPA's orders under CERCLA and EPCRA are "arbitrary, capricious or otherwise contrary to the law." EPA Br. at Ex. B).[3] Accordingly, Plaintiffs do not – and can not – dispute that this Court and the D.C. Circuit will, based on the identical administrative record, be addressing the identical issues in adjudicating the EPCRA claim; whether EPA exceeded its statutory authority in issuing the type of reporting exemption it promulgated and whether the granting of that exemption was arbitrary and capricious.

As detailed in EPA's opening brief, the courts have uniformly held that where a rulemaking or other agency decision involves multiple statutes and claims, some of which would be reviewable in the district court and some of which must be reviewed exclusively by the court of appeals, notions of fairness, judicial economy, and the need to avoid duplicative and potentially inconsistent rulings, require that all claims be adjudicated by the court of appeals. EPA Br. at 8-13, citing Suburban O'Hare Comm'n v. Dole, 787 F.2d 186, 192 (7th Cir. 1986), and related decisions.

In response to an unbroken line of cases adopting this view, Plaintiffs rely on one case, this Court's decision in Barnes v. Shalala, 865 F. Supp. 550 (W.D. Wis. 1994), but that case is quite obviously inapposite. In Barnes this Court simply found that the Order being challenged did not fit within the parameters for submitting the dispute to the Court of Appeals under the jurisdictional statute at issue in that case. Thus, the Court found Suburban O'Hare inapplicable because Suburban O'Hare "does not address situations like this one where no basis for the

[3] See also Initial Petitioners' April 3, 2009 brief to the Court of Appeals, Ex. A at 3: "Waterkeeper Alliance [Petitioners] intends to challenge both the CERCLA and the EPCRA reporting exemptions on the basis that they are unlawful, arbitrary and capricious."

agency action is exclusively within the jurisdiction of the courts of appeals." 865 F. Supp. at 557. In this case, there is no dispute that a significant portion of the single Rulemaking at issue (the challenge under CERCLA) can *only* be challenged in the D.C. Circuit Court of Appeals.

Lacking any contrary authority, Plaintiffs seek to distinguish the Suburban O'Hare line of cases. Plaintiffs assert that all these cases dealt with "unitary" rulemakings. Plaintiffs then contend that because, in their view, the Rulemaking at issue contained two different rulings, one under CERCLA and one under EPCRA, the Suburban O'Hare line of cases has no application. Opp. Br. at 9-10.

First, Plaintiffs' description of the Suburban O'Hare line of cases is not accurate. For example, in Shell Oil Co. v. FERC, 47 F.3d 1186 (D.C. Cir. 1995), two separate parties challenged the agency's decision made under two separate statutes in a single rulemaking, just like here. Even though the court recognized that the order contained two distinct rulings ("The court is thus presented with two petitions challenging different rulings in the same order;" "the instant case involves separate petitioners seeking review of two distinct rulings in a single declaratory order," 47 F.3d at 1194-95), and that the district court had original jurisdiction over one of those rulings, it nevertheless concluded that all claims needed to be adjudicated by the court of appeals. Id. at 1195. As the court explained, the need to ensure that review of the order is treated with "uniformity and consistency" overrides a plaintiff's right to pursue his particular claim in the district court. Id. at 1195 & n.20.

Indeed, Suburban O'Hare itself included a claim not only that the FAA had violated various statutes but also that it had violated a separate consent decree. Although the 7th Circuit recognized that this claim was markedly different from the statutory claims and this is "primarily [an assertion of] a breach of contractual obligations," which is factually based and which on its

own would be subject to district court jurisdiction, it arose out of the same operative set of facts and, accordingly, should be heard by the Court of Appeals. 787 F.2d at 193.

In any event, this is not a case, as Plaintiffs imply (Opp. Br. at. 3), where EPA conducted two distinct "unitary" administrative proceedings and merely announced them in one rulemaking so as to secure court of appeals jurisdiction over all facets of its order. Instead, as previously outlined, from the outset the CERCLA and EPCRA portions of the rulemaking were considered together, commented on together, and adopted together. And, doing so was clearly the appropriate administrative path, since the reporting requirements under Section 103 of CERCLA, 42 U.S.C. § 9603, and Section 304 of EPCRA, 42 U.S.C. § 11004, cover the same types of events and, in the case of at least part of the EPCRA reporting requirements, are expressly based on CERCLA reporting requirements. See 42 U.S.C. § 11004 (a)(1): "If a release of an extremely hazardous substance referred to in section 11002(a) of this title [EPCRA] occurs from a facility at which a hazardous chemical is produced, used, or stored, and such release requires notification under section 103(a) of [CERCLA] . . . , the owner or operator of the facility shall immediately provide notice as described in subsection (b) of this section."

In the end, the Suburban O'Hare line of cases make clear that the doctrine they prescribe does not depend upon how the rulemaking is structured, or how many rulings are contained within the single rulemaking, or whether a particular plaintiff is interested in only a portion of the rulemaking. The doctrine was developed to ensure that multiple courts are not reviewing the same administrative record, to address issues that arise from a common set of operative facts, leading to decisions which may not only be duplicative but have a substantial chance of being inconsistent. As the court stated in City of Rochester v. Bond, 603 F.2d 927, 936 (D.C. Cir. 1979), review of an order should not depend on "the substantive infirmity alleged," and that a

single review to be conducted by the court of appeals reflects a policy that "disfavors bifurcating jurisdiction over various substantive grounds between district court and the court of appeals. The likelihood of duplication and inconsistency would exist in either case."

The very real potential for inconsistent decisions with regard to the Rulemaking at issue in this case is obvious. For example, the Initial Petitioners in the D.C. Circuit allege that EPA's granting of both a full exemption under CERCLA and a partial exemption under EPCRA was arbitrary and capricious, based on the record before the Agency. In this case, Plaintiffs allege essentially the opposite; that the record supports only a full exemption and the partial exemption granted under EPCRA is not supported by the record and is arbitrary and capricious. Thus, there will be – indeed, there already is -- a "race to the courthouse" to see which court rules first on this (and other) issues.

This race to a judgment would occur even if Petitioners in the D.C. Circuit were only claiming that EPA's rulemaking violated CERCLA (which is not the case). In both cases, the respective courts will need to review and assess the record supporting the factual determinations made by EPA supporting the exemption it granted. Thus, there clearly is an opportunity for each Court to make very different findings about the adequacy of the identical administrative record. Under these circumstances, the courts have made clear that they will not participate in the race to judgment; all claims should be addressed by a single court, the court of appeals.

II. THIS COURT LACKS JUSRIDICTION TO ADJUDICATE COUNT I OF THE COMPLAINT

Plaintiffs assert that regardless of whether the D.C. Circuit addresses the claims in Counts II-IV of their Complaint, Count I raises a wholly different claim that can only be addressed by this Court. According to Plaintiffs, Count I of the Complaint is based on a single sentence included in the Preamble to the Rulemaking, not in the final rule itself. Opp. Br. at 4-5.

Plaintiffs assert that the statement in the Preamble, that farms are like all other facilities and must follow EPCRA reporting requirements, is a misstatement of the law and so threatening to the existence of animal feeding operations ("AFOs") that it demands that this Court issue a Declaratory Judgment explaining that EPCRA should not be so interpreted. Opp. Br. at 4-5. The allegedly offending language actually reads as follows:

> Owners and operators of farms, like all other facilities, are required to report the release of hazardous substances into the environment in accordance with CERCLA section 103 and EPCRA section 304 when it meets or exceeds the RQ [reporting quantities] of the hazardous substance.

Id. quoting 73 Fed. Reg. at 76,951. Plaintiffs assert that farms are not like all other facilities and that "*most* farms" may be excluded from EPCRA's reporting requirements under the statutory exclusion for "routine agricultural operations" set forth in section 311(e) of EPCRA, 42 U.S.C. § 11021(e). Opp. Br. at 5 (emphasis added).[4]

To buttress their attempt to obtain from this Court a declaratory judgment based on a single sentence included in the preamble to the Rulemaking, Plaintiffs imply that the notion that farms might be subject to EPCRA reporting requirements is a new position of EPA, thereby requiring this Court to clear up the purported confusion. Opp. Br. at 3 (characterizing the above-quoted language as "EPA's recent position"). See also Complaint at ¶ 20. To further support their contention that this claim needs to be addressed in the District Court, where discovery can be obtained, Plaintiffs assert that "the meaning and extent of the exemption for substances used in 'routine agricultural operations' [can not be determined] without an inquiry into how farmers use substances on their farms." Id. at 6.

[4] Under section 304 of EPCRA, 42 U.S.C. §11004(a), releases of hazardous substances must be reported if they occur at a facility at which a "hazardous chemical" is produced, used or stored. Under section 311(e)(5), 42 U.S.C. §11021(e)(5), a "hazardous chemical" does not include "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."

Plaintiffs' allegations in Count I are, at best, an overreaction to a non-binding, single sentence generally describing the underlying regulatory framework of EPCRA or, at worst, an artifice to try to create jurisdiction in this Court. It is clear that: (a) this Court – or any Court, for that matter – lacks jurisdiction to consider the claims in Count I; (b) to the extent any claims exist, they are not ripe, since neither Plaintiffs nor their declarants have been threatened with any prosecution or other imminent harm nor have they even been informed that they are precluded from applying the "routine agricultural operations" exception; and (c) even if this Court had jurisdiction to address Count I, its underlying premise (whether farms are subject to EPCRA in the first instance) is so inextricably intertwined with the claims before the D.C. Circuit, it must be heard in that court.

A. The Court Lacks Jurisdiction to Consider the Claims in Count I of Plaintiffs' Complaint

It is a fundamental rule of administrative law that federal courts have jurisdiction to review only the final actions of a federal agency. Bennett v. Spear, 520 U.S. 154, 177-78 (1997); 5 U.S.C. §704. Agency policy statements, enforcement letters, applicability determinations and other statements of an agency's view on legislation that do not have binding applicability on specific parties are not final agency actions. See e.g., P&V Enters v. Corps of Eng'rs, 516 F.3d 1021(D.C. Cir. 2008); Village of Bensenville v. FAA, 457 F.3d 52, 68-69 (D.C. Cir. 2006); General Motors Corp. v. EPA, 363 F.3d 442 (D.C. Cir. 2004). Even an agency order is "non-final [where it] 'does not itself adversely affect complainant but only affects his rights adversely on the contingency of future administrative action.'" Nat. Ass'n of Home Builders v. Norton, 415 F.3d 8, 15 (D.C. Cir. 2005), quoting DRG Funding Corp. v. Sec'y of Housing and Urban Dev., 76 F. 3d 1212, 1214 (D.C. Cir. 1996).

Similarly, a claim must be ripe in order for the Court to have jurisdiction, so as to ensure that federal courts are not deciding abstract disagreements. Abbott Labs v. Gardner, 387 U.S. 136, 148 (1967). In order for a claim to be ripe, a plaintiff must establish that he will suffer significant hardship if review is delayed and that the issue is fit for judicial review at this time. Whitman v. American Trucking Ass'ns, 531 U.S. 457, 479 (2001). "A claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all." Texas v. United States, 523 U.S. 296, 300 (1998). See also id. at 301, quoting Longshoremen v. Boyd, 347 U.S. 222, 224(1954) (" Here, as is often true, '[d]etermination of the scope . . . of legislation in advance of its immediate adverse effect in the context of a concrete case involves too remote and abstract an inquiry for the proper exercise of the judicial function.'").

Finally, in order to exercise jurisdiction over a claim, the plaintiff must have standing. Gladstone, Realtors v. Village of Bellwood, 441 U.S. 91, 99 (1979). To establish standing, a petitioner must have suffered an "injury in fact" that: (a) is personal, distinct, palpable, actual, concrete, and imminent, not conjectural, speculative or hypothetical; (b) was caused by the conduct complained of; and (c) is likely to be redressed by a favorable decision. Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992).

It is abundantly clear that the single sentence contained in the Preamble relating to the general applicability of EPCRA to farms is not a final rule subject to challenge. Plaintiffs readily admit that the Preamble statement at issue is not part of the regulation being challenged. Opp. Br. at 4. Indeed, at no time has EPA announced that it was even considering the issue of whether farms could or could not take advantage of the exception to the definition of "hazardous

chemicals" for substances "used in routine agricultural operations." Thus, there is nothing binding or final about the Preamble statement Plaintiffs complain about.

Similarly, Plaintiffs' assertion in Count I of their Complaint is neither ripe for adjudication nor is it based on anything more than speculation that EPA might, in some unknown future circumstance, deny the application of the "routine agricultural use" exclusion to a specific farmer based on the particular circumstances of that future case. The single sentence in the Preamble that Plaintiffs find so offensive merely says that farms, like all other facilities, are subject to EPCRA reporting requirements. EPCRA reporting requirements apply to all "facilities" where reportable substances are present in amounts in excess of the threshold quantities for such substances. 42 U.S.C. § 11002(b). A "facility" is defined broadly, as "buildings, equipment, structures, and other stationary items located on a single site or contiguous or adjacent sites and which are owned or operated by the same person, [and] includes motor vehicles, rolling stock, and aircraft." 42 U.S.C. § 11049(4). Any farm with a building is clearly a facility and thereby subject to EPCRA reporting requirements.[5]

Notwithstanding the clear statutory language related to the type of entities covered by EPCRA, nowhere does EPA state in the Rulemaking, the Preamble, or otherwise, that farms can no longer seek to be excluded from reporting requirements where they use the reportable

[5] EPA's statement of general applicability of EPCRA contained in the Preamble is not, as Plaintiffs imply, some new position or earth shattering declaration. For example, on January 31, 2005, EPA published a Notice of "Animal Feeding Operations Consent Agreement and Final Order." 70 Fed. Reg. 4958 (Jan. 31, 2005) ("Consent Agreement"). In that Consent Agreement, EPA offered to enter into agreements with farmers (Animal Feeding Operations or "AFOs") whereby the farmers would pay a penalty for reporting violations of EPCRA (and CERCLA and the Clean Air Act) and fund a study designed to better ascertain when and how to report releases of hazardous substances. Id. In turn, EPA agreed not to sue those farmers who entered into the agreement and stay in compliance. Id. At least one of the declarants who submitted a declaration with Plaintiffs' Motion for Summary Judgment, along with nearly 9,000 other farmers or feed operators, signed the agreements at issue and, accordingly, may not be sued at this time by EPA. Aff. of Doug Wolf submitted with Plaintiffs' Motion for Summary Judgment, Dkt. No. 26 at ¶ 21. While there are no admissions of liability or applicability of any specific EPCRA provisions in the Consent Agreement, quite obviously EPA took the position that the statute covered AFOs. See also Association of Irritated Residents v. EPA, 494 F.3d 1027 (D.C. Cir. 2007), upholding the Consent Agreement rulemaking and describing EPA's enforcement of EPCRA as it relates to AFOs.

substance "routine agricultural operations," as specifically provided for at section 311(e) of EPCRA, 42 U.S.C. § 11021(e). Nor has EPA threatened to prosecute or penalize farmers – or any specific farmer – for seeking to utilize this exception. Perhaps most importantly, nowhere have Plaintiffs alleged that a single farmer – including those who submitted declarations with Plaintiffs' Motion for Summary Judgment – has been denied the right to assert that its specific farming operation falls within the "routine agricultural operations" exception under 42 U.S.C. § 11021(e).

Plaintiffs' entire claim in Count I is, in fact, based on ascribing to EPA an intent that EPA has never expressed – and which it certainly does not express in the Preamble. EPCRA requires the reporting of releases of hazardous substances above reportable quantities which occurs at a facility at which a hazardous chemical is produced, used or stored. 42 U.S.C. § 11004. As set forth in section 11021(e), a "hazardous chemical" does not include, inter alia, "[a]ny 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." Thus, if a farm uses a covered substance in "routine agricultural operations," it presumably would not be a facility covered by the reporting requirements, at least with regard to the substance so used. Nothing about EPA's statement in the Preamble alters or modifies any of this statutory language nor did EPA declare – or even imply -- that farms can not fall within this exception.

The exception for "routine agricultural operations" is quite obviously directed at farms or other agricultural operations, but that does not mean that farms are not subject to EPCRA in the first instance, which is all EPA stated in the Preamble. As noted in Sierra Club, Inc. v. Tysons Foods, Inc, 299 F. Supp. 2d 693, 713-14 (W.D. Ky 2003), operating a farm or animal feeding operation and utilizing a covered substance in "routine agricultural operations," are not

necessarily synonymous. The question of whether a particular farm falls within the "routine agricultural operations" exception depends on a factual determination to be made based on the specific farm being subjected to a specific enforcement action. In Sierra Club, the court found that because Tysons Foods did not store gaseous ammonia in its chicken houses for agricultural purposes at the site at issue, it was not entitled to take advantage of the "routine agricultural operations" exception in that case. Id.

Of course, here there is no enforcement action nor are there any claims or assertions that any specific farm or group of farms is precluded from avoiding EPCRA reporting requirements by establishing that the release of otherwise reportable substances comes from the use of such substances in "routine agricultural operations." Quite simply, there is no active dispute over the application of the exception for "routine agricultural operations" and Plaintiffs can not create one – and thereby invoke the jurisdiction of this Court -- by asserting that some farmers may be able to fit within this exception.

Similarly, Plaintiffs can not create jurisdiction in this Court by submitting declarations from farmers and then declaring that their claims in Count I involve factual issues that can only be addressed by a district court that can hear evidence. Opp. Br. at 3. The factual record for Count I can only come into existence if some specific farmer seeks to apply the "routine agricultural operations" statutory exception based on the specific operations of his farm, and is denied that status by EPA. It can not be generated through submission of declarations based on a dispute over the application of the "routine agricultural operations" exclusion that has never occurred.

There is a little doubt that Plaintiffs are asking for an advisory opinion regarding how and when the "routine agricultural operations" exception will be applied in the future. In order to

provide such an opinion, mountains of evidence would need to be developed and presented, since Plaintiffs are seeking industry-wide standards as to when the "routine agricultural operations" exception can be utilized. This requires regulatory action, not action by this Court. Absent actual denial of the "routine agricultural operations" exception by EPA to a specific farmer and/or any final decision by EPA eviscerating the statutory exclusion, Plaintiffs lack standing, ripeness and a final order to present to this Court. Accordingly, the Court lacks jurisdiction to address the claims in Count I of the Complaint.

B. The Subject of the Claims in Count I of Plaintiffs' Complaint is Inextricably Intertwined with the Claims Before the D.C. Circuit Court of Appeals

Although no Court has jurisdiction to address Plaintiffs' declaratory judgment action with regard to Count I, the underlying issue contained in Count I of the Complaint (whether farms are subject to EPCRA in the first instance) most assuredly can be addressed by the Court of Appeals in the Rulemaking challenge. Needless to say, the Court of Appeals must consider the general applicability of EPCRA to farms in order to decide whether the partial exemption established in the Rulemaking is arbitrary, capricious or beyond EPA's authority. Clearly, if farms are excluded from EPCRA in the first instance, it is likely to impact that Court's decision on whether EPA exceeded its authority by granting only a partial exemption to a group of entities that were not even subject to the statute in the first place. Since all parties in the Court of Appeals action – those claiming that EPA went too far in granting an exemption under EPCRA and those parties who assert that EPA did not go far enough – contend that EPA acted beyond its statutory authority with regard to its regulation of AFOs, the Court must address EPA's statutory authority to require AFOs to report releases of hazardous substances, the very issue raised in Count I of Plaintiffs' Complaint.

Accordingly, if any court is to hear the substance of the claims raised by Plaintiffs in Count I of the Complaint, it is the Court that is hearing the challenge to the regulatory exemptions granted in the Rulemaking, the D.C. Circuit Court of Appeals.

CONCLUSION

For the foregoing reasons, the Court should dismiss this case. Alternatively, the Court should transfer this case to the D.C. Circuit.

Respectfully submitted,

JOHN C. CRUDEN
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Environment and Natural Resources Division

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April 10, 2009

CERTIFICATE OF SERVICE

I hereby certify that the foregoing REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS OR IN THE ALTERNATIVE TO TRANSFER TO THE COURT OF APPEALS FOR D.C. CIRCUIT was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of said Notice to the attorneys of record/parties who have registered as CM/ECF participants.

Date: April 10, 2009

/s/ Perry M. Rosen
Perry M. Rosen

ARGUED DECEMBER 12, 2016
DECIDED APRIL 11, 2017

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WATERKEEPER ALLIANCE, ET AL., Petitioners, v. U.S. ENVIRONMENTAL PROTECTION AGENCY, Respondent.	Nos. 09-1017 & 09-1104 (Consolidated)

EPA'S REPLY IN SUPPORT OF
MOTION FOR FURTHER STAY OF ISSUANCE OF MANDATE

For the reasons stated in EPA's Motion for Further Stay of Issuance of Mandate, this Court should stay the issuance of the mandate in this case for two months from the date of a stay order, or until January 17, 2018, whichever is later. *See* EPA Mot. for Further Stay of Issuance of Mandate, No. 09-1017, Doc. 1702059 (Oct. 30, 2017) (hereinafter, "EPA Motion").

In their Opposition, Waterkeeper Petitioners suggest that EPA's plan to use the two months to incorporate public comments on EPA's Preliminary Guidance and develop a more streamlined continuous release reporting form for farmers is nothing more than a smokescreen for the Agency implementing its preliminary interpretation regarding the EPCRA "used in routine agricultural operations" exemption.

Waterkeeper Opp. 14-15, No. 09-1017, Doc. 1703901 (Nov. 9, 2017). As stated in the sworn declaration of Reginald Cheatham, Director of the Office of Emergency Management, however, EPA needs the time to complete those two remaining tasks on the CERCLA guidance. *See* EPA Motion at 5-6 & Ex. A ¶¶ 7-8. Regardless of EPA's preliminary EPCRA interpretation, farmers will have to estimate their emissions and report their releases under CERCLA as soon as this Court issues the mandate in this case. Allowing EPA this short additional time to finalize its CERCLA guidance and streamlined continuous release reporting form will help maximize the number of farmers that submit reports once the mandate is issued. Waterkeeper Petitioners' Opposition does not meaningfully acknowledge, let alone contest, the time needed to complete those steps, instead focusing solely on the preliminary EPCRA interpretation.

As stated in EPA's motion, the two months would also provide time for the Agency to coordinate with the National Response Center on the expected increase in reports made and to initiate rulemaking on the preliminary EPCRA interpretation. *Id.* at 6-7 & Ex. A ¶ 2. But, EPA is not requesting the further stay of the issuance of the mandate for those additional reasons. After all, a rulemaking on EPA's preliminary EPCRA interpretation will certainly take more than two months to complete.

EPA will file a response to Waterkeeper Petitioners' Motion for Clarification of Mandate by the 10-day deadline set forth in D.C. Circuit Rule 27(a)(3). That motion is independent of and should not delay the Court's consideration of EPA's motion.

But, if the Court is inclined to consider both pending motions simultaneously, EPA requests that the Court, at a minimum, stay issuance of the mandate until briefing on Waterkeeper Petitioners' motion is completed and the Court has issued its decisions on both motions.

CONCLUSION

Accordingly, EPA requests that this Court stay issuance of its mandate for two months from the date of an order granting a stay of mandate, or until January 17, 2018, whichever is later, to allow time for EPA to finalize the guidance and streamlined continuous release reporting form that will allow farms to come into compliance with the CERCLA release reporting requirements.

Dated: November 13, 2017

Respectfully submitted,

JEFFREY H. WOOD
Acting Assistant Attorney General
Environment and Natural Resources Division

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CERTIFICATE OF COMPLIANCE WITH FEDERAL RULES OF APPELLATE PROCEDURE 27(D) & 32(A)

This motion complies with the requirements of Fed. R. App. P. 27(d)(2) because it contains 497 words, excluding any accompanying documents authorized by Fed. R. App. P. 27(a)(2)(B).

This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Garamond font.

/s/ Erica M. Zilioli
ERICA M. ZILIOLI

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2017, I electronically filed the foregoing brief with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system.

The participants in the case are registered CM/ECF users and service will be accomplished by the appellate CM/ECF system.

/s/ Erica M. Zilioli
ERICA M. ZILIOLI

VIA ECF

November 13, 2017

Mark Langer
Clerk of the Court
United States Court of Appeals for the District of Columbia Circuit
333 Constitution Ave., NW
Washington, DC 20001

Re: *Waterkeeper Alliance v. EPA*, Nos. 09-1017 & 09-1104 (Consolidated)

Dear Mr. Langer:

Pursuant to Fed. R. App. P. 28(j) and Circuit Rule 28(f), Waterkeeper Petitioners hereby bring to the Court's attention Respondent Environmental Protection Agency's November 13, 2017 update to its Interim Guidance ("Updated Interim Guidance"), attached hereto. The Updated Interim Guidance adds a new instruction for farms to email, rather than call, the National Response Center ("NRC") with their initial release report, as follows:

> To expedite your initial continuous release notification, use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms.

Updated Interim Guidance, Attach. at 1 (text in the "Attention" box); *compare with* Interim Guidance (last updated Oct. 26, 2017), Attach. 1 to Waterkeeper Pet'rs' Opp. to Mot. for Further Stay of Mandate & Cross-Mot. for Clarification of Mandate (Nov. 9, 2017) [Doc. 1703901] (not including this language in "Attention" box).

The Updated Interim Guidance relates to the issues raised in the brief of National Pork Producers Council and U.S. Poultry and Egg Association in support of EPA's Motion for Further Stay of Issuance of Mandate. Nat'l Pork Producers Council's and U.S. Poultry & Egg Ass'n's Br. Support of EPA's Mot. for Further Stay of Mandate (Nov. 9, 2017) [Doc. 1703860] ("NPPC Brief"). Specifically, the NPPC Brief argues that the NRC "does not have a sufficient number of telephone operators nor the technology to possibly handle the thousands of calls likely to be made by farmers reporting ammonia emissions from animals from their farms under CERCLA," which "may result in extreme delays in incident notifications, or even failure altogether in receiving reports and disseminating time critical incident information." NPPC Brief at 4 (citing 2d Formica Decl. attached thereto). The Updated Interim Guidance instructs farms to email their initial release reports rather than call the NRC with this information. Updated Interim Guidance at "Attention." The Updated Interim Guidance therefore directly addresses—and resolves—the primary rationale for staying the mandate raised in the NPPC Brief.

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Thank you for bringing this letter to the prompt attention of the panel.

Respectfully submitted,

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Attorneys for Petitioners Waterkeeper Alliance, Sierra Club, Humane Society of the United States, Environmental Integrity Project, and Center for Food Safety

cc: All Counsel of Record (via ECF)

Attachment

We've made some changes to EPA.gov. If the information you are looking for is not here, you may be able to find it on the EPA Web Archive or the January 19, 2017 Web Snapshot.

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

Attention!

Farms with continuous releases must submit their initial continuous release notification starting on November 15, 2017.

To expedite your initial continuous release notification, use the temporary email option. This option avoids potential large call volumes and delays. It allows one email notification for owners/operators with multiple farms.

- Overview
- Reporting Exemption and Resulting Litigation
- Purpose
- Frequent Questions
- Resources

Overview

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right to Know Act (EPCRA) require facilities to report releases of hazardous substances that are equal to or greater than their reportable quantities (RQ) within any 24-hour period. Following a hazardous substance reportable release, a facility owner or operator must notify federal authorities under CERCLA and state and local authorities under EPCRA.

Reporting Exemption for Animal Waste and Resulting Litigation

On December 18, 2008, EPA published a final rule that exempted most farms from certain release reporting requirements in CERCLA and EPCRA. Specifically, the rule exempted farms releasing hazardous substances from animal waste to the air above threshold levels from reporting under CERCLA. For EPCRA reporting, the rule exempted reporting of such releases if the farm had fewer animals than a large concentrated animal feeding operation (CAFO).

In short, all farms were relieved from reporting hazardous substance air releases from animal waste under CERCLA, and only large CAFOs were subject to EPCRA reporting.

A number of citizen groups challenged the validity of the final rule in the U.S. Court of Appeals for the District of Columbia Circuit. On April 11, 2017, the Court struck down the final rule, eliminating the reporting exemptions for farms. EPA sought additional time from the Court to delay the effective date so that EPA could develop guidance materials to help farmers understand their reporting obligations.

Unless the DC Circuit Court takes further action, the court's ruling takes effect on November 15, 2017.

Purpose

EPA developed this interim guidance to assist farms in complying with requirements to report air releases of hazardous substances from animal waste under CERCLA and EPCRA. EPA welcomes comments and suggestions from the regulated community and the public on these resources and other additional resources that should be included here. Please email comments or suggestions by November 24, 2017, to: CERCLA103.guidance@epa.gov. EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations.

Frequent Questions

Questions?

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

What are my requirements to report air releases from animal waste under CERCLA section 103?

Farm owners/operators must comply with CERCLA section 103 reporting requirements for air releases of hazardous substances from animal waste at their farms.

When a farm has air releases of hazardous substances from animal wastes that are equal to or greater than their reportable quantities (RQs) within any 24-hour period, follow a streamlined reporting process known as "continuous release reporting." This requires the facility owner or operator to:

- Notify the NRC by email (NRC-CERCLA-EPCRA-REPORT@uscg.mil) or phone and identify your reportable release as an **"initial continuous release notification."**
- Submit an initial written notification to the EPA Regional Office; and
- One year later submit an additional follow-up written notification to the EPA Regional Office.

Alternatively, notify the National Response Center (NRC) immediately following each release at 800-424-8802 and **select Option 2**. Note: Option 1 is for other releases requiring immediate response.

For additional information on continuous release reporting, see: How do I report a continuous release under CERCLA?

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

What are my requirements to report under EPCRA section 304?

EPA interprets the statute to exclude farms that use substances in "routine agricultural operations" from reporting under EPCRA section 304. For more information, see: EPCRA Q&A. EPA intends to conduct a rulemaking to clarify its interpretation of "used in routine agricultural operations" as it pertains to EPCRA reporting requirements.

When do I have to comply?

Unless the DC Circuit Court takes further action, the court's ruling takes effect on November 15, 2017. Starting on this date, farms releasing hazardous substances to air from animal wastes, equal to or greater than their reportable quantities, within any 24-hour period, must notify the NRC. For farms with continuous releases, this means that the initial continuous release notification needs to be made as of the effective date of the Court action (currently November 15, 2017).

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

What substances need to be reported?

Typical hazardous substances associated with animal wastes include ammonia and hydrogen sulfide. Both ammonia and hydrogen sulfide have a reportable quantity of 100 lbs. If a farm releases ammonia and/or hydrogen sulfide in amounts ≥ the reportable quantity (100 lbs) within a 24-hour period, then the farm owner or operator must notify the NRC. For a complete list, see: CERCLA hazardous substances and their reportable quantities (RQs).

Do I have to report when I apply fertilizers or pesticides to crops?

No, farm owners/operators do not need to report the normal application of fertilizers (including normal application of manure as a fertilizer) or the handling, storage or application of pesticide products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). However, under CERCLA section 103, any spills or accidents involving these substances must be immediately reported to the NRC when they meet or exceed the reportable quantity.

Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

At this time, farm owners/operators in compliance with their Animal Feeding Operation Air Compliance Agreement (70 FR 4958) are not expected to report air releases of hazardous substances from animal wastes under CERCLA and EPCRA. Per their Agreement, participants must report air releases of hazardous substances equal to or exceeding the hazardous substances' reportable quantities under CERCLA when EPA completes the National Air Emissions Monitoring Study.

For additional information on EPCRA reporting, see: EPCRA Q&A.

How do I estimate the releases for reporting?

Some farms that raise animals will have reportable releases of ammonia and/or hydrogen sulfide (i.e. release of ≥ 100 lbs in a 24-hour period) from animal wastes. These resources may assist farmers in estimating emissions.

EPA recognizes that it will be challenging for farmers to report releases from animal wastes because there is no generally accepted methodology for estimating emission quantities at this time. CERCLA section 103 allows "continuous releases" to be reported in ranges. EPA understands that farmers may need to report their releases in broad ranges that reflect the high degree of uncertainty and variability of these releases.

How can I reduce emissions?

EPA and United States Department Of Agriculture (USDA) developed a reference guide that provides options for improving air quality from livestock and poultry operations. The guide provides a compilation of conservation measures for reducing air pollutant emissions and/or reducing air quality impacts from livestock and poultry operations.

Who do I notify if I need to report?

You must immediately notify the NRC when you have a release of any CERCLA hazardous substance at or above its reportable quantity within any 24-hour period. However, there is an exception for the normal application of fertilizers or the handling, storage or application of pesticide products as described above.

Can I request an extension?

No, CERCLA section 103 requires the facility owner or operator to immediately notify the NRC of a reportable release of a hazardous substance.

The one exception is for farm owners/operators participating in the Agency's Animal Feeding Operation Air Compliance Agreement, and that are in compliance with their Agreements. For more information, see: Do I have to report if I am participating in the EPA's Animal Feeding Operation Air Compliance Agreement?

Do I have to notify the NRC every time my emissions exceed the reportable quantity in a 24-hour period?

No. If your farm has releases that are continuous and stable in quantity and rate, you can follow a streamlined reporting process known as "continuous release reporting." EPA considers emissions from animal waste to be continuous and stable in quantity and rate, and therefore eligible for this streamlined reporting option.

For more information on the regulation and guidance for continuous release reporting requirements, see: Resources.

How do I report a continuous release under CERCLA?

You may follow these steps to report air emissions from animal wastes (e.g. ammonia and hydrogen sulfide releases):

Step 1:

Notify the NRC. For the purposes of this initial continuous release notification, email the NRC at: NRC-CERCLA-EPCRA-REPORT@uscg.mil. Alternatively, you may call 1-800-424-8802 and **select Option 2,** if you have no access to e-mail. The email (NRC-CERCLA-EPCRA-REPORT@uscg.mil) or call must clearly state this is an "initial continuous release notification."

Due to the potential for large call volumes to the NRC an email notification will expedite your notification and will help to avoid expected long hold delays when reporting for farmers starts on November 15, 2017. An e-mail notification should also help ensure that other types of emergency calls which may require immediate attention are expeditiously received by the NRC and not held up by call delays or system crashes. EPA and the NRC consider an e-mail notification, in this instance, sufficient to comply with the immediate notification requirement for a continuous release under CERCLA section 103.

In order to qualify as a continuous release notification, please note in the subject line of the e-mail that this is an **"initial continuous release notification."**

Include the following in your e-mail (NRC-CERCLA-EPCRA-REPORT@uscg.mil):

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

You can submit information for multiple facilities (i.e., farms) in one email (NRC-CERCLA-EPCRA-REPORT@uscg.mil).

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

You will receive an automatic response e-mail from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up written notification report that goes to your EPA Regional Office discussed in Step 2 below. The single CR-ERNS number provided should be used for each facility included in the email.

It may take some time to receive the automated notice from the NRC so please be patient. Also, check your e-mail's spam or junk folders before attempting to send your e-mail again.

For compliance assistance, please call the EPCRA, RMP & Oil Information Center at: 1-800-424-9346.

Step 2: Submit an initial written notification to the EPA Regional Office.

Submit an initial written notification to the EPA Regional Office for the area where the release occurs, within 30 days of the call to the NRC.

Farms can use this continuous release reporting form to provide the initial written notification. ***Please note that this continuous release form is intended for multiple sectors and provides directions to send information to the EPA Regional Offices and to LEPCs and SERCs. Farms not reporting under EPCRA should not send information to the LEPCs and SERCs.***

EPA is developing a streamlined continuous release reporting form for farm facility owners and operators and plans to make this form available once it is finalized.

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

Within 30 days of the first anniversary date of the initial written notification (i.e., the first continuous release report), the person in charge of the farm must submit a one-time anniversary report to the EPA Regional Office. The farm owner/operator must verify and update the information initially submitted for each of the hazardous substances reported to the NRC and to the EPA Regional Office. This follow-up report should be re-certified by the person in charge of the farm.

EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances includes forms to assist you with developing written reports. The guide provides an overview of the information required for the initial and first anniversary follow-up reports.

If I have multiple facilities (i.e., farms), can I make one notification that addresses all of my facilities?

You can submit information for multiple facilities in one email (NRC-CERCLA-EPCRA-REPORT@uscg.mil) notification. List the name and location of each farm, as well as the associated name(s) of hazardous substance(s) released.

You will receive an automatic response e-mail from the NRC with a single identification number (CR-ERNS) for your farm(s). Include the CR-ERNS number on the follow-up written notification report that goes to your EPA Regional Office discussed in Step 2 below. The single CR-ERNS number provided should be used for each facility included in the email.

However, if you are calling the NRC, then you can only provide one report per phone call.

Are there additional continuous release reporting requirements?

There are two additional types of continuous release reporting requirements:

- statistically significant increase (SSI) notification and
- notification of changes to previously submitted continuous release information.

You must immediately notify the NRC of any statistically significant increases (SSI) or of a change in previously submitted release information. This is most likely to be triggered by:

- an increase in the number of animals maintained on the farm (beyond the range used for the initial report) or
- a significant change (or disruption) in waste handling systems or procedures.

This is an ongoing requirement.

What is an SSI?

An SSI is an episodic release of a hazardous substance that exceeds the release quantity described in the upper bound of the normal range of the facility's continuous release report. The normal range includes all releases of a hazardous substance (from all sources at the facility) occurring over any 24-hour period under normal operating conditions during the preceding year.

Only those releases that are both continuous and stable in quantity and rate may be included in the normal range.

How often do I need to estimate emissions?

You must annually review emissions from the farm. You'll also need to estimate emissions following any significant changes in operations that may result in SSI in emissions.

A farm owner/operator filed the continuous release and one-time anniversary report to comply with CERCLA section 103 for their facility before the 2008 exemption. If the information is still valid, do they have to file again?

No, if there have been no SSI in emissions or other changes to the report filed before 2008, then the farm owner/operator need not submit another report.

Resources

40 CFR part 302 - Designation, Reportable Quantities, and Notification

Reporting Requirements for Continuous Releases of Hazardous Substances

Emission Estimates

Farm owners/operators may consider any of the resources provided in this section (or any other studies available to you) for estimating releases. You can also coordinate with your trade associations or the land-grant universities in your area (see Appendix A.3: List of AFO Air Quality Programs & Land-Grant Universities available in reference guide).

You may establish estimated quantities of releases by relying on:

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020970-00007

- past release data,
- engineering estimates,
- your knowledge of the facility's operations and release history, or
- your best professional judgment.

Monitoring data is not required.

Disclaimer: This listing does not constitute EPA endorsement. These are provided solely as available resources for farms to use while EPA finalizes its methodologies for estimating air emissions of ammonia and hydrogen sulfide from animal wastes. Farms may use any other approaches that are available to develop these estimates.

Dairy Operations

To estimate ammonia and hydrogen sulfide emissions from dairy operations, see: Dairy Report worksheet (3 pp, 87 K, About PDF) (go to page 3) EXIT . Emission estimates are inclusive of ammonia emissions from animal pen surfaces and the runoff holding pond(s). Ammonia emission rates vary between summer and winter months. The worksheet indicates that hydrogen sulfide levels are fairly stable throughout the year.

Although the Dairy Report includes a draft letter and template for continuous release reports for dairy operations, please use the continuous release reporting form.

(Source: These emission estimates are based on research data collected by Texas AgriLife Research, Texas AgriLife Extension Service, Texas A&M University, USDA-Agricultural Research Service, and West Texas A&M University.)

Swine operations

To estimate ammonia and hydrogen sulfide emissions from swine operations, see: Swine Report worksheet (4 pp, 91 K, About PDF) (go to page 3) EXIT . The worksheet considers typical confinement housing and manure storages that are located in a temperate climate. Emission rates are provided for shallow and deep storage pits.

Although the Swine Report worksheet includes a draft letter and template for continuous release reports for swine operations, please use the continuous release reporting form.

(Source: The emissions estimates are derived from research reported by:
Gay, S.W., D.R. Schmidt, C.J. Clanton, K.A. Janni, L.D. Jacobson, S. Weisberg. 2003. Odor, Total Reduced Sulfur and Ammonia Emissions from Animal Housing Facilities and Manure Storage Units in Minnesota. Applied Engineering in Agriculture, 19(3) 347-360, ASABE, St. Joseph, MI. and:
Jacobson, L.D., A.J. Heber, S.J. Hoff, Y. Zhang, D.B. Beasley, J.A. Koziel, and B.P. Hetchler. 2006. Aerial Pollutants Emissions from Confined Animal Buildings. Summary report, Ag Air Workshop, USDA-IFAFS research and demonstration program.) This study indicates that these values are a good faith estimate of emissions from swine operations using typical confinement housing and manure storages and located in a temperate climate.)

Poultry Operations

Ammonia and Hydrogen Sulfide Emission Rates for Poultry Operations (3 pp, 36 K, About PDF) EXIT provides ammonia and hydrogen sulfide emission rates for poultry operations, including broilers, laying hens and turkeys. This study lists emission rates for various housing type for each species. It also includes instructions for using the emission rates to calculate emissions for these substances, as well as examples on calculating emissions.

(Source: Hongwei Xin, Robert Burns, and Hong Li. January 2009. Ammonia (NH3) and Hydrogen Sulfide (H2S) Emission Rates for Poultry Operations. Agricultural and Biosystems Engineering Dept., Iowa State University, Ames, Iowa.)

General emission estimates for ammonia from beef, dairy, horse, swine, poultry operations

An ammonia emissions estimator (2 pp, 16 K, About PDF) EXIT is available for beef, dairy, horse, poultry (broiler, turkey, and ducks), and swine. This study was completed by the University of Nebraska on ammonia losses from animal housing facilities in various conditions (i.e. open dirt lots, on cool and humid days) for different species. Example ammonia emissions estimator worksheets are available for swine and cattle:

- Swine example (2 pp, 31 K, About PDF) EXIT for calculating emissions of ammonia for a farm that houses 5,000 swine.
- Cattle example (2 pp,33 K, About PDF) EXIT for calculating emissions of ammonia for a beef feedlot with 1,000 head of cattle.

(Source: Rick Stowell and Rick Koelsch, University of Nebraska.)

A summary of the resources above are included in the following table:

The following links exit the site EXIT

Resources for Emissions Estimates

Type	Ammonia	Hydrogen Sulfide	Inputs

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00020970-00008

Type	Ammonia	Hydrogen Sulfide	Inputs
Beef	Ammonia emissions estimator (2 pp, 31 K, About PDF) Cattle example (2 pp,33 K, About PDF)	–	- Number of animals - Animal housing - Manure storage
Dairy	Dairy Report worksheet (3 pp, 87 K, About PDF) (see page 3)	Dairy Report worksheet (3 pp, 87 K, About PDF) (see page 3)	- Number of animals - Season
	Ammonia emissions estimator (2 pp, 16 K, About PDF)	–	- Number of animals - Animal housing - Manure storage
Swine	Swine Report worksheet (4 pp, 91 K, About PDF) (see page 3)	Swine Report worksheet (4 pp, 91 K, About PDF) (see page 3)	- Number of swine - Facility type - Manure system
	Ammonia emissions estimator (2 pp, 16 K, About PDF) Swine example (2 pp, 31 K, About PDF)	–	- Number of animals - Animal housing - Manure storage
Poultry	Ammonia and Hydrogen Sulfide Emission Rates for Poultry Operations (3 pp, 36 K, About PDF)	Ammonia and Hydrogen Sulfide Emission Rates for Poultry Operations (3 pp, 36 K, About PDF)	- Number of animals - Poultry type - Housing type
	Ammonia emissions estimator (2 pp, 16 K, About PDF)	–	- Number of animals - Animal housing - Manure storage

Type	Ammonia	Hydrogen Sulfide	Inputs
Horse	Ammonia emissions estimator (2 pp, 16 K, About PDF)	–	- Number of animals - Animal housing - Manure storage

LAST UPDATED ON NOVEMBER 13, 2017

Message

From: Thomas Hebert [tom.hebert@bayardridge.com]
Sent: 11/13/2017 11:00:35 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Michael Formica [formicam@nppc.org]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: Website Guidance about Email with Multiple Facilities and CR-ENRS #

Thanks!

From: Jennings, Kim [mailto:Jennings.Kim@epa.gov]
Sent: Monday, November 13, 2017 1:23 PM
To: Michael Formica <formicam@nppc.org>
Cc: Thomas Hebert <tom.hebert@bayardridge.com>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Re: Website Guidance about Email with Multiple Facilities and CR-ENRS #

Yes, that is acceptable and we are working on adjusting the guidance to clarify.

Thanks,
Kim

On Nov 13, 2017, at 1:18 PM, Michael Formica <formicam@nppc.org> wrote:

> I would second this. We have had a number of Producers, and producer consultants, who have made notifications for multiple farms via a single email and are planning to use the same single CR# that they received from the NRC Email system across all those farms on their follow up reports to the regional offices.
>
> Is that acceptable?
>
> Michael C. Formica
> National Pork Producers Council
> (202) 680-3820
>
> Sent from my SwinePhone
>
>
> On Nov 13, 2017, at 12:57 PM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:
>
>> Kim,
>>
>> Producers submitting an email with multiple facility reports are going to be confused, when they get 1 CR # back, as as to whether it is ok to use that one number for multiple written reports. If possible, I suggest you all explain on your website that it is ok to use that single CR# to identify multiple facilities' written reports.
>>
>> Tom Hebert
>> 202-441-0570
>
>---
>
>> **From:** Jennings, Kim [mailto:Jennings.Kim@epa.gov]
>> **Sent:** Friday, November 10, 2017 4:12 PM
>> **To:** Thomas Hebert <tom.hebert@bayardridge.com>

Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Re: Only 1 CR-ENRS # being given out in reply to emails listing multiple facilities at multiple locations

Yes.

Thanks,
Kim

On Nov 10, 2017, at 3:43 PM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:

> OK. So it will be ok if someone submits to the EPA RO, say, 40 written reports for 40 different facilities (that were all in the email to the NRC) but use the exact same CR # for all40 facilities?

> **From:** Jennings, Kim [mailto:Jennings.Kim@epa.gov]
> **Sent:** Friday, November 10, 2017 3:37 PM
> **To:** Thomas Hebert <tom.hebert@bayardridge.com>
> **Cc:** Cheatham, Reggie <cheatham.reggie@epa.gov>
> **Subject:** Re: Only 1 CR-ENRS # being given out in reply to emails listing multiple facilities at multiple locations
>
> Hi Tom,
>
> While the system is set up to take emails, the guidance has not been revised to explain the issue you have discussed below. For all farm owners/operators that report there will be only one generic number. Each farm will NOT receive a unique number. Unfortunately the NRC could not create an email system in such a short timeframe to generate unique numbers. That number is what the farm owner/operator includes on their written follow-up report and the email from the NRC serves as your confirmation that you reported.
>
> Thanks,
> Kim
>
> On Nov 10, 2017, at 10:09 AM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:
>
> Kim,
>
> I have heard reports from producers (their consultants, actually), having

dozens of farms to report CR's from to the NRC, that they were directed by the NRC to send them an email list. These emails sent the NRC a table that listed the farms, locations, release estimates, and a column to the right for where the CR-ENRS # could be provided and emailed back.

For example, one producer submitted 40 farms in the email. The email they received back from the NRC a few hours later included only 1 CR-ENRS # for all 40 farms. These are different facilities.

This has happened to more than 1 producer. They now don't know what to do with their written reports for each of the farms, having only 1 CR # for all the farms submitted.

I assume you all have heard this from others, but just in case, I am passing it along as I know this needs to be fixed.

But do you have any counsel as to how these submitters get this cleared up for the farms already submitted and having only 1 CR# for them all? I have advised them to sit tight on their written reports until this gets cleared up.

Let me know if you have any questions.

Tom Hebert
Consultant to United Egg Producers

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/11/2017 7:49:57 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]
CC: Clark, Becki [Clark.Becki@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: RE: Request to send CERCLA 103 guidance to EPA senior leaders

Thanks!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Cheatham, Reggie
Sent: Wednesday, October 11, 2017 2:51 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Re: Request to send CERCLA 103 guidance to EPA senior leaders

My review is complete. Had a minor issue but that has been resolved.

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

On Oct 11, 2017, at 1:02 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> I've been asked to send the CERCLA 103 guidance to Susan, Byron, and David.
> You are both reviewing the document. Let me know if you want me to send as drafted or wait for your comments.
>
> ---
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972
> 202-748-7139 (cell)
> ---
> Follow OLEM on Twitter @EPALand
>
> ---
>
> **From:** Davis, Patrick
> **Sent:** Wednesday, October 11, 2017 12:08 PM

To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: Re: Farm Emissions

Patti,

Please send this group the most recent version of the guidance.

Thanks,

Patrick Davis
Environmental Protection Agency
Deputy Associate Director, Office of Land and Emergency Management
202-564-3103 office
202-380-8341 cell

Emails sent to this address may be subject to FOIA.

Sent from my iPhone

On Oct 11, 2017, at 11:26 AM, Bodine, Susan <bodine.susan@epa.gov> wrote:

> Patrick, can you send us the most recent version of the guidance?
>
> ---
>
> **From:** Davis, Patrick
> **Sent:** Wednesday, October 11, 2017 9:57 AM
> **To:** Brown, Byron <brown.byron@epa.gov>
> **Cc:** Bodine, Susan <bodine.susan@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
> **Subject:** Re: Farm Emissions
>
> Both EPCRA Q&A and cercla guidance will post on our website on October 16. Deliberative Process / Ex. 5
>
> **Deliberative Process / Ex. 5**
>
> Patrick Davis
> Environmental Protection Agency
> Deputy Associate Director, Office of Land and Emergency Management
> 202-564-3103 office
> 202-380-8341 cell
>
> Emails sent to this address may be subject to FOIA.
>
> Sent from my iPhone
>
> On Oct 10, 2017, at 5:34 PM, Brown, Byron <brown.byron@epa.gov> wrote:
>
>> The website (link below) says guidance is to be issued by 10/16, so I'm trying to confirm if that refers to the longer document about how to calculate emissions or the Q/A. If it's the longer document, has that been released?

https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

---

From: Bodine, Susan
Sent: Tuesday, October 10, 2017 5:32 PM
To: Brown, Byron <brown.byron@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: Farm Emissions

Deliberative Process / Ex. 5

Patrick, do you have an updated version?

From: Brown, Byron
Sent: Tuesday, October 10, 2017 5:28 PM
To: Davis, Patrick <davis.patrick@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: Farm Emissions

Deliberative Process / Ex. 5

Byron R. Brown
Deputy Chief of Staff for Policy
Office of the Administrator
U.S. Environmental Protection Agency

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/16/2017 1:45:05 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Mayer, Eileen [Mayer.Eileen@epa.gov]
Subject: RE: Liz -- press release for approval -- needs to go today ..thanks ng

OK. Thanks.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Cheatham, Reggie
Sent: Monday, October 16, 2017 9:10 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: RE: Liz -- press release for approval -- needs to go today ..thanks ng

Very good....looping in RID

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Indermark, Michele
Sent: Monday, October 16, 2017 9:09 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: FW: Liz -- press release for approval -- needs to go today ..thanks ng

Reggie and Becki,

Deliberative Process / Ex. 5

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Taylor, Trish
Sent: Monday, October 16, 2017 8:50 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Hull, George <Hull.George@epa.gov>

Cc: Colip, Matthew <colip.matthew@epa.gov>
Subject: FW: Liz -- press release for approval -- needs to go today ..thanks ng

FYSA
Also, do we have draft web text? I don't recall seeing it.

Thx,
Trish

From: Grantham, Nancy
Sent: Monday, October 16, 2017 8:11 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>
Subject: FW: Liz -- press release for approval -- needs to go today ..thanks ng

Deliberative Process / Ex. 5

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Bowman, Liz
Sent: Monday, October 16, 2017 8:07 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Konkus, John <konkus.john@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: RE: Liz -- press release for approval -- needs to go today ..thanks ng

Thanks for flagging – they need to hold on this for now – and we also want to see the targeted list of outlets.

From: Grantham, Nancy
Sent: Monday, October 16, 2017 7:45 AM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: Liz -- press release for approval -- needs to go today ..thanks ng

Liz,

See below – I think trish taylor shared with you previously – this needs to go today as farmers will need to start meeting reporting requirements on November 15th, so we want to give them a month's notice to begin complying.

Short press release is at the bottom of this email – will be targeted to agri-focused outlets only.

Ok to go out? We need to time congressional notification this morning before the release goes out.

Thanks ng

KEY MESSAGES

Deliberative Process / Ex. 5

DRAFT

Deliberative Process / Ex. 5

10/16/2017

Contact Information: XXXX
(press@epa.gov)

Deliberative Process / Ex. 5

###

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

Message

From: Colip, Matthew [colip.matthew@epa.gov]
Sent: 10/11/2017 12:36:16 PM
To: Indermark, Michele [Indermark.Michele@epa.gov]
CC: Jacob, Sicy [Jacob.Sicy@epa.gov]; Hull, George [Hull.George@epa.gov]; Beasley, Craig [Beasley.Craig@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]
Subject: RE: Response for press inquiry on EPCRA CERCLA Vacatur

Thanks everyone!

Matt

From: Indermark, Michele
Sent: Tuesday, October 10, 2017 6:01 PM
To: Colip, Matthew <colip.matthew@epa.gov>
Cc: Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Beasley, Craig <Beasley.Craig@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: FW: Response for press inquiry on EPCRA CERCLA Vacatur

Matt,

RID responses are below.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Tuesday, October 10, 2017 5:03 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Response for press inquiry on EPCRA CERCLA Vacatur

Here is our response to the press inquiry below. These responses have been reviewed by OECA and OGC and OEM senior management.
Let me know if you have any questions.

Press inquiry questions:

- **Can you confirm that this taking place 11/15?**
  On December 18, 2008, EPA published a rule exempting farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this rule, thus eliminating the exemptions. The court's ruling takes effect once the mandate is issued (i.e., when the court issues the mandate, EPA's previous regulatory exemption no longer applies). Upon EPA's request, the court has currently delayed issuance of the mandate through November 14, 2017.

- **How big of an area does it affect (U.S. at large)?**

The total number of farms potentially affected by the vacatur could be up to 44,900 farms, based on farm data from the 2012 USDA Agricultural Census and concentrated animal feeding operation (CAFO) size categories defined in the December 18, 2008 rule.

- **How will farmers know when they've reached a reporting threshold?**
  EPA plans to provide guidance to assist farm facility owners/operators in estimating emissions from animal wastes. If a facility exceeds the reporting threshold due to emissions from animal wastes, the facility may be eligible for streamlined reporting called "continuous release reporting." EPA's guide Reporting Requirements for Continuous Releases of Hazardous Substances provides an overview of the continuous release reporting requirements, including forms to assist with developing written reports.

- **How big a livestock operation is affected?**
  Factors that contribute to whether a livestock operation would be subject to reporting requirements, include, but are not limited to: operating conditions (e.g., animal species, housing/confinement type); management practices (e.g., feed, manure); and geographic location and environmental conditions (e.g., precipitation, humidity, temperature, wind conditions, terrain). EPA plans to provide guidance to farm facility owners and operators to assist them in determining whether they may be subject to reporting requirements for emissions from animal wastes.

- **What penalties are there for violations?**
  CERCLA section 109 and EPCRA section 325 authorize both administrative and judicial penalties of up to $54,789 per day.

- **What is a "reportable quantity" and how is it determined when that quantity is reached?**
  A reportable quantity (RQ) is the quantity of a hazardous substance, when released, which triggers a notification requirement. Farm owners/operators will need to estimate emissions from the facility. EPA plans to provide guidance to farm facility owners and operators to assist them in determining whether they may be subject to reporting requirements for emissions from animal wastes.

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

From: Principe, Vanessa
Sent: Friday, October 06, 2017 4:24 PM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: RESPONSES DUE COB TUESDAY 10/10 - FW: ACTION: Brownfield Ag News re: CAFOs reporting
Importance: High

All,

This press inquiry came in late Friday. Requested an extension until COB Tuesday. See questions below in email train.

Deliberative Process / Ex. 5

Thanks, V

From: Jones, Enesta
Sent: Friday, October 06, 2017 4:14 PM
To: Colip, Matthew <colip.matthew@epa.gov>
Cc: Principe, Vanessa <Principe.Vanessa@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
Subject: Re: ACTION: Brownfield Ag News re: CAFOs reporting

Sure, COB Tuesday — thanks all.

On Oct 6, 2017, at 4:12 PM, Colip, Matthew <colip.matthew@epa.gov> wrote:

Hi Vanessa,

I asked for an extension to Tuesday morning. Is more time needed ?

Enesta – can we push deadline to COB Tuesday?

Matt

Matthew Colip
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
Office: 202-566-2641
Mobile: 202-597-1887
Follow us on Twitter @EPALand

From: Principe, Vanessa
Sent: Friday, October 06, 2017 4:11 PM
To: Jones, Enesta <Jones.Enesta@epa.gov>
Cc: Roache, Brendan <Roache.Brendan@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: FW: ACTION: Brownfield Ag News re: CAFOs reporting
Importance: High

Enesta,

FYI – forwarding our request for additional time for this inquiry given its sensitivities.

Thanks, Vanessa

From: Principe, Vanessa
Sent: Friday, October 06, 2017 3:56 PM
To: Roache, Brendan <Roache.Brendan@epa.gov>

Cc: Clark, Becki <Clark.Becki@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Subject: RE: ACTION: Brownfield Ag News re: CAFOs reporting
Importance: High

Most of the folks working on this action are out until Tuesday. Additionally, given the interest on this action and the nature of the questions, I would want to run the responses through OGC.

Respectfully requesting additional time for OEM to "run the traps" on this - until early next week.

Thanks, V

From: Roache, Brendan
Sent: Friday, October 06, 2017 3:34 PM
To: Principe, Vanessa <Principe.Vanessa@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Subject: FW: ACTION: Brownfield Ag News re: CAFOs reporting

Vanessa,

Since you're Acting this afternoon for RID, do you have any input/response on the reporter's questions below related to the Concentrated Animal Feeding Operation questions?

Thanks.
Brendan

From: Colip, Matthew
Sent: Friday, October 06, 2017 3:25 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>
Subject: ACTION: Brownfield Ag News re: CAFOs reporting

See inquiry below – deadline 4pm today

From: Jones, Enesta
Sent: Friday, October 06, 2017 3:22 PM
To: Colip, Matthew <colip.matthew@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
Cc: Jones, Enesta <Jones.Enesta@epa.gov>
Subject: ACTION: Brownfield Ag News re: CAFOs reporting

He added a question:
What is a "reportable quantity" and how is it determined when that quantity is reached?

Good day! Tight deadline; please let me know if you need more time.

Reporter: Tom Steever
Outlet: Brownfield Ag News
DDL: 4 p.m. today

Can you confirm that this taking place 11/15?
How big of an area does it affect (U.S. at large)?
How will farmers know when they've reached a reporting threshold?
How big a livestock operation is affected?
What penalties are there for violations?

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/10/2017 9:19:02 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Indermark, Michele [Indermark.Michele@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
Subject: EPA Response to Interagency Comments on the EPCRA Q&A
Attachments: EO12866_EPCRA Ag Reporting_2050-ZA12_FinalPolicy_20171006 OIRA comments.EPA response.docx

Importance: High

Attached is the EPA response to OMB comments on the Q&A undergoing OMB review.
Take a look at the attached and let me know if you have any concerns. OGC assisted in responding to the comments. We would like to send this back over early tomorrow.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/10/2017 7:42:13 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: Review requested- EPCRA CERCLA web content
Attachments: Guidance for Farms DRAFT 10102017 .docx

Importance: High

Reggie/Becki-
Attached is the revised web content explaining the EPCRA CERCLA court vacatur.

Deliberative Process / Ex. 5

Also, please note that we are correcting hyperlinks in the attached document. We will have these corrected before the document is posted to the website.

This should be ready to send forward for senior level review and approval.

Let me know if you have any questions or comments.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 3/23/2018 7:47:57 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview
Attachments: CERCLA EPCRA Monitoring Requirements_with FARM Act.docx

FYI – here's a clean version of the revised paper.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Friday, March 23, 2018 1:45 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

I should also point out that these changes are consistent with edits that OGC made to the language that we will post on the EPA website.

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202-564-1972
202-748-7139 (cell)

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Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

See changes. The Appropriations Act has been signed, so I made corresponding changes to reflect that.

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202-748-7139 (cell)

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To: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
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Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

With the attachment this time.

Hi Kim and Patty,

Jackie has asked that we add information on the FARM Act to your CERCLA/EPCRA paper for the subject notebook (assuming the President signs, and does not veto the Omnibus Bill). I've taken a stab at it and highlighted the changes in the attachment.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Indermark, Michele
Sent: Thursday, March 22, 2018 10:23 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Hi Jackie,

Deliberative Process / Ex. 5

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Wednesday, March 21, 2018 12:22 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Re: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Yes that's fine. Thanks!

Sent from my iPhone

On Mar 21, 2018, at 10:53 AM, Indermark, Michele <Indermark.Michele@epa.gov> wrote:

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Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Got it. Thanks Michele.

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Indermark, Michele
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Hi Jackie,

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Slide 10 "Highlights" Bullets
Hurricane/Wildfire Response (OEM)

- As the Nation's lead federal agency for emergency response to hazardous substance and inland oil spills, the HQ Emergency Operations Center
    - served as the backbone for the responses,
    - provided oversight for the deployment of a cadre of 230 on-scene coordinators, and
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Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Piecemeal would be perfect. Thanks!

Jackie Harwood
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Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Friday, March 16, 2018 12:56 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Deliberative Process / Ex. 5

Does that make sense?

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
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Follow OLEM on Twitter: @EPALand

From: Indermark, Michele
Sent: Friday, March 16, 2018 12:41 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Jackie,

Will OCIR contact R2, 4, 6, and 9 to review/update the hurricane and wildfire papers? Or should OEM do that? I don't want to create a duplicate ask to the Regions.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Friday, March 16, 2018 12:30 PM
To: Barolo, Mark <Barolo.Mark@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Woolford, James <Woolford.James@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Wilbur, Jennifer <Wilbur.Jennifer@epa.gov>; Sebring, Meridith <Sebring.Meridith@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Schutz, Michelle

<Schutz.Michelle@epa.gov>; Huggins, Richard <Huggins.Richard@epa.gov>; Radtke, Meghan <Radtke.Meghan@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview
Importance: High

Hi All,

Deliberative Process / Ex. 5

Schedule for Completing Materials:

- Weds 3/21 – ODs provide notebook fact sheets and overview powerpoint updates to Jackie.
- Thurs 3/22 – Draft notebook sent to Barry, Steven, and Veronica to review (Veronica will coordinate AO review for OLEM).

- Tues 3/27 – Barry, Steven, and Veronica provide comments to Jackie.
- Weds 3/28, AM – Jackie to share Veronica/AO comments with Barry/Steven for review.
- Weds 3/28, PM – Final OLEM notebook sent to OCIR.

Let me know if you have any questions or concerns about this, or need additional information.

Thanks.
Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Colip, Matthew [colip.matthew@epa.gov]
Sent: 3/23/2018 6:04:00 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
CC: Lewis, Jen [Lewis.Jen@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: Farm Act and website revisions

Patty and Latosha,

Sending web language to OPA now that bill has been signed. Will copy you

Thanks,
Matt

From: Thomas, Latosha
Sent: Friday, March 23, 2018 1:49 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Cc: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: Farm Act and website revisions

+Matt Colip who is covering while Trish is out

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

From: Gioffre, Patricia
Sent: Friday, March 23, 2018 1:48 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: Farm Act and website revisions

The appropriations bill has been signed. Where are we with approval on the web language?
Please let me know so I can work with Eileen and Latosha to update the website.

Patty Gioffre
USEPA/OLEM/OEM/RID
202-564-1972
202-748-7139 (cell)

From: Taylor, Trish
Sent: Thursday, March 22, 2018 6:09 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: Farm Act and website revisions

The draft web language is with Barry. Meanwhile, I reached out to OPA – they are on board.

Thanks,
Trish

From: Taylor, Trish
Sent: Thursday, March 22, 2018 5:02 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: Farm Act and website revisions

Will do.

From: Cheatham, Reggie
Sent: Thursday, March 22, 2018 4:48 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: Re: Farm Act and website revisions

Good here Patty. OCPA should alert OPA of our thinking on this to make sure everyone is on board

Thanks

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

On Mar 22, 2018, at 4:29 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Once the appropriations bill passes, OEM is suggesting we acknowledge the new legislation in an alert box . We'd like to get concurrence on the language in advance so we can post this right away.
>
> The new text would look like this:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

We can make more substantive changes to the website, as appropriate, next week.

Please respond at your earliest convenience.
Thanks!

Patty Gioffre
Deputy Director
Regulation Implementation Division
USEPA Office of Emergency Management
202-564-1972
202-748-7139 (cell)

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 9/28/2017 3:13:29 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Subject: FW: Request to Post information today: EPCRA/CERCLA website announcement

Hi Reggie and Becki,

Just wanted to let you know that I got a call this morning after our budget meeting from Patrick Davis. He indicated that he had spoken with Ryan Jackson regarding our question yesterday as to whether we could put up the announcement on our webpage that the CERCLA/EPCRA rule has been vacated and what we are doing to assist farms now that they have to report. Ryan stated that we could put it up and Patrick asked me to do so today. Below is the notice from Eileen that that has been done. Do you want me to let Barry and Patrick know or would you prefer to?

Also, Ryan asked that we make sure that we are working with the Farm Bureau in communicating/rolling out our guidance to farms. I indicated to Patrick that we were indeed doing so and have confirmed with George that this is an important aspect to our communication strategy for our Senior Leaders.

Just wanted to keep you informed of my communication with Patrick.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Mayer, Eileen
Sent: Thursday, September 28, 2017 10:42 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>
Subject: RE: Request to Post information today: EPCRA/CERCLA website announcement

The page is live and available at: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

There is also a link on the EPCRA homepage.

Eileen M. Mayer
Web Editor-in-Chief (EPCRA, RMP, Oil Spills Regulations, and Emergency Response)
Office of Emergency Management
U.S. Environmental Protection Agency
202-564-9628

From: Gioffre, Patricia
Sent: Thursday, September 28, 2017 10:20 AM
To: Mayer, Eileen <Mayer.Eileen@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Hull, George <Hull.George@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
Subject: Request to Post information today: EPCRA/CERCLA website announcement

Eileen- We got the message today from Patrick Davis that it is OK to post this information on our website. He would like it up today if that is possible.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 3/23/2018 5:57:11 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Ok. I'll clean it up and ask Becki to review it.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Gioffre, Patricia
Sent: Friday, March 23, 2018 1:45 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
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Deliberative Process / Ex. 5

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Special Assistant
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Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
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Follow OLEM on Twitter: @EPALand

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Michele Indermark

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Special Assistant
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Deliberative Process / Ex. 5

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Jackie Harwood
OLEM Congressional, State, and Local Liaison
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Special Assistant
(w) 202-564-0794

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Sent: Friday, March 16, 2018 12:30 PM
To: Barolo, Mark <Barolo.Mark@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Woolford, James <Woolford.James@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Wilbur, Jennifer <Wilbur.Jennifer@epa.gov>; Sebring, Meridith <Sebring.Meridith@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Schutz, Michelle <Schutz.Michelle@epa.gov>; Huggins, Richard <Huggins.Richard@epa.gov>; Radtke, Meghan <Radtke.Meghan@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
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Importance: High

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Deliberative Process / Ex. 5

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U.S. Environmental Protection Agency
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Message

From: Jacob, Sicy [Jacob.Sicy@epa.gov]
Sent: 10/25/2017 1:44:46 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]
CC: Noggle, William [Noggle.William@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Hull, George [Hull.George@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: CERCLA Web formatted guidance

Hi I just have one comment regarding this sentence:

"Farms not reporting under EPCRA should not send information to the LEPCs and SERCs." (Page 5)

Deliberative Process / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Wednesday, October 25, 2017 8:58 AM
To: Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Michaud, John <Michaud.John@epa.gov>
Cc: Noggle, William <Noggle.William@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
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All-

This is a clean version of the CERCLA guidance that our web editor modified to make it web-friendly. Please take a look and let me know if you have any concerns (**preferably before the 10 am conference call with OMB**). Deliberative Process / Ex. 5

Deliberative Process / Ex. 5.

I need to hear back from OGC with edits or an approval so we can get this through internal reviews quickly. Please reply all with any edits.

Thanks!

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

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Subject: CERCLA Web formatted guidance
Attachments: Clean copy of web text 10-25-17_PG edits.docx

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Sent: 3/23/2018 5:43:07 PM
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Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview
Attachments: CERCLA EPCRA Monitoring Requirements_with FARM Act_PG.docx

See changes. The Appropriations Act has been signed, so I made corresponding changes to reflect that.

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USEPA/OLEM/OEM/RID
202-564-1972
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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Hi Jackie,

Deliberative Process / Ex. 5

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Wednesday, March 21, 2018 12:22 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Re: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Yes that's fine. Thanks!

Sent from my iPhone

On Mar 21, 2018, at 10:53 AM, Indermark, Michele <Indermark.Michele@epa.gov> wrote:

Hi Jackie,

The Govt closure is providing some complications today. Can we get you the remainder of what we owe tomorrow?

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Tuesday, March 20, 2018 4:45 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Got it. Thanks Michele.

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Indermark, Michele
Sent: Tuesday, March 20, 2018 2:01 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Hi Jackie,

Sending the first installment of our materials for the subject hearing. I'm providing the updated RMP paper and the bullets below are proposed for Slide 10 of the OLEM overview briefing. We are still working on edits to the rest of the OEM-related information in the briefing, the CERCLA/EPCRA paper, and the Hurricane/Wildfire paper.

Slide 10 "Highlights" Bullets
Hurricane/Wildfire Response (OEM)

- As the Nation's lead federal agency for emergency response to hazardous substance and inland oil spills, the HQ Emergency Operations Center
    - served as the backbone for the responses,
    - provided oversight for the deployment of a cadre of 230 on-scene coordinators, and
    - ensured consistent communication flow from the field to the Administrator.
- Implemented the National Incident Management Advisory Team successfully for the first time.
- Provided air monitoring, with EPA mobile asset technology, of the post-hurricane fire at the Arkema facility and other areas in and around Houston, TX.

Recent Rules

- (OEM) Delayed the effective date of the amendments to the Risk Management Program Rule to Feb 2019 to consider impacts to security of chemical facilities.
- (OEM) Successfully petitioned the DC Circuit Court of Appeals to delay its mandate to May 1, 2017 which would require farmers to report ammonia and hydrogen sulfide emissions to the National Response Center so that EPA can
    - Revise guidance to be of more assistance to farms,
    - Conduct outreach to farms without access to the internet, and
    - Finish developing the streamlined continuous release reporting form.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Monday, March 19, 2018 11:07 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Piecemeal would be perfect. Thanks!

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Indermark, Michele
Sent: Monday, March 19, 2018 11:00 AM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Do you want them piecemeal or should I submit everything at the same time? The RMP paper just needs final review by Reggie/Becki and I can probably finalize the bullets for Slide 10 as well.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Friday, March 16, 2018 12:56 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Deliberative Process / Ex. 5

Does that make sense?

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Indermark, Michele
Sent: Friday, March 16, 2018 12:41 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview

Jackie,

Will OCIR contact R2, 4, 6, and 9 to review/update the hurricane and wildfire papers? Or should OEM do that? I don't want to create a duplicate ask to the Regions.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Friday, March 16, 2018 12:30 PM
To: Barolo, Mark <Barolo.Mark@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gervais, Gregory <Gervais.Gregory@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Leonard, Paul <leonard.paul@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Overmeyer, Patricia <Overmeyer.Patricia@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Stalcup, Dana <Stalcup.Dana@epa.gov>; Woolford, James <Woolford.James@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Wilbur, Jennifer <Wilbur.Jennifer@epa.gov>; Sebring, Meridith <Sebring.Meridith@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Schutz, Michelle

<Schutz.Michelle@epa.gov>; Huggins, Richard <Huggins.Richard@epa.gov>; Radtke, Meghan <Radtke.Meghan@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: BY WEDS 3/21: AA Nominee Hearing Notebook and OLEM Overview
Importance: High

Hi All,

Deliberative Process / Ex. 5

Schedule for Completing Materials:

- Weds 3/21 – ODs provide notebook fact sheets and overview powerpoint updates to Jackie.
- Thurs 3/22 – Draft notebook sent to Barry, Steven, and Veronica to review (Veronica will coordinate AO review for OLEM).

- Tues 3/27 – Barry, Steven, and Veronica provide comments to Jackie.
- Weds 3/28, AM – Jackie to share Veronica/AO comments with Barry/Steven for review.
- Weds 3/28, PM – Final OLEM notebook sent to OCIR.

Let me know if you have any questions or concerns about this, or need additional information.

Thanks.
Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

Message

From: Michael Formica [formicam@nppc.org]
Sent: 11/13/2017 7:57:03 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]
CC: Tom Hebert [tom.hebert@bayardridge.com]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: Website Guidance about Email with Multiple Facilities and CR-ENRS #

Thanks. This is very helpful

From: Jennings, Kim [mailto:Jennings.Kim@epa.gov]
Sent: Monday, November 13, 2017 2:55 PM
To: Michael Formica <formicam@nppc.org>
Cc: Tom Hebert <tom.hebert@bayardridge.com>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: Website Guidance about Email with Multiple Facilities and CR-ENRS #

Yes, I believe that is OK. As long as the farm owner/operator gets a copy of the email as a confirmation that the report was filed.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Michael Formica [mailto:formicam@nppc.org]
Sent: Monday, November 13, 2017 1:56 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Tom Hebert <tom.hebert@bayardridge.com>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: RE: Website Guidance about Email with Multiple Facilities and CR-ENRS #

Thanks Kim

One quick clarification, is it ok if the initial notification to NRC is made by a technical/environmental consultant or a law firm on behalf of the producer, rather than the actual producer?

Thanks!

From: Jennings, Kim [mailto:Jennings.Kim@epa.gov]
Sent: Monday, November 13, 2017 1:23 PM
To: Michael Formica <formicam@nppc.org>
Cc: Tom Hebert <tom.hebert@bayardridge.com>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Re: Website Guidance about Email with Multiple Facilities and CR-ENRS #

Yes, that is acceptable and we are working on adjusting the guidance to clarify.

Thanks,
Kim

On Nov 13, 2017, at 1:18 PM, Michael Formica <formicam@nppc.org> wrote:

I would second this. We have had a number of Producers, and producer consultants, who have made notifications for multiple farms via a single email and are planning to use the same single CR# that they received from the NRC Email system across all those farms on their follow up reports to the regional offices.

Is that acceptable?

Michael C. Formica
National Pork Producers Council
(Personal Phone / Ex. 6

Sent from my SwinePhone

On Nov 13, 2017, at 12:57 PM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:

> Kim,
>
> Producers submitting an email with multiple facility reports are going to be confused, when they get 1 CR # back, as as to whether it is ok to use that one number for multiple written reports. If possible, I suggest you all explain on your website that it is ok to use that single CR# to identify multiple facilities' written reports.
>
> Tom Hebert
> Personal Phone / Ex. 6
>
> **From:** Jennings, Kim [mailto:Jennings.Kim@epa.gov]
> **Sent:** Friday, November 10, 2017 4:12 PM
> **To:** Thomas Hebert <tom.hebert@bayardridge.com>
> **Cc:** Cheatham, Reggie <cheatham.reggie@epa.gov>
> **Subject:** Re: Only 1 CR-ENRS # being given out in reply to emails listing multiple facilities at multiple locations
>
> Yes.
>
> Thanks,
> Kim
>
> On Nov 10, 2017, at 3:43 PM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:
>
>> OK. So it will be ok if someone submits to the EPA RO, say, 40 written reports for 40 different facilities (that were all in the email to the NRC) but use the exact same CR # for all40 facilities?
>
>> **From:** Jennings, Kim [mailto:Jennings.Kim@epa.gov]
>> **Sent:** Friday, November 10, 2017 3:37 PM
>> **To:** Thomas Hebert <tom.hebert@bayardridge.com>
>> **Cc:** Cheatham, Reggie <cheatham.reggie@epa.gov>
>> **Subject:** Re: Only 1 CR-ENRS # being given out in reply to emails listing multiple facilities at multiple locations

Hi Tom,

While the system is set up to take emails, the guidance has not been revised to explain the issue you have discussed below. For all farm owners/operators that report there will be only one generic number. Each farm will NOT receive a unique number. Unfortunately the NRC could not create an email system in such a short timeframe to generate unique numbers. That number is what the farm owner/operator includes on their written follow-up report and the email from the NRC serves as your confirmation that you reported.

Thanks,
Kim

On Nov 10, 2017, at 10:09 AM, Thomas Hebert <tom.hebert@bayardridge.com> wrote:

> Kim,
>
> I have heard reports from producers (their consultants, actually), having dozens of farms to report CR's from to the NRC, that they were directed by the NRC to send them an email list. These emails sent the NRC a table that listed the farms, locations, release estimates, and a column to the right for where the CR-ENRS # could be provided and emailed back.
>
> For example, one producer submitted 40 farms in the email. The email they received back from the NRC a few hours later included only 1 CR-ENRS # for all 40 farms. These are different facilities.
>
> This has happened to more than 1 producer. They now don't know what to do with their written reports for each of the farms, having only 1 CR # for all the farms submitted.
>
> I assume you all have heard this from others, but just in case, I am passing it along as I know this needs to be fixed.
>
> But do you have any counsel as to how these submitters get this cleared up for the farms already submitted and having only 1 CR# for them all? I have advised

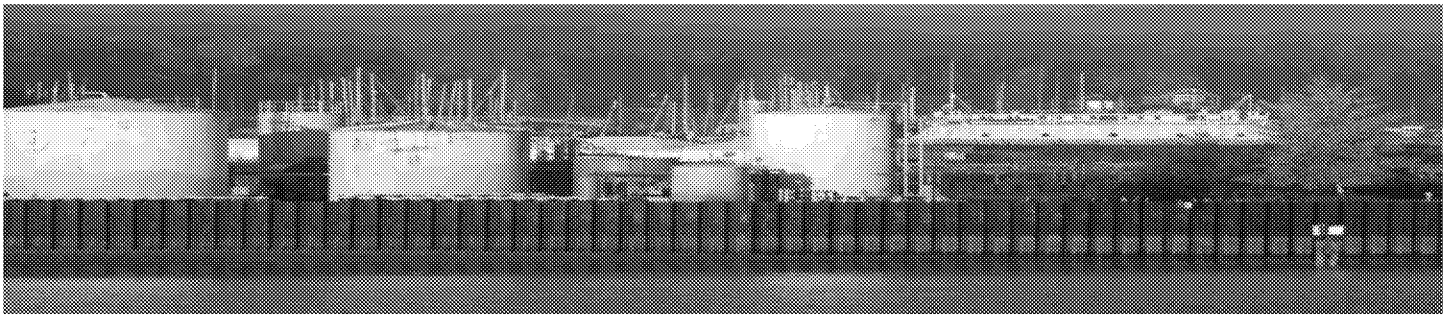
them to sit tight on their written
reports until this gets cleared up.

Let me know if you have any questions.

Tom Hebert
Consultant to United Egg Producers

Message

From: [EPA] [SERC-TERC.Updates@epa.gov]
Sent: 10/26/2017 3:40:26 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: [serc_terc_monthly_update] FLASH Update: October 2017



- - SERC-TERC Flash Update - -

Hello SERCs, TERCs, and Federal Partners.

Here is a late-breaking / time-sensitive item of interest:

Hot Topic

EPA Provides **Guidance for Farmers for Reporting Animal Waste**

- On October 25, 2017, EPA released guidance to assist farmers in reporting air releases of hazardous substances from animal waste at farms.
  - EPA is making this information available to provide time for farmers to review and prepare for the reporting obligation, which could become effective as early as November 15, 2017.
- On December 18, 2008, EPA published a final rule that exempted certain farms from reporting air releases of hazardous substances from animal waste.
  - On April 11, 2017, the DC Circuit Court vacated this final rule.
  - In response to a request from EPA, the DC Circuit Court extended the date on which its ruling would become effective to November 15, 2017.
    - Unless the court further extends this date, farms (including those previously exempted by EPA's rule) that release hazardous substances to the air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must comply with applicable statutory reporting requirements.
- The EPA guidance information includes links to resources that farmers can use to calculate emissions tailored to specific species of livestock.
- View EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms
  - EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations.
  - Interested parties may submit comments or suggestions by November 24, 2017.

PLEASE NOTE: The next regular edition of *SERC-TERC Updates* should arrive in early November 2017.

The purpose of the *SERC-TERC Updates* is to identify and share new policies, guidance, and training resources that may be useful to the State Emergency Response Commissions (SERCs) and Tribal Emergency Response Commissions (TERCs).

Environmental Protection Agency / Department of Homeland Security & US Coast Guard
Department of Labor & Occupational Safety and Health Administration / Department of Transportation
Bureau of Alcohol, Tobacco, Firearms and Explosives / Department of Agriculture

---
You are currently subscribed to serc_terc_monthly_update as: cheatham.reggie@epa.gov

To unsubscribe, send a blank email to leave-1678840-2412814.059f45c0556239a909bec28d933d9982@lists.epa.gov

For problems with this list, contact serc_terc_monthly_update-Owner@lists.epa.gov
---

Message

From: Jacob, Sicy [Jacob.Sicy@epa.gov]
Sent: 10/26/2017 12:51:42 PM
To: Clark, Becki [Clark.Becki@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: CERCLA and EPCRA Ag Guidance is now available

Thanks. More to do.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Clark, Becki
Sent: Thursday, October 26, 2017 7:54 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Re: CERCLA and EPCRA Ag Guidance is now available

Well done, thank you!

Sent from my iPhone

On Oct 25, 2017, at 9:35 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> I am pleased to announce that the CERCLA/ EPCRA ag guidance is live on the EPA website. The guidance is intended to assist farmers in reporting air releases of hazardous substances from animal waste at farms. EPA is making this information available to provide time for farmers to review and prepare for the reporting obligation, which could become effective as early as November 15, 2017.
>
> > On December 18, 2008, EPA published a final rule that exempted certain farms from reporting air releases of hazardous substances from animal waste. On April 11, 2017, the DC Circuit Court vacated this final rule. In response to a request from EPA, the DC Circuit Court extended the date on which its ruling would become effective to November 15, 2017. Unless the court further extends this date, farms (including those previously exempted by EPA's rule) that release hazardous substances to the air from animal wastes equal to or greater than the reportable quantities for those hazardous substances within any 24-hour period must comply with applicable statutory reporting requirements.
> >
> > To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

EPA will revise this guidance, as necessary, to reflect additional information to assist farm owners and operators to meet reporting obligations. Interested parties may submit comments or suggestions by November 24, 2017.

Please share this information with your interested stakeholders and regional contacts.

Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Appointment

From: Siperek, Trevor LT [Trevor.L.Siperek@uscg.mil]
Sent: 11/2/2017 12:05:28 PM
To: Kevin.Smith@uscg.mil; Loring, Joseph B CAPT [Joseph.B.Loring@uscg.mil]; Weaver, James (USCG) [James.D.Weaver@uscg.mil]; Stuckey, William (PHMSA) [William.Stuckey@dot.gov]; Boynton, Lisa [Boynton.Lisa@epa.gov]; Irizarry, Gilberto [Irizarry.Gilberto@epa.gov]; Brittle, Horace L MSTC [Horace.L.Brittle@uscg.mil]; Lipinski, Rachael CIV [Rachael.Lipinski@uscg.mil]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Brooks, Rebecca J LT [Rebecca.J.Brooks@uscg.mil]

Subject: NRC Advisory Group Meeting for CERCLA/EPCRA
Location: Teleconference

Start: 11/6/2017 8:00:00 PM
End: 11/6/2017 9:00:00 PM
Show Time As: Tentative

Recurrence: (none)

When: Monday, November 06, 2017 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Teleconference
Note: The GMT offset above does not reflect daylight saving time adjustments.
~~*~*~*~*~*~*~*~*~*

Good morning everyone,
This is a meeting invite for a conference call to continue discussions from our 30OCT17 NRC Advisory Group meeting regarding the impending requirement for CERCLA/EPCRA Animal Waste reporting to the NRC. Topics of discussion will include reporting guidance to farmers as well as other reporting options/courses of action. As previously mentioned, this new reporting requirement has the potential to put a significant strain on NRC operations and capabilities. Your participation is very much appreciated.
Call-in numbe Conference Number / Ex. 6
Access code:
Very Respectfully,
Trevor Siperek, LT
Operations Officer
National Response Center
1-800-424-8802

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/20/2017 12:45:39 PM
To: Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: RE: EPRCRA Ag Rulemaking

OK. Thank you Sharon!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Cooperstein, Sharon
Sent: Friday, October 20, 2017 8:45 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Re: EPRCRA Ag Rulemaking

Thank you, Patty.

This is all very helpful. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,

Sharon

From: Gioffre, Patricia
Sent: Friday, October 20, 2017 7:59:22 AM
To: Cooperstein, Sharon; Noggle, William
Cc: Jennings, Kim; Clark, Becki; Cheatham, Reggie
Subject: RE: EPRCRA Ag Rulemaking

Sharon-
To answer your questions:

Deliberative Process / Ex. 5

Senior Policy Leader Involvement-Finally, we have been briefing Barry Breen, Veronica Darwin and Patrick Davis in OLEM (Patrick recently moved to Region 8 but continues to stay engaged in this effort). I also know that OGC has been actively working with David F. on this issue. I do not know the extent of coordination among these individuals with OP.

As per your apology on calling me Party-I've been called worse. Think of all the things that rhyme with Patty! LOL

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Cooperstein, Sharon
Sent: Thursday, October 19, 2017 7:23 PM
To: Noggle, William <Noggle.William@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: Re: EPRCRA Ag Rulemaking

Thanks, Bill. What information does the ICR collect? Just whether they have exceeded their RQ, but not the actual level of emissions?

Also, very sorry, Patty- my phone autocorrected Patty to *Party!

In addition to my questions below about the ICR, I have some questions about the motion to extend the mandate:

I know OGC mentioned them today, but I missed it: What arguments are included in the draft motion as justification for why we need more time?

Deliberative Process / Ex. 5

Thank you both!

Sharon

From: Cooperstein, Sharon
Sent: Thursday, October 19, 2017 6:51:52 PM
To: Noggle, William; Gioffre, Patricia
Subject: Re: EPRCRA Ag Rulemaking

Hi Bill and Party,

Can one of you clarify to me what our current plan is for timing to submit the ICR to OMB?

Deliberative Process / Ex. 5

thanks,

Sharon

From: Noggle, William
Sent: Thursday, October 19, 2017 4:28:33 PM
To: Tyree, JamesN; Cogliano, Gerain; Cooperstein, Sharon
Cc: Owens, Nicole; Mandolia, Michelle
Subject: RE: EPRCRA Ag Rulemaking

Deliberative Process / Ex. 5 Thanks.

From: Tyree, JamesN
Sent: Thursday, October 19, 2017 3:35 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Noggle, William <Noggle.William@epa.gov>
Cc: Owens, Nicole <Owens.Nicole@epa.gov>; Mandolia, Michelle <Mandolia.Michelle@epa.gov>
Subject: RE: EPRCRA Ag Rulemaking

Deliberative Process / Ex. 5

James Tyree, P.E.
Policy and Regulatory Analysis Division
Office of Policy, Office of Regulatory Policy and Management
U.S. EPA
202.564.2658

From: Cogliano, Gerain
Sent: Thursday, October 19, 2017 3:34 PM
To: Cooperstein, Sharon <Cooperstein.Sharon@epa.gov<mailto:Cooperstein.Sharon@epa.gov>>; Noggle, William <Noggle.William@epa.gov<mailto:Noggle.William@epa.gov>>
Cc: Tyree, JamesN <tyree.jamesn@epa.gov<mailto:tyree.jamesn@epa.gov>>
Subject: RE: EPRCRA Ag Rulemaking

Deliberative Process / Ex. 5

From: Cooperstein, Sharon
Sent: Thursday, October 19, 2017 3:32 PM
To: Noggle, William <Noggle.William@epa.gov<mailto:Noggle.William@epa.gov>>; Cogliano, Gerain <Cogliano.Gerain@epa.gov<mailto:Cogliano.Gerain@epa.gov>>
Cc: Tyree, JamesN <tyree.jamesn@epa.gov<mailto:tyree.jamesn@epa.gov>>
Subject: EPRCRA Ag Rulemaking

Hi Bill and Gerain,

Deliberative Process / Ex. 5

Thanks,

Sharon

Sharon Cooperstein
Environmental Protection Agency
Office of Policy
WJC North 3521D |Mail Code 1803A
202-564-7051

Appointment

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/18/2017 6:04:04 PM
To: Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]

Subject: FW: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
Attachments: Interagency 0.2_CERCLA 103 Reporting Guidance for Farms_10.18.2017.docx
Location: Conference Number / Ex. 6

Start: 10/18/2017 6:00:00 PM
End: 10/18/2017 7:00:00 PM
Show Time As: Tentative

Not sure that you were included in the original invitation. Kathy and I are on the call.

-----Original Appointment-----
From: Noggle, William
Sent: Monday, October 16, 2017 2:47 PM
To: Noggle, William; Gioffre, Patricia; Lewis, Jen; DeBruhl, Brandon F. EOP/OMB; Laity, Jim A. EOP/OMB; USDA Reg; Mackay, Cheryl (ENRD; Waqar, Tayyaba; cjz@obpa.usda.gov; Rojas, Pablo EOP/OMB (Intern); Ruggiero, Justin M. EOP/OMB (Intern); Swenson, Erik; Salo, Earl; Michaud, John; Cogliano, Gerain; Hostage, Barbara; Jacob, Sicy; Hull, George; Beaman, Joe; Jennings, Kim; Cooperstein, Sharon; eric.t.gormsen@usdoj.gov; Franklin, Kathy
Cc: Poe, Michael - OBPA, Washington, DC; Abbott, Linda - OCE; Rawles, Earnest -FS; Greg Zwicke; Glenn Carpenter; Reck, William - NRCS, Washington, DC; FLINIAU, HOLLY - OGC; Kunickis, Sheryl - OSEC; Knaebel, David - ARS; Barringer, Jody M. EOP/OMB; Matukumalli, Lakshmi - NIFA; Lipshultz, Jon (ENRD)
Subject: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
When: Wednesday, October 18, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conference Number / Ex. 6

To all –
This meeting is to discuss interagency comments on the CERCLA and EPCRA Ag Guidance.

Dial in Code: Conference Number / Ex. 6

Thanks,
Bill
202-566-1306

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 3/8/2018 7:33:30 PM
To: Williams, Doris [Williams.Doris@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
Subject: FW: CERCLA/EPCRA speaking requests

Hi Doris,

Please block Reggie's calendar for a meeting with the Wisconsin Farm Bureau on March 20 from 2:30-3:30.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Subramanian, Hema
Sent: Tuesday, March 06, 2018 9:35 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Becky and Michele, we have confirmed that Wisconsin Farm Bureau will be here at EPA on 3/20 from 2:30-3:30. It will likely be in the bullet room or green room, and is high level. Could Steve Cook or another OLEM speaker attend for CERCLA/EPCRA? There will likely only be room for one person.

Thank you!
---Hema.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Subramanian, Hema
Sent: Monday, March 05, 2018 10:28 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Apologies for the delay (and typo). Wisconsin Farm Bureau was originally being planned for March 20th (around 3 pm), but may now be folded into a larger multi-state event on March 14th. I will keep you posted on this as well as other meetings.

Thank you,
---Hema.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Brooks, Becky
Sent: Monday, March 05, 2018 10:22 AM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Hema – If you can keep us looped in on the meeting requests (regardless of OLEM participation), that would be appreciated. Thank you. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Indermark, Michele
Sent: Thursday, March 01, 2018 4:52 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: RE: CERCLA/EPCRA speaking requests

Yes Hema, I can help coordinate calendars if you need technical staff and/or Reggie/Becki's attendance. It would be helpful if you would also include Becky Brooks on any requests. She can help with the OLEM IO calendars and we can coordinate OLEM attendance. Is there a date for the WI delegation?

I had not heard about Jeff. Glad you are staying on.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Subramanian, Hema
Sent: Thursday, March 01, 2018 4:43 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: CERCLA/EPCRA speaking requests

Michele,

You may have heard Jeff Sands is leaving EPA, effective tomorrow. I will, however, remain here for a while to continue running the trains and help coordinate internally and externally on ag issues.

Due to March being Ag fly-in season in DC, there will be numerous meeting and speaking requests that highlight CERCLA/EPCRA, along with other issues. Various politicals and I (and in some cases, the Administrator) can handle many

of these meetings, but there may be some which could use program office expertise in the room, especially after the proposed rule is out and there could be technical questions. For other programs, the AA or DAA and/or sometimes the technical staff attend. Can I send these requests to you, to figure out who in OLEM can attend?

One high level meeting I know of as of now will be on March at either 2:30 or 3:00 pm – Wisconsin Farm Bureau.

Thank you,
---Hema.

Hema Subramanian
Acting Special Assistant to the Senior Advisor for Agriculture
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 8/21/2017 5:20:05 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]
Subject: RE: URGENT: RE: By Mon 8/21: Inquiry from Congressman Harris' Office on Waterkeeper v. EPA

Kim,

Reggie has reviewed and is good with it. As soon as OGC clears it, I'll send it over to Jackie.

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Jennings, Kim
Sent: Monday, August 21, 2017 1:15 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
Subject: URGENT: RE: By Mon 8/21: Inquiry from Congressman Harris' Office on Waterkeeper v. EPA

Hi Michele,

Attorney Client / Ex. 5

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Indermark, Michele
Sent: Monday, August 21, 2017 12:33 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: RE: By Mon 8/21: Inquiry from Congressman Harris' Office on Waterkeeper v. EPA

Hi Kim and Patty,

Just a gentle reminder that Jackie was looking for some answers to the questions from Region 3 below at noon today. Jackie does need to run this by Barry before sending them back to Region 3. Any progress on this?

Michele Indermark
OLEM/OEM
Special Assistant
(w) 202-564-0794

From: Harwood, Jackie
Sent: Thursday, August 17, 2017 1:01 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Indermark, Michele <Indermark.Michele@epa.gov>
Subject: By Mon 8/21: Inquiry from Congressman Harris' Office on Waterkeeper v. EPA
Importance: High

Hi OEM,

As Kim knows from an earlier email exchange, Region 3 has received questions from Congressman Harris' (R-MD) staff and MD Secretary of the Environment Ben Grumbles on the recent D.C. Circuit Court decision in *Waterkeeper v. EPA*. OCIR is anticipating similar questions from other congressmen and senators over the next few months and would like to know if OLEM has any prepared talking points or bullets on the following questions that EPA could provide to congressional staff, etc.

- When does the court have to rule on EPA's request to stay the ruling for 6 months?
- How long will it take EPA to develop guidance?
- What is a farmer required to do today?
- What is a farmer required to do while the guidance is being developed?

Could you get back to me by Monday 8/21 @ noon? OCIR would like to see the answers and have their management clear them before Region 3 meets with their State Environmental Secretaries next Weds and their State Agriculture Secretaries next month. If OEM does not have any prepared language on these questions, do you have any thoughts on how to handle them going forward?

Thanks in advance for your help with this. Please let me know if you have any questions.

Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency

(202) 564-7578

Follow OLEM on Twitter: @EPALand

Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

Message

From: Meer, Daniel [Meer.Daniel@epa.gov]
Sent: 6/1/2017 3:47:33 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Lawrence, Kathryn [Lawrence.Kathryn@epa.gov]
Subject: FW: UEP's guidance on CAFO EPCRA reporting
Attachments: UEP CERCLA EPCRA Guidance and Worksheets - May 5 2017 (002).pdf; Ag rule Fact Sheet 02-04-09c.pdf

Hi Kim and Reggie - just wanted to flag for you that we are starting to receive inquiries from our SERCs regarding the DC Circuit decision on CAFO reporting. Is there any guidance we can provide our states at this point, re: how the reporting should be done, to whom, etc? I guess one response is that the court has affirmed the reporting obligation, and the facilities should figure out how to report? But somehow that does not feel very satisfying :)

Dan

Daniel A. Meer, Assistant Director
Superfund Division
Emergency Response, Preparedness and Prevention Branch
415.972.3132 (O)
415.971.6792 (C)

-----Original Message-----
From: Lawrence, Kathryn
Sent: Thursday, June 01, 2017 8:35 AM
To: Meer, Daniel <Meer.Daniel@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: jones, bill <jones.bill@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>
Subject: FW: UEP's guidance on CAFO EPCRA reporting

Hi Dan

Here is the thread from the CA SERC re: the EPCRA reporting obligation date of June 2. The SERC is looking for guidance. To my knowledge we have not yet heard from AZ, NV or HI on this topic, but they are likely facing the same issues.

I have copied Kim but not Reggie on this email to tee up your conversation with them.

k

-----Original Message-----
From: Abeel, Brian@CalOES [mailto:Brian.Abeel@CalOES.ca.gov]
Sent: Wednesday, May 31, 2017 7:59 PM
To: Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; jones, bill <jones.bill@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>
Cc: Collins, Larry@CalOES <Larry.Collins@CalOES.ca.gov>; Harrah, Jack@CalOES <Jack.Harrah@CalOES.ca.gov>; Anderson, Trevor@CalOES <Trevor.Anderson@CalOES.ca.gov>
Subject: FW: UEP's guidance

Hello Kay, Angie, Bill,

Having a conference call with a consultant tomorrow assisting the United Egg Producers about the decision from the U.S. Court of Appeals for the D.C. Circuit (on April 11, 2017) vacating EPA's 2008 rule that exempted all farms from reporting under CERCLA and exempted all but large CAFOs from reporting under EPCRA.

The result of this decision requires animal farms to comply with the continuous release requirements as stipulated in 40 CFR 302.8 and 40 CFR 355.32.

Is there something from US EPA that addresses this decision? Has there been an announcement blast from US EPA to regulators and the regulated community about the decision?

Is there a US EPA fact sheet that reverses what is mentioned in the January 2009 US EPA Fact - "Rule Change Provides Exemptions from Reporting Requirements for Air Releases of Hazardous Substances from Farm Animal Waste"? (ATTACHED)

Brian

-----Original Message-----
From: Collins, Larry@CalOES

Sent: Wednesday, May 31, 2017 9:39 AM
To: Harrah, Jack@CalOES; Abeel, Brian@CalOES
Cc: Collins, Larry@CalOES
Subject: FW: UEP's guidance

Hi guys, check this out, if you haven't already seen it. It sounds like we need to be well-versed in this topic, as the reporting is going to start on June 2 and it's not clear (at least to me) what the exact reporting mechanism/flow should be.

Any thoughts on what will be the Best Practice that we can communicate to the industry and to others who inquire / have a need to know?

Larry

-----Original Message-----
From: Tad Bell [mailto:tbell@veloconsulting.net]
Sent: Thursday, May 25, 2017 3:32 PM
To: Collins, Larry@CalOES
Subject: UEP's guidance

Chief Collins:

This is what UEP is providing the industry. We'll leave it up to each ranch to do the emission estimation. You'll see they've developed a step-by-step guide to notification and reporting to the different fed, state and local bodies.

As I mention I'd like to use their template and provide specifics to the California egg ranchers.

I just got an email that the effective date re the court ruling - unless there's an USEPA filing - that notification needs to start happening June 2nd.

Your help here is appreciated,

With best regards,

Tad

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 9/5/2017 2:28:35 PM
To: Clark, Becki [Clark.Becki@epa.gov]
CC: Indermark, Michele [Indermark.Michele@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
Subject: FW: Draft Update on CERCLA/ EPCRA Reporting Requirements for Air Release of Hazardous Substances from Animal Waste at Farms
Attachments: Update on Next Steps for CERCLA EPCRA Reporting for Farms_draft.docx

Becki,
Attached is an update on the CERCLA/EPCRA farm reporting requirements following the courts vacatur of the rule that exempted farms from reporting air releases of hazardous substances from animal wastes. I am gathering comments from OGC, OECA, and PARMS on this update and once incorporated, we will send this out to other EPA offices and the regions to use to respond to questions on the vacatur. We will also post this update (hopefully) on our website.

Please let me know if you have any concerns or believe this needs to be elevated to the front office.
Thanks!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Gioffre, Patricia
Sent: Tuesday, September 05, 2017 10:23 AM
To: Earl Salo <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Franklin, Kathy (Franklin.Kathy@epa.gov) <Franklin.Kathy@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Barbara Hostage (Hostage.Barbara@epa.gov) <Hostage.Barbara@epa.gov>; Christopher Prins (Prins.Christopher@epa.gov) <Prins.Christopher@epa.gov>; William Noggle (Noggle.William@epa.gov) <Noggle.William@epa.gov>; Beasley, Lynn <Beasley.Lynn@epa.gov>
Cc: Jacob, Sicy <Jacob.Sicy@epa.gov>; Hull, George <Hull.George@epa.gov>; Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>
Subject: Draft Update on CERCLA/ EPCRA Reporting Requirements for Air Release of Hazardous Substances from Animal Waste at Farms

Attached is a draft summary that can be used to answer questions on the vacatur of the CERCLA/ EPCRA reporting exemption for farms. EPA has received a lot of questions following the vacatur of the rule and this document is intended to be used as a standard response that all EPA offices can use.

We also plan to put this message on our website as an announcement with "more to come" as we develop our "guidance."

Please review and respond to all on this message with any suggested edits by COB Wednesday. I'd like to get this out quickly to the other EPA offices (air and water) and onto our website.

Much thanks to Sicy and George for drafting this document!

Patty Gioffre

USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 2/26/2018 2:04:41 PM
To: Roache, Brendan [Roache.Brendan@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
CC: Hyman Moore, Julie [Hyman.Julie@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: RE: Animal Waste Communications Materials (Printed)

Hi,

I hope you all made it to Denver safely! Nancy is going to reach out to the PADs to get some feedback on the quantity of materials each region will need. We'll put the call on hold until we get that info. Thanks!

From: Thomas, Latosha
Sent: Friday, February 23, 2018 5:04 PM
To: Roache, Brendan <Roache.Brendan@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Hyman Moore, Julie <Hyman.Julie@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Animal Waste Communications Materials (Printed)

Hi,

We've been discussing the need for materials that reach the segment of our farmers audience that does not have internet access.

I know you all are out next week, but I just talked to Nancy about this, and we have to answer this resource question ASAP: ***How many copies should be printed?***

Let me know if you all have 10 minutes, or so to discuss on Monday, and I can set up a quick conference call.

Proposed Materials for Printing

- A brochure that consolidates the important information from the website (One English version; One Spanish version)
- An infographic that visually shows the process of reporting (English front side; Spanish back side)
- The fact sheet (English front side; Spanish back side)

The total amount of different printed materials: 4

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 2/23/2018 10:07:49 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]
CC: Hyman Moore, Julie [Hyman.Julie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: RE: Animal Waste Communications Materials (Printed)

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Thomas, Latosha
Sent: Friday, February 23, 2018 5:04 PM
To: Roache, Brendan <Roache.Brendan@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Hyman Moore, Julie <Hyman.Julie@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>
Subject: Animal Waste Communications Materials (Printed)

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- The fact sheet (English front side; Spanish back side)

The total amount of different printed materials: 4

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Message

From: Thomas, Latosha [Thomas.Latosha@epa.gov]
Sent: 3/19/2018 2:49:13 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]
Subject: RE: CERCLA/EPCRA Talking Points for RAs

Thanks!

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

From: Grantham, Nancy
Sent: Monday, March 19, 2018 10:48 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>
Subject: FW: CERCLA/EPCRA Talking Points for RAs

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Grantham, Nancy
Sent: Monday, March 19, 2018 10:47 AM
To: Dunn, Alexandra <dunn.alexandra@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Caterino, Cosmo <Caterino.Cosmo@epa.gov>; Glenn, William <Glenn.William@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Gulliford, Jim <gulliford.jim@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>
Cc: Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Cheatham-Strickland, Latonia <Cheatham-Strickland.Latonia@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>
Subject: FW: CERCLA/EPCRA Talking Points for RAs

Greetings,

Following up on the RA call of 3/9 with Ken and Kell, below please find below the current talking points for the cercla/epcra air release from animal waste issue.

CERCLA/EPCRA Talking Points

- In 2008, EPA issued a rule that exempted all farms from reporting hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and most farms from needing to report under the Emergency Planning and Community Right-to-Know Act (EPCRA).

- However, due to a 2017 decision by the U.S. Court of Appeals for the D.C. Circuit vacating that exemption, farms will soon be required to report when they release reportable quantities of hazardous substances to air from manure (100 lbs or more within a 24-hour period for ammonia and hydrogen sulfide).

    - EPA has developed guidance to help farms understand the reporting obligations. It is available on EPA's website, www.epa.gov/animalwaste.

- No reporting is required until the court issues its mandate, which effectuates its decision. The court granted the EPA's request to delay issuance of the mandate until May 1, 2018.

- Legislation was recently introduced in Congress that would exempt farms from reporting air release from animal waste under CERCLA, which could be voted on as early as March 23rd. The legislation, if passed, would not alter the EPCRA reporting requirements.

- EPA is considering proposing to establish reportable quantity thresholds specific to air releases of ammonia and hydrogen sulfide from animal waste at farms. EPA is not expected to make a decision on issuing this proposal for public comment before March 23.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

Message

From: Grantham, Nancy [Grantham.Nancy@epa.gov]
Sent: 3/19/2018 2:48:01 PM
To: Cheatham, Reggie [cheatham.reggie@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Benjamin, Kent [Benjamin.Kent@epa.gov]
Subject: FW: CERCLA/EPCRA Talking Points for RAs

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Grantham, Nancy
Sent: Monday, March 19, 2018 10:47 AM
To: Dunn, Alexandra <dunn.alexandra@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Caterino, Cosmo <Caterino.Cosmo@epa.gov>; Glenn, William <Glenn.William@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Gulliford, Jim <gulliford.jim@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>
Cc: Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Cheatham-Strickland, Latonia <Cheatham-Strickland.Latonia@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>
Subject: FW: CERCLA/EPCRA Talking Points for RAs

Greetings,

Following up on the RA call of 3/9 with Ken and Kell, below please find below the current talking points for the cercla/epcra air release from animal waste issue.

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- In 2008, EPA issued a rule that exempted all farms from reporting hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and most farms from needing to report under the Emergency Planning and Community Right-to-Know Act (EPCRA).

- However, due to a 2017 decision by the U.S. Court of Appeals for the D.C. Circuit vacating that exemption, farms will soon be required to report when they release reportable quantities of hazardous substances to air from manure (100 lbs or more within a 24-hour period for ammonia and hydrogen sulfide).

- EPA has developed guidance to help farms understand the reporting obligations. It is available on EPA's website, www.epa.gov/animalwaste.

- No reporting is required until the court issues its mandate, which effectuates its decision. The court granted the EPA's request to delay issuance of the mandate until May 1, 2018.

- Legislation was recently introduced in Congress that would exempt farms from reporting air release from animal waste under CERCLA, which could be voted on as early as March 23rd. The legislation, if passed, would not alter the EPCRA reporting requirements.

- EPA is considering proposing to establish reportable quantity thresholds specific to air releases of ammonia and hydrogen sulfide from animal waste at farms. EPA is not expected to make a decision on issuing this proposal for public comment before March 23.

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 2/7/2018 10:26:14 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]
CC: Clark, Becki [Clark.Becki@epa.gov]; Hyman Moore, Julie [Hyman.Julie@epa.gov]; Roache, Brendan [Roache.Brendan@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: Re: Animal Waste Update

Thanks Latosha very helpful

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

On Feb 7, 2018, at 2:21 PM, Thomas, Latosha <Thomas.Latosha@epa.gov> wrote:

Hi,

Just a few updates on animal waste (emails attached for reference)…

- <!--[if !supportLists]--><!--[endif]-->I watched the Senate EPW hearing on "The Impact of Federal Environmental Regulations and Policies on American Farming and Ranching Communities" this morning. The majority of the discussion was surrounding CERCLA/EPCRA reporting for farmers, although WOTUS was discussed as well. Privacy issues, not having the tools to report, overwhelming the NRC with calls were some of the specific issues discussed. **Important Note:** Senator Wicker stated that Senator Fischer and Senator Donnelly intend to introduce the Agriculture Reporting Method Act this week. The purpose of the act would be to clarify the Animal Waste Rule to exempt all animal feeding operations from CERCLA reporting and small operations from EPCRA reporting.

Deliberative Process / Ex. 5

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

<mime-attachment>
<mime-attachment>

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 1/24/2018 12:55:22 AM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: Re: Agenda for CERCLA/ EPCRA meeting on 1/24/18

Ok good here

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

On Jan 23, 2018, at 6:28 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Yes. I have that under the heading "addressing the digital divide". Includes NRC and Info Center.
>
> Let me know if you want that revised further.
>
> Patricia Gioffre
> US EPA
> OLEM/OEM/RID
> 202-564-1972
> 202-748-7139 (cell)
>
> On Jan 23, 2018, at 6:11 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:
>
>> Looks good. Should there be anything on the NRC and our associated efforts to support?
>>
>> Reggie Cheatham, Director
>> Office of Emergency Management, USEPA
>> 202/564-8003(o)/202/689-9400
>> Doris Williams, Executive Assistant
>> 202/564-0053
>>
>> On Jan 23, 2018, at 5:42 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:
>>
>>> As requested, here is a draft agenda for tomorrow's meeting.
>>> Kim may have some suggested edits in the morning.
>>>
>>> Agenda
>>> Provide update on:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 1/22/2018 8:03:51 PM
To: Dana Tulis [Dana.S.Tulis@uscg.mil]
Subject: Fwd: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption

Here ya go

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202/564-8003(o)/202/689-9400
Doris Williams, Executive Assistant
202/564-0053

Begin forwarded message:

> **From:** "Cheatham, Reggie" <cheatham.reggie@epa.gov>
> **Date:** January 22, 2018 at 1:27:31 PM EST
> **To:** "Loring, Joseph B CAPT" <Joseph.B.Loring@uscg.mil>, "Tulis, Dana" <Tulis.Dana@epa.gov>
> **Cc:** "Jennings, Kim" <Jennings.Kim@epa.gov>, "Gilberto Irizarry (Irizarry.Gilberto@epa.gov)" <Irizarry.Gilberto@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>
> **Subject: FW: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption**
>
> FYSA
>
> Update on Ag Rule activities
>
> Reggie Cheatham, Director
> Office of Emergency Management, USEPA
> 202.564.8003 (O); 202.689.9400 (M);
> cheatham.reggie@epa.gov
> Doris Williams, Executive Assistant
> 202.564.0053
>
> ---
>
> **From:** Gioffre, Patricia
> **Sent:** Monday, January 22, 2018 1:03 PM
> **To:** Haas, Craig <Haas.Craig@epa.gov>; Brown, Deborah <Brown.Deborah@epa.gov>; Chin, William <chin.bill@epa.gov>; Gaffey, Jim <Gaffey.Jim@epa.gov>; O'Donnell, Mary Jane <Odonnell.Maryjane@epa.gov>; Peavey, Dwight <Peavey.Dwight@epa.gov>; Rascher, Chris <rascher.chris@epa.gov>; Smith, Catherine <smith.catherine@epa.gov>; Wallace, Leonard <Wallace.Len@epa.gov>; Gallagher, Shirin <Gallagher.Shirin@epa.gov>; Garcia, Terry <Garcia.Terry@epa.gov>; Hales, Bob <Hales.Bob@epa.gov>; Hartman, Bob <Hartman.Bob@epa.gov>; Leefers, Kristin <Leefers.Kristin@epa.gov>; LeGreid, Kathleen <LeGreid.Kathleen@epa.gov>; Magdangal, David <magdangal.david@epa.gov>; Mairs, Stephanie <Mairs.Stephanie@epa.gov>; McFadden, Kelly <McFadden.Kelly@epa.gov>; Meinhardt, Danielle <meinhardt.danielle@epa.gov>; Morales, Javier <Morales.Javier@epa.gov>; Phillips, Peter <Phillips.Peter@epa.gov>; Schulze, Chad <Schulze.Chad@epa.gov>; Vergeront, Julie <Vergeront.Julie@epa.gov>; Williams, Erin <Williams.Erin@epa.gov>; Banner, Ellen <Banner.Ellen@epa.gov>; Dholakia, Umesh <Dholakia.Umesh@epa.gov>; Ghaffari, Mozafar <Ghaffari.Mozafar@epa.gov>; Harrington, Dwayne <Harrington.Dwayne@epa.gov>; Leung, Chao <Leung.Chao@epa.gov>; Maimone, Francesco <Maimone.Francesco@epa.gov>; Mosher, Eric <Mosher.Eric@epa.gov>; Ouedraogo, Idrissa

<ouedraogo.idrissa@epa.gov>; Petty, Joel <petty.joel@epa.gov>; Regna, Jean <Regna.Jean@epa.gov>; Rivera, Carlos <Rivera.Carlos@epa.gov>; Rodriguez, Nancy <Rodriguez.Nancy@epa.gov>; Armstrong, Joan <Armstrong.Joan@epa.gov>; Baginski, Alfred <Baginski.Alfred@epa.gov>; Beckley, Patrick <Beckley.Patrick@epa.gov>; Daniel, Kevin <Daniel.Kevin@epa.gov>; Dunn, Michael <dunn.michael@epa.gov>; Gallagher, Theresa <gallagher.theresa@epa.gov>; Garcia, Jefferie <Garcia.Jefferie@epa.gov>; Gardner, Allison <Gardner.Allison@epa.gov>; Gilley, Anne <Gilley.anne@epa.gov>; Hunt, Mary <Hunt.Mary@epa.gov>; Nilsen, Ashley <Nilsen.Ashley@epa.gov>; pandya, perry <pandya.perry@epa.gov>; Parent, Suzanne <Parent.Suzanne@epa.gov>; VanOrden, James <VanOrden.James@epa.gov>; Weiss, Cynthia <Weiss.Cynthia@epa.gov>; Welsh, Mike <Welsh.Mike@epa.gov>; Ziegler, Lauren <Ziegler.Lauren@epa.gov>; Bookman, Robert <Bookman.Robert@epa.gov>; Caplan, Robert W. <Caplan.Robert@epa.gov>; Chow, Eddie <Chow.Eddie@epa.gov>; Cobb, Brandon <cobb.brandon@epa.gov>; Crum, Lynda <Crum.Lynda@epa.gov>; Devkota, Om <devkota.om@epa.gov>; Fite, Mark <Fite.Mark@epa.gov>; Grant, Deanne <Grant.Deanne@epa.gov>; Groendyke, Todd <Groendyke.Todd@epa.gov>; Juan, Rodolfo <Juan.Rodolfo@epa.gov>; Kono, Michiko <Kono.Michiko@epa.gov>; Noles, Jordan <Noles.Jordan@epa.gov>; Nowell, Valerie <Nowell.Valerie@epa.gov>; Poole, Vinson <Poole.Vinson@epa.gov>; Rouch, Ellen <Rouch.Ellen@epa.gov>; Russo, Todd <Russo.Todd@epa.gov>; Spagg, Beverly <Spagg.Beverly@epa.gov>; Toney, Anthony <Toney.Anthony@epa.gov>; Warrilow, Phyllis <Warrilow.Phyllis@epa.gov>; Weeks, Victor <weeks.victor@epa.gov>; White, Erika <White.Erika@epa.gov>; Bezerra, Joana <bezerra.joana@epa.gov>; Chomycia, Greg <chomycia.greg@epa.gov>; Chrzaszcz, Monika <chrzaszcz.monika@epa.gov>; Entzminger, James <entzminger.james@epa.gov>; Hans, Mick <hans.mick@epa.gov>; Jager, Ginger <jager.ginger@epa.gov>; Kaiser, Steven <kaiser.steven@epa.gov>; Mayhugh, Robert <mayhugh.robert@epa.gov>; Moore, Cecilia <moore.cecilia@epa.gov>; Palomo, Silvia <palomo.silvia@epa.gov>; Riley, Ellen <riley.ellen@epa.gov>; Smith, Robert H <smith.roberth@epa.gov>; Stillman, Sarah <Stillman.Sarah@epa.gov>; Wagner, William <wagner.william@epa.gov>; Barra, Michael <barra.michael@epa.gov>; Clay, Jeffrey <clay.jeffrey@epa.gov>; Ford, Debbie <Ford.Debbie@epa.gov>; Foster, Althea <Foster.Althea@epa.gov>; Hodges, Angela <Hodges.Angela@epa.gov>; Howard, AshleyA <Howard.AshleyA@epa.gov>; Mason, Steve <mason.steve@epa.gov>; Moore, Nathaniel <Moore.Nathaniel@epa.gov>; Murdock, James <Murdock.James@epa.gov>; Pearson, Evan <Pearson.Evan@epa.gov>; Phelps, Sherronda <Phelps.Sherronda@epa.gov>; Robledo, Tony <Robledo.Tony@epa.gov>; Rogers, Elizabeth <rogers.elizabeth@epa.gov>; Smalley, Bryant <smalley.bryant@epa.gov>; Smith, Monica <smith.monica@epa.gov>; Stucky, Marie <Stucky.Marie@epa.gov>; Tates, Samuel <Tates.Samuel@epa.gov>; Thompson, Steve <thompson.steve@epa.gov>; Trawick, Matthew <Trawick.Matthew@epa.gov>; Ward, Misty <ward.misty@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; Blunk, Terri <Blunk.Terri@epa.gov>; Bosch, Raymond <Bosch.Raymond@epa.gov>; Brewer, Laura <brewer.laura@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Harper, Jodi <Harper.Jodi@epa.gov>; Hayes, Scott <Hayes.Scott@epa.gov>; Hensley, Dave <Hensley.Dave@epa.gov>; Hoard, Christine <Hoard.Christine@epa.gov>; LaBoda, Sarah <LaBoda.Sarah@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Ndiaye, Fatimatou <Ndiaye.Fatimatou@epa.gov>; Pessetto, Jared <Pessetto.Jared@epa.gov>; Reitz, Katherine <reitz.katherine@epa.gov>; Rosado-Chaparro, Wilfredo <Rosado-Chaparro.Wilfredo@epa.gov>; Stotts, Krystal <Stotts.Krystal@epa.gov>; Trotter, Jennifer <Trotter.Jennifer@epa.gov>; Weekley, Erin <weekley.erin@epa.gov>; Whisnant, Amber <Whisnant.Amber@epa.gov>; Atencio, Kathie <Atencio.Kathie@epa.gov>; Bockstahler, Breann <Bockstahler.breann@epa.gov>; Broussard, Rebecca <Broussard.Rebecca@epa.gov>; Chavez, Luke <Chavez.Luke@epa.gov>; Cobb, David <cobb.david@epa.gov>; Meyer, Jeff <Meyer.Jeff@epa.gov>; Ramirez, Steven A <ramirez.stevena@epa.gov>; Reed, Lori <Reed.Lori@epa.gov>; Robinson, Janis <Robinson.Janis@epa.gov>; Weiner, Marc <Weiner.Marc@epa.gov>; Bazley, Greg <Bazley.Greg@epa.gov>; Berg, Elizabeth <Berg.Elizabeth@epa.gov>; BERMAN, TESSA <Berman.Tessa@epa.gov>; Deyoe, Jeremy <deyoe.jeremy@epa.gov>; Gallo, Madeline <Gallo.Madeline@epa.gov>; Henry, Karen <Henry.Karen@EPA.GOV>; Johnstone, Jeremy

<Johnstone.Jeremy@epa.gov>; jones, bill <jones.bill@epa.gov>; Lawrence, Kathryn <Lawrence.Kathryn@epa.gov>; Lucas, Robert <Lucas.Robert@epa.gov>; Moore, Letitia <Moore.Letitia@epa.gov>; Nixon, Donald <Nixon.Donald@epa.gov>; Proboszcz, Angie <Proboszcz.Angie@EPA.GOV>; Rongone, Marie <Rongone.Marie@epa.gov>; Steiner, Cyntia <Steiner.Cyntia@epa.gov>; Wirtschafter, Joshua <Wirtschafter.Joshua@epa.gov>; Averback, Jonathan <Averback.Jonathan@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Brown, Stephanie <Brown.Stephanie@epa.gov>; Burnett, Michael <Burnett.Michael@epa.gov>; Dixon, Chelsea <Dixon.Chelsea@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Garvey, Mark <Garvey.Mark@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Hunt, Stuart <Hunt.Stuart@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lischinsky, Robert <Lischinsky.Robert@epa.gov>; Mears, Gilbert <Mears.Gilbert@epa.gov>; Miles, James <miles.james@epa.gov>; Presler, Amos <presler.amos@epa.gov>; Saenz, Diana <Saenz.Diana@epa.gov>; Santacroce, Jeffrey <Santacroce.Jeffrey@epa.gov>; Seltzer, Mark <Seltzer.Mark@epa.gov>; Skinner-Thompson, Jonathan <Skinner-Thompson.Jonathan@epa.gov>; Sullivan, Greg <Sullivan.Greg@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Tekrony, Linda <Tekrony.Linda@epa.gov>; Varco, Joseph <varco.joseph@epa.gov>; Yonce, Stacey <yonce.stacey@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Mendez, Lucia <Mendez.Lucia@epa.gov>
Cc: Perrin, Karla <perrin.karla@epa.gov>; Przyborski, Jay <Przyborski.Jay@epa.gov>; Rountree, Jillian <Rountree.Jillian@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Mortensen, Ginah <mortensen.ginah@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: Update on Court Issuance of Mandate on CERCLA/EPCRA Exemption

As of this time, the DC Circuit Court of Appeals has not yet issued the mandate to eliminate the EPA administrative reporting exemption on the CERCLA/EPCRA reporting requirements for farms.

On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate by three months. EPA is requesting that the Court give time to allow EPA to further revise the guidance to be more effective in assisting farms with coming into compliance, to conduct outreach to ensure farms with limited or no internet access are aware of the reporting requirements, and to finish developing the streamlined continuous reporting form. Once the court issues the mandate the statutory reporting requirements will go back into effect.

We have updated the www.epa.gov/animalwaste with the following message:

> On Friday, January 19, 2018, EPA filed a motion with the D.C. Circuit Court of Appeals to further delay issuance of the mandate. No reporting is required until the Court issues its order, or mandate, enforcing its decision to eliminate the reporting exemptions for farms. EPA will be updating this page daily to provide information on the court mandate.

We will continue to update you when we hear news on the request to further delay the mandate.

Please feel free to share this news with stakeholders! Thanks.

Patty Gioffre
USEPA (OLEM/OEM)

1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 1/5/2018 7:24:45 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
Subject: FW: Latest comm strategy and factsheet
Attachments: CERCLA EPCRA Factsheet 1-4-18 final_HS.docx

FYSA

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Grantham, Nancy
Sent: Friday, January 05, 2018 2:15 PM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: FW: Latest comm strategy and factsheet

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Subramanian, Hema
Sent: Friday, January 05, 2018 2:02 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Latest comm strategy and factsheet

In the interest of time, I'm attaching my track-changed suggestions for the factsheet here first (and then moving onto the comms strategy next).

I attempted to streamline/reduce words, go more plain language, and insert the framing we discussed. There are a couple of questions in comment bubbles. The main messages I'd call your attention to are:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks for being receptive, I hope this helps.
---Hema.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Jennings, Kim
Sent: Friday, January 05, 2018 1:12 PM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Latest comm strategy and factsheet

Yes, that is correct.

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Grantham, Nancy
Sent: Friday, January 05, 2018 1:10 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Latest comm strategy and factsheet

Yes . have just been told by olem that the one marked final is the most current version

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Subramanian, Hema
Sent: Friday, January 05, 2018 12:41 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Subject: RE: Latest comm strategy and factsheet

Just to make sure we're all on the same page about the right version, is the file (attached) named **"CERCLA EPCRA Factsheet 1-4-18 final"** the latest version of the factsheet?

FYI, the version Nancy sent me at 11:47 am is also attached here with the name "revised CERCLA EPCRA Farms Factsheet 1-4-18".

The major differences I see off hand are the phrasing "Farms with animal operations" instead of Farm "owners/operators", and the addition of the separate "Why do I need to comply" section half way down the page.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
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Phone (202) 564-5041
subramanian.hema@epa.gov

From: Jennings, Kim
Sent: Friday, January 05, 2018 11:57 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: RE: Latest comm strategy and factsheet

Hi Hema,

Trish sent the wrong version of the factsheet to Nancy. Here is the correct version.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Jennings, Kim
Sent: Friday, January 05, 2018 11:40 AM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>
Subject: Latest comm strategy and factsheet

FYI.

These also have been sent to Nancy. Please feel free to edit if you have any suggestions. You may want to include Nancy in any changes so she is aware you have seen it.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division

U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 1/5/2018 3:57:43 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Made it clear!

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Grantham, Nancy
Sent: Friday, January 05, 2018 10:56 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Taylor, Trish
Sent: Friday, January 05, 2018 10:49 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Hi Nancy,
OEM green lit these materials.

- Communications plan (Attached)
- Part of the Toolkit for states and ag associations
    - Facebook post
    - Tweets
    - one-page cheat sheet/FAQs (Attached. this is also being called the "fact sheet")
    - widget language

Facebook Posts for toolkit (non-EPA social media accounts)

- Many farmers with animal operations will soon be required to report emissions from animal waste. Visit epa.gov/animalwaste or call 1-800-424-9346 for tools on the new requirement.
- EPA has provided guidance to help farmers with animal operations comply with reporting requirements under CERCLA and EPCRA. Visit epa.gov/animalwaste or call 1-800-424-9346 for more info.

Tweets for toolkit (non-EPA social media accounts)

- Visit epa.gov/animalwaste or call 1-800-424-9346 to get info about the new reporting requirements for farmers coming soon! #animalwaste
- #DYK EPA has guidance to help farmers with animal operations comply with reporting requirements under CERCLA & EPCRA? Visit epa.gov/animalwaste or call 1-800-424-9346. #animalwaste

Tweets for our EPA accounts (@EPA and @EPALand)

- Many U.S. farms with animal operations will soon be required to report emissions from animal waste. To learn more, visit https://www.epa.gov/animalwaste or call 1-800-424-9346.

- Many farms with animal operations will soon need to report emissions from animal waste. Online tools are available to livestock producers to determine if this requirement applies to them & help them comply with the law. https://www.epa.gov/animalwaste.

PSA Script

Deliberative Process / Ex. 5

- *To learn more visit epa.gov/animalwaste or call 1-800-424-9346.*

Widget Revised language: Air Emissions from Agriculture Many farms with animal operations will soon be required to report emissions from animal waste. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

The preferred version of the widget is the one with the EPA logo and barn image.

Thanks,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 1/5/2018 5:35:35 PM
To: Benjamin, Kent [Benjamin.Kent@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Lowery, Brigid [Lowery.Brigid@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

That's fine Kent….Nancy is expecting revisions, as necessary…work in progress.

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

From: Benjamin, Kent
Sent: Friday, January 05, 2018 12:30 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Kim,
We'll provide your latest revision to Nancy G. We sent the latest materials we had in hand per a request from Reggie, this morning.

Nonetheless, we will share your latest edition with Nancy Grantham shortly.

Kent A. Benjamin, M.S., Dep. Office Director
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management
Tel. 202-564-9095; Mobile: 202-480-4927
Email: *benjamin.kent@epa.gov*
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

From: Jennings, Kim
Sent: Friday, January 05, 2018 11:14 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Trish,

Please send Nancy our revisions that I just sent to you. We are on the phone with the Ag Advisor and his office has agreed to these changes and may have additional changes.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Grantham, Nancy
Sent: Friday, January 05, 2018 10:56 AM
To: Taylor, Trish <Taylor.Trish@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

From: Taylor, Trish
Sent: Friday, January 05, 2018 10:49 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Roache, Brendan <Roache.Brendan@epa.gov>; Hyman Moore, Julie <Hyman.Julie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: RE: ACTION CERCLA EPCRA Ag rule comms materials

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- Part of the Toolkit for states and ag associations
    - Facebook post
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Tweets for our EPA accounts (@EPA and @EPALand)

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PSA Script

Deliberative Process / Ex. 5

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Widget Revised language: Air Emissions from Agriculture Many farms with animal operations will soon be required to report emissions from animal waste. Learn about this requirement (hyperlink). Compliance assistance 800-424-9346.

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Thanks,

Trish Taylor, Office of Communications, Partnerships and Analysis (OCPA)
U.S. EPA, Office of Land and Emergency Management (OLEM)
WJC West, RM 3137
1200 Pennsylvania Avenue, NW
Washington, DC 20460
(202) 566-2615
taylor.trish@epa.gov

OLEM is on Twitter at @EPALand

Message

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 11/1/2017 4:53:21 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
CC: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Gerardin, Margaret [Gerardin.Margaret@epa.gov]
Subject: RE: questions

Great Thank you

Reggie Cheatham, Director
Office of Emergency Management, USEPA
202.564.8003 (O); 202.689.9400 (M);
cheatham.reggie@epa.gov
Doris Williams, Executive Assistant
202.564.0053

-----Original Message-----
From: Jennings, Kim
Sent: Wednesday, November 01, 2017 11:40 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>
Subject: FW: questions

Hi Reggie and Becki,

We are working on getting the Info/Call Center up to speed on the CERCLA/EPCRA guidance so they can start taking calls and answer questions from farmers (and others) on the guidance. Hopefully this will be in place by tomorrow.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || Desk: (202) 564-7998 ||

-----Original Message-----
From: Jennings, Kim
Sent: Wednesday, November 01, 2017 11:38 AM
To: Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: FW: questions

Hi Margaret,

I just spoke with Sicy about this email and using the Info/Call Center to ask questions on the Guidance. I know you sent me an email about this and the answer is yes, we should get the Info/Call Center briefed up on this issue, including the guidance, so they can start answering questions.

Sicy will send you some materials to forward to the Info/Call Center and then we can set up a call to further brief them if needed.

Does that work?

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || Desk: (202) 564-7998 ||

-----Original Message-----
From: Loring, Joseph B CAPT [mailto:Joseph.B.Loring@uscg.mil]
Sent: Wednesday, November 01, 2017 11:14 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Lipinski, Rachael CIV <Rachael.Lipinski@uscg.mil>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>

Cc: Clark, Becki <Clark.Becki@epa.gov>; Siperek, Trevor LT <Trevor.L.Siperek@uscg.mil>; Kevin.Smith@uscg.mil; Weaver, James (USCG) <James.D.Weaver@uscg.mil>; Tulis, Dana S SES <Dana.S.Tulis@uscg.mil>
Subject: questions

Reggie,

We have an issue we need some guidance on. Because people have read your website, they are now calling the NRC and asking questions on the issue as a whole. They are not making a report, they are asking detailed questions that our watch standers cannot answer.

Whose number can the NRC provide to them? Kim Jenning's ?

Can we pull the guidance down until we figure this process out? Or at least, put an EPA number to call to minimize burden on the NRC?

Thanks

Joe

Appointment

From: Cheatham, Reggie [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C04C7B4FBF4D45108592282991C719CB-RCHEATHA]
Sent: 10/18/2017 6:39:19 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]

Subject: FW: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
Attachments: Interagency 0.2_CERCLA 103 Reporting Guidance for Farms_10.18.2017.docx
Location: Conference Number / Ex. 6

Start: 10/18/2017 6:00:00 PM
End: 10/18/2017 7:00:00 PM
Show Time As: Tentative

Just joined

-----Original Appointment-----
From: Noggle, William
Sent: Wednesday, October 18, 2017 2:04 PM
To: Noggle, William; Gioffre, Patricia; Lewis, Jen; DeBruhl, Brandon F. EOP/OMB; Laity, Jim A. EOP/OMB; USDA Reg; Mackay, Cheryl (ENRD; Waqar, Tayyaba; cjz@obpa.usda.gov; Rojas, Pablo EOP/OMB (Intern); Ruggiero, Justin M. EOP/OMB (Intern); Swenson, Erik; Salo, Earl; Michaud, John; Cogliano, Gerain; Hostage, Barbara; Jacob, Sicy; Hull, George; Beaman, Joe; Jennings, Kim; Cooperstein, Sharon; eric.t.gormsen@usdoj.gov; Franklin, Kathy
Cc: Poe, Michael - OBPA, Washington, DC; Abbott, Linda - OCE; Jiron, Dan - OSEC, Washington, DC; Rawles, Earnest -FS; Greg Zwicke; Glenn Carpenter; Reck, William - NRCS, Washington, DC; FLINIAU, HOLLY - OGC; Kunickis, Sheryl - OSEC; Knaebel, David - ARS; Barringer, Jody M. EOP/OMB; Matukumalli, Lakshmi - NIFA; Lipshultz, Jon (ENRD); Clark, Becki; Cheatham, Reggie; Indermark, Michele; Karen.Waldvogel@dm.usda.gov
Subject: FW: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
When: Wednesday, October 18, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conference Number / Ex. 6

Not sure that you were included in the original invitation. Kathy and I are on the call.

-----Original Appointment-----
From: Noggle, William
Sent: Monday, October 16, 2017 2:47 PM
To: Noggle, William; Gioffre, Patricia; Lewis, Jen; DeBruhl, Brandon F. EOP/OMB; Laity, Jim A. EOP/OMB; USDA Reg; Mackay, Cheryl (ENRD; Waqar, Tayyaba; cjz@obpa.usda.gov; Rojas, Pablo EOP/OMB (Intern); Ruggiero, Justin M. EOP/OMB (Intern); Swenson, Erik; Salo, Earl; Michaud, John; Cogliano, Gerain; Hostage, Barbara; Jacob, Sicy; Hull, George; Beaman, Joe; Jennings, Kim; Cooperstein, Sharon; eric.t.gormsen@usdoj.gov; Franklin, Kathy
Cc: Poe, Michael - OBPA, Washington, DC; Abbott, Linda - OCE; Rawles, Earnest -FS; Greg Zwicke; Glenn Carpenter; Reck, William - NRCS, Washington, DC; FLINIAU, HOLLY - OGC; Kunickis, Sheryl - OSEC; Knaebel, David - ARS; Barringer, Jody M. EOP/OMB; Matukumalli, Lakshmi - NIFA; Lipshultz, Jon (ENRD)
Subject: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
When: Wednesday, October 18, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Conference Number / Ex. 6

To all –
This meeting is to discuss interagency comments on the CERCLA and EPCRA Ag Guidance.

Conference Number / Ex. 6

Thanks,
Bill
202-566-1306

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 7/17/2017 7:08:39 PM
To: Swenson, Erik [Swenson.Erik@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: FW: Waterkeeper Affidavit Signed
Attachments: image2017-07-17-151454.pdf

Signed affidavit.

From: DC-WJCN-1448M-M@epa.gov [mailto:DC-WJCN-1448M-M@epa.gov]
Sent: Monday, July 17, 2017 3:15 PM
To: Indermark, Michele <Indermark.Michele@epa.gov>
Subject:

ARGUED DECEMBER 12, 2016
DECIDED APRIL 11, 2017

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

WATERKEEPER ALLIANCE, ET AL., Petitioners v. U.S. ENVIRONMENTAL PROTECTION AGENCY, Respondent.	Nos. 09-1017 & 09-1104 (Consolidated)

DECLARATION OF REGINALD CHEATHAM

I, Reginald Cheatham, declare under penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

1. I am the Director of the Office of Emergency Management (OEM) in the Office of Land and Emergency Management (OLEM) in the United States Environmental Protection Agency (EPA). The principal focus of my duties, responsibilities, and goals is to manage the implementation of EPA's accident prevention and emergency preparedness regulatory programs authorized under several environmental statutes including the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right to Know Act (EPCRA). In this capacity, I, along with my staff, am

involved with EPA's administration and implementation of the release reporting requirements of CERCLA section 103 and EPCRA section 304. I have personal knowledge of the facts in this declaration or have received such information in the course of my official duties.

2. The purpose of this declaration is to explain why EPA requires a stay of the issuance of the mandate enforcing the Court's decision dated April 11, 2017. As explained further below, EPA requires an approximate six-month extension from the date of this filing, to January 17, 2018, to develop guidance to assist farms with their CERCLA and EPCRA reporting obligations before they become legally enforceable.

3. On December 18, 2008, EPA promulgated a final rule, entitled the "CERCLA/EPCRA Administrative Reporting Exemption for Air Releases of Hazardous Substances from Animal Waste at Farms" (73 FR 76948) (Final Rule). The Final Rule provided a full exemption from the reporting requirements under CERCLA section 103 for releases of hazardous substances into the air from animal waste at farms. The Final Rule provided a similar exemption from the reporting requirements under EPCRA section 304 but only for farms that had animals which were stabled or confined (i.e., in barns or feed lots) in numbers less than those of a large concentrated animal feeding operation.

4. On April 11, 2017, the Court issued an order vacating the Final Rule. *Waterkeeper Alliance et. al. v. EPA*, 853 F.3d 527 (D.C. Cir. 2017). As a result, farms that have previously operated under the exemptions provided by the Final Rule will

now be required to report emissions of hazardous substances into the air under CERCLA section 103 and EPCRA section 304 once the Court issues its mandate.

5. Since the promulgation of the Final Rule near the end of 2008, approximately 63,000 farms have been operating without the requirement of reporting aerial releases of hazardous substances from animal waste. A release report for farms is difficult to prepare, in part, because it requires a measurement of the amount of the aerial emissions from animal waste (e.g., ammonia or hydrogen sulfide) to determine if the reportable quantity threshold which triggers reporting has been met. Measuring or estimating such emissions is challenging due to the variables involved, including but not limited to the variation of animal type and size (i.e. dairy cows, heifers, horses, hogs, turkeys, chickens, etc.), animal number, feed composition, farm size, geographic location of the farm and variation in climate. By way of comparison, measurement of wastewater amounts from a discrete outflow pipe tends to be more straightforward than measuring air emissions from a multi-acre open air manure lagoon or from the venting of a poultry house. Additionally, there is no one scientifically established methodology for estimating aerial releases of hazardous substances from animal waste and, therefore, there are variations in estimates of animal emissions rates, making it difficult for farms to determine whether a release of a reportable quantity of a hazardous substance has occurred.

6. OEM staff has received numerous inquiries from farms and farm representatives expressing confusion as to how to meet the CERCLA and EPCRA

reporting obligations since the Court's ruling. Farms have also expressed concern over potential legal action against them for noncompliance. EPA reasonably requires a stay of the mandate until January 17, 2018 to develop guidance on estimating aerial emissions, which will help avoid disruption and ease the transition to compliance for existing facilities, and assist new and future farms. In addition, EPA intends to use this time to explore possible regulatory or other administrative approaches to address these reporting obligations.

7. Based on the foregoing, OEM staff need time to draft and finalize guidance that is substantively and technically sufficient. The work will involve contacting state and local environmental and farming agencies and universities to collect existing studies on aerial releases from farms and analyze and assess current methods for estimating aerial emissions. We will also work with our Regional EPA office and State environmental offices to identify ways to assist farms in estimating their releases and streamline reporting. The guidance must be reviewed by me, as part of my duties as the Director of OEM, and then reviewed and approved by senior EPA officials. A stay of the issuance of the mandate until January 17, 2018 is necessary to ensure the Agency makes a considered decision.

Executed on 7/17/17 By: _____

Reginald Cheatham
Director
Office of Emergency Management
Office of Land & Emergency
Management
U.S. Environmental Protection Agency
Headquarters, Washington D.C. 20460

Message

From: Franklin, Kathy [Franklin.Kathy@epa.gov]
Sent: 10/12/2017 11:20:33 PM
To: Clark, Becki [Clark.Becki@epa.gov]
Subject: Re: CERCLA EPCRA Update

Patty's email says she will do the interview.

Kathy Franklin || Office of Emergency Management ||
US Environmental Protection Agency|| MC:5104-A ||
1200 Pennsylvania Avenue NW, Washington, DC 20460
202-564-7987 office|| franklin.kathy@epa.gov

From: Clark, Becki
Sent: Thursday, October 12, 2017 6:26:17 PM
To: Gioffre, Patricia
Cc: Cheatham, Reggie; Indermark, Michele; Franklin, Kathy; Jennings, Kim; Jacob, Sicy; Hull, George; Bosecker, Elizabeth; Principe, Vanessa; Noggle, William; Lewis, Jen; Salo, Earl; Swenson, Erik; Michaud, John; Hostage, Barbara; Mayer, Eileen; Brooks, Becky
Subject: Re: CERCLA EPCRA Update

Got it, thanks Patty. Who will sit for the interview?

Sent from my iPhone

On Oct 12, 2017, at 5:46 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

Reggie/Becki-
This email is to provide a status update on the EPCRA/CERCLA guidance in preparation for publishing something on our website on Monday 10/16. (OGC/PARMS-If I've captured anything wrong, please feel free to correct me)

EPCRA 304 Q&A

- <!--[if !supportLists]--><!--[endif]-->Still at OMB

Attorney Client / Ex. 5

- <!--[if !supportLists]--><!--[endif]-->Planning for another call at noon tomorrow. Hoping to wrap up interagency review with the next draft Q&A.

CERCLA 103 web text

- Attorney Client / Ex. 5
- <!--[if !supportLists]--><!--[endif]-->**Still waiting on feedback from senior leaders**

Communications

- <!--[if !supportLists]--><!--[endif]-->George and Trish have the communications plan ready and are working with OPA
- <!--[if !supportLists]--><!--[endif]-->Patrick Davis would like to invite Brownfield Ag News (who submitted a recent press inquiry on this topic) to conduct a longer interview with EPA next week as part of the communication rollout.
    - <!--[if !supportLists]--><!--[endif]-->I will be in the office on Monday to provide support and can do the interview.

ICR issues

- <!--[if !supportLists]--><!--[endif]-->OMB, PARMS and RID staff participated in a call yesterday to develop an emergency package to amend the ICRs for EPCRA 304 reporting, CERCLA 103 reporting and the continuous release reporting ICR
- <!--[if !supportLists]--><!--[endif]-->Discussed streamlining the continuous release reporting form for farmers.
    - <!--[if !supportLists]--><!--[endif]-->We have a version previously developed to use as a starting point.
    - <!--[if !supportLists]--><!--[endif]-->RID will focus on this work next week (though some staff are out of the office at the NASTTPO meeting)
- <!--[if !supportLists]--><!--[endif]-->OMB is expecting a package on Monday 10/23

This is all moving rapidly. Although tomorrow is my Comp Day, I will remain actively involved, monitor email and participate in interagency calls. Kathy Franklin will be in the office tomorrow and serve as Acting Director for RID. Please copy her on all emails on this subject. Thanks!

Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

<EPCRA routine ag Draft 10.12.17_OEM.docx>

<Guidance for Farms DRAFT 10122017 .docx>

Message

From: Janifer, Pamela [Janifer.Pamela@epa.gov]
Sent: 11/15/2017 8:43:00 PM
To: Sullivan, Tim [Sullivan.Tim@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Cohen, Nancy [Cohen.Nancy@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Miles, James [miles.james@epa.gov]
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance -OGC/OECA review requested

Understood. Thank you.

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Sullivan, Tim
Sent: Wednesday, November 15, 2017 3:42 PM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Cohen, Nancy <Cohen.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Miles, James <miles.james@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance -OGC/OECA review requested

OECA is comfortable with the response to the third question as drafted.

Enforcement Techniques / Ex. 7(e)

Happy to discuss further.

Thanks –

Tim

Timothy J. Sullivan

Air Enforcement Division
Office of Civil Enforcement
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1595 Wynkoop Street (MC 8MSU)
Denver, Colorado 80202

Phone: 303.312.6196 | Email: sullivan.tim@epa.gov

Help eliminate environmental violations - report tips and complaints at:
http://www.epa.gov/compliance/complaints/index.html

NOTICE: This message may contain deliberative, attorney-client, attorney work product, or otherwise privileged material. Do not release this message under FOIA without appropriate review. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments from your machine and all storage media whether in electronic or hard copy. Thank you.

From: Janifer, Pamela
Sent: Wednesday, November 15, 2017 1:18 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>
Subject: Re: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance -OGC/OECA review requested

Great. Thank you.

Pamela Janifer
U.S Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, NW
Washington, DC 20460

On Nov 15, 2017, at 3:16 PM, Lewis, Jen <Lewis.Jen@epa.gov> wrote:

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Gioffre, Patricia
Sent: Wednesday, November 15, 2017 3:05 PM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance -OGC/OECA review requested
Importance: High

Attorney Client / Ex. 5

Let me know if these responses are OK.
Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

From: Janifer, Pamela
Sent: Wednesday, November 15, 2017 2:41 PM
To: Cohen, Nancy <Cohen.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance

All –

I just heard from staffer and I'm being told Rep. Yoho may give a call to the Administrator. Any chance I can get a response to the questions to the staffer soon?

Thanks

<image001.png>

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Janifer, Pamela
Sent: Wednesday, November 15, 2017 12:31 PM
To: Cohen, Nancy <Cohen.Nancy@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance

Here are all the questions from staffer:

- Does this apply to grass-fed operations?
- Is there a density requirement or just as noted in the CAFO table of small, medium, and large.
- Any sort of enforcement action or educational aspects?

Thanks for your help.

<image002.png>

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Cohen, Nancy
Sent: Wednesday, November 15, 2017 12:28 PM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance

+ Patty

Thanks, nancy

Nancy Cohen
U.S. EPA OLEM
202.566.0171

From: Cohen, Nancy
Sent: Wednesday, November 15, 2017 10:30 AM
To: Janifer, Pamela <Janifer.Pamela@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance

Reggie/Becki: in Kim's absence, who do you recommend we reach out to about a congressional inquiry on EPCRA/CERCLA guidance?

Thanks, nancy aka 0171

From: Janifer, Pamela
Sent: Wednesday, November 15, 2017 9:40 AM
To: Cohen, Nancy <Cohen.Nancy@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: FW: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance

Good morning Nancy,

I see Kim is out of the office. Is there someone that can answer the question below. I looked at the revised website information and question will not be answered with the update. Can you help? Thank you.

<image003.png>

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

From: Janifer, Pamela
Sent: Tuesday, November 14, 2017 5:40 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Harwood, Jackie <Harwood.Jackie@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>
Subject: Inquiry from Rep. Ted Yoho Re: EPCRA/CERCLA Guidance

Can you answer this question? Thanks.

is guidance only for permitted CAFO's or all facilities matching the size in the table on the website?

Pamela Janifer
U.S Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 11/20/2017 1:49:37 PM
To: Indermark, Michele [Indermark.Michele@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]
Subject: FW: Comments Due on the CERCLA-EPCRA Guidance on November 24, 2017

FYSA – here's an extension request from the Egg Producers.

From: Thomas Hebert [mailto:tom.hebert@bayardridge.com]
Sent: Friday, November 17, 2017 6:43 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Comments Due on the CERCLA-EPCRA Guidance on November 24, 2017

Kim,

On behalf of the United Egg Producers, I would like to request that US EPA OEM extend the comment period on the CERCLA-EPCRA continuous release reporting guidance for animal agriculture by an additional week, until December 1, 2017. We ask this for several reasons. There is the obvious challenge of finalizing these comments during the holiday week and submitting them the day after the holiday. We would meet this deadline, but the guidance is in relatively good shape as it now stands. More information and clarity are possible, but producers are ready to meet this requirement under the guidance as it now stands should the court issue its mandate in the coming week, which seems doubtful anyway. The additional week would be put to good use.

Thanks for your considerable efforts to help producers have responsible and practical guidance about meeting their reporting requirement.

Best,

Tom Hebert
Consultant to UEP
Personal Phone / Ex. 6

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 11/20/2017 1:41:02 PM
To: Clark, Becki [Clark.Becki@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]
Subject: FW: Request for an Extension of Time on CAFO Air Emission Guidance

FYSA – the NPPC is asking for another week to provide comments on the guidance.

From: Jennings, Kim
Sent: Monday, November 20, 2017 6:50 AM
To: Michael Formica <formicam@nppc.org>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Tom Hebert <tom.hebert@bayardridge.com>
Subject: RE: Request for an Extension of Time on CAFO Air Emission Guidance

Hi,

We had always considered that guidance to be "evergreen". However, with regards to pushing out the deadline, a lot has happened over the last week and I have been on travel during that time, so I would like to confirm with folks here, and get back with you later today.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Michael Formica [mailto:formicam@nppc.org]
Sent: Sunday, November 19, 2017 3:02 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Tom Hebert <tom.hebert@bayardridge.com>
Subject: Request for an Extension of Time on CAFO Air Emission Guidance

Kim, Reggie, Jeff, Tate:

We are incredibly appreciative of all the hard work you and your team have put into making this air emission reporting exercise as manageable as possible, including the changes to the online guidance and working with the National Response Center to develop a mechanism for reporting emissions via email.

One quick question though. I just realized that comments on the online guidance are due on this coming Friday November 24, 2017. That happens to be the day after Thanksgiving. I was wondering if it was possible to push that date out a week further and have comments due by Friday, December 1, 2017.

We have a number of comments and suggestions to the guidance and process that the US Pork industry intends to make, and I have a conference call with my environmental committee Monday afternoon to review the experience of those who have submitted emissions reports so far. With this being a short work week, it would be very helpful to have additional time to submit comments until the week after Thanksgiving.

Thanks

Michael C. Formica
National Pork Producers Council
202.680.3820

Message

From: Jacob, Sicy [Jacob.Sicy@epa.gov]
Sent: 11/17/2017 1:55:14 PM
To: Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: NRC added language to their website-OGC should review

Thanks. I wasn't aware of the details of you call with Dana yesterday, especially the snail mail option for those farmers not capable of emailing their initial notification.

Please let me know when you hear from Dana. I will work with Vanessa and OGC to revise to align with our website. Thanks.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Clark, Becki
Sent: Friday, November 17, 2017 8:41 AM
To: Principe, Vanessa <Principe.Vanessa@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Hull, George <Hull.George@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>
Subject: RE: NRC added language to their website-OGC should review

Attorney Client / Ex. 5

From: Principe, Vanessa
Sent: Friday, November 17, 2017 8:37 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Hull, George <Hull.George@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>
Subject: RE: NRC added language to their website-OGC should review

Attorney Client / Ex. 5

From: Lewis, Jen
Sent: Friday, November 17, 2017 8:31 AM

To: Cheatham, Reggie <cheatham.reggie@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Hull, George <Hull.George@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>
Subject: Re: NRC added language to their website-OGC should review

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

On Nov 17, 2017, at 6:39 AM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

> This is news to me. Suggest we document our concern and get on the record in case they have introduced inaccuracies that will affect farmers or our ability to implement the program
>
> Thanks
>
> Reggie Cheatham, Director
> Office of Emergency Management, USEPA
> 202/564-8003(o)/202/689-9400
> Doris Williams, Executive Assistant
> 202/564-0053
>
> On Nov 16, 2017, at 9:10 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:
>
>> All-
>> I happened to go to the NRC homepage for a different reason than CERCLA EPCRA research (yep, we are working on other rules too) and noticed that the NRC added instructions to the webpage to assist farmers on submitting initial continuous release notifications. http://www.nrc.uscg.mil/
>>
>> I have some concerns with the instructions for farmers (especially the language saying that following these instructions will meet legal and regulatory requirements for reporting). The information on the three data elements also appear inaccurate (I think we want the farm name, not the name of the person reporting).
>>
>> I'd like Sicy and OGC to review this language. We may need to reach out to the NRC to suggest edits.
>>
>> By the way-did anyone know that the NRC updated their website to address this issue?
>>
>> ---
>> Patty Gioffre
>> USEPA (OLEM/OEM)
>> 1200 Pennsylvania Ave. NW (5104A)
>> Washington, DC 20460
>> 202-564-1972

202-748-7139 (cell)

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Message

From: Fernandez, Roger [Fernandez.Roger@epa.gov]
Sent: 11/9/2017 8:17:28 PM
To: Clark, Becki [Clark.Becki@epa.gov]
Subject: RE: URGENT: The latest info on CERCLA/EPCRA reporting requirements for farms

Got it. Thanks!

Roger Fernandez
Executive Director
National Response Team

U.S. EPA
Washington, DC 20460

+1-202-343-9386

nrt.org
epa.gov/emergency-response

From: Clark, Becki
Sent: Thursday, November 9, 2017 3:04 PM
To: Fernandez, Roger <Fernandez.Roger@epa.gov>; Casillas, Laura <Casillas.Laura@epa.gov>
Subject: Fwd: URGENT: The latest info on CERCLA/EPCRA reporting requirements for farms

Roger/Laura,
FYI per our taxi conversation earlier today. Please note that Reggie's message was sent within EPA, so please don't share outside the. Agency. Just FYI.

Sent from my iPhone

Begin forwarded message:

> **From:** "Bennett, Tate" <Bennett.Tate@epa.gov>
> **Date:** November 9, 2017 at 2:03:14 PM EST
> **To:** "Cheatham, Reggie" <cheatham.reggie@epa.gov>
> **Cc:** "Lewis, Jen" <Lewis.Jen@epa.gov>, "Simon, Nigel" <Simon.Nigel@epa.gov>, "Breen, Barry" <Breen.Barry@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>, "Sands, Jeffrey" <sands.jeffrey@epa.gov>, "Michaud, John" <Michaud.John@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>, "Salo, Earl" <Salo.Earl@epa.gov>, "Swenson, Erik" <Swenson.Erik@epa.gov>, "Brooks, Becky" <Brooks.Becky@epa.gov>, "Taylor, Trish" <Taylor.Trish@epa.gov>, "Cogliano, Gerain" <Cogliano.Gerain@epa.gov>, "Noggle, William" <Noggle.William@epa.gov>, "Jacob, Sicy" <Jacob.Sicy@epa.gov>, "Hostage, Barbara" <Hostage.Barbara@epa.gov>, "Hull, George" <Hull.George@epa.gov>, "Principe, Vanessa" <Principe.Vanessa@epa.gov>
> **Subject: Re: URGENT: The latest info on CERCLA/EPCRA reporting requirements for farms**
>
> Good stuff. Thank you!
>
> On Nov 9, 2017, at 1:49 PM, Cheatham, Reggie <cheatham.reggie@epa.gov> wrote:

I want to provide the latest information on our efforts to assist farmers to comply with CERCLA/EPCRA reporting requirements. As you are aware, we recently provided a website for farmers who, on November 15th, may have to report their air releases from animal waste on their farms. This website provides guidance for farmers on how to estimate their releases from animal waste and how to report those releases if they meet or exceed the reportable quantity for that release. Prior to and since the release of this guidance, we have been working closely with the Ag community (including Ag Trade Association, Regional/State Ag Advisors, etc.), to make them aware of this guidance, get feedback, and identify issues.

Several issues that have arisen relate to the initial notification to the National Response Center (NRC). First, there is the potential for the NRC to be overwhelmed with calls on November 15th due to the number of farm owners/operators that will need to report. Second, some farm owners/operators have begun reporting to the NRC. The automated system the NRC uses to ensure release notifications get to the appropriate Federal, State, and local response officials, has resulted in some State and local officials calling the farm owners/operators to get more information about the release they reported and what response is needed. In order to resolve these issues, we (OEM and OGC) have been working with the NRC program officials and attorneys, and have identified the following solution:

- The NRC will establish an email notification system so farm owners/operators can email their continuous release reports to the NRC rather than calling the NRC 800 number. Farmers who have multiple farms can list the name and location of all farms, as well as the associated name(s) of hazardous substance(s) released, in one e-mail.

- Once the email is received by the NRC email notification system, it will generate an automatic response e-mail with a generic identification number (CR-ERNS) for the farm. The farm owner/operator will place that CR-ERNS number on the follow-up written notification report that is required to be submitted to EPA Regional Office within 30 days.

- Additionally, the NRC will email the farm owner/operator's continuous release notification to the EPA who will organize the notification in a spreadsheet and make that information available to the EPA Regional offices. This will alleviate inundating the EPA Regional office with continuous release reports.

The initial notification by e-mail, rather than by telephone, will help to avoid expected long hold delays, telephone system "crashes," and related inconveniences when reporting for farmers starts on November 15, 2017. EPA and the NRC consider the use of e-mail in this instance as complying with the immediate notification requirement of CERCLA section 103.

We are working to have this system in place by Tuesday, November 14th or sooner if possible. We will be revising have updated our website and guidance to communicate this streamlined reporting option for farmers:

> *" Due to the potential for large call volumes to the National Response Center (NRC), we are establishing an email option for initial continuous release notifications. The system should be available by November 15, 2017. Farm owners/operators should consider using the email option once it is available. This expedited option will allow one email notification for owners/operators with multiple farms."*

Please let us know if you have any questions.

Thanks

Reggie Cheatham, Director
Office of Emergency Management
202/564-8003(w) 202/689-9400(c)
cheatham.reggie @epa.gov
Doris Williams, Executive Assistant
202/564-0053

Message

From: Davis, Patrick [davis.patrick@epa.gov]
Sent: 9/14/2017 1:52:07 PM
To: Salo, Earl [Salo.Earl@epa.gov]
CC: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Michaud, John [Michaud.John@epa.gov]
Subject: Re: REVISED: EPCRA/CERCLA website announcement

Thank you.

Patrick Davis
Environmental Protection Agency
Deputy Associate Director, Office of Land and Emergency Management
202-564-3103 office
202-380-8341 cell

Emails sent to this address may be subject to FOIA.

Sent from my iPhone

On Sep 14, 2017, at 9:32 AM, Salo, Earl <Salo.Earl@epa.gov> wrote:

Attorney Client / Ex. 5

From: Gioffre, Patricia
Sent: Thursday, September 14, 2017 8:26 AM
To: Davis, Patrick <davis.patrick@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: REVISED: EPCRA/CERCLA website announcement

I've attached updated versions of the document with the October 16th target date.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Davis, Patrick
Sent: Wednesday, September 13, 2017 5:29 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Re: EPCRA/CERCLA website announcement

Hi Patty,

Once you insert October 16, 2017 into both of these documents I will circulate with the political team.

Thanks,

Patrick Davis
Environmental Protection Agency
Deputy Associate Administrator, Office of Land and Emergency Management

Personal Phone / Ex. 6

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Sep 13, 2017, at 1:18 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Patrick,
> In follow-up to today's meeting, I am sending you the draft website announcement that OEM forwarded to OGC. I have also attached a clean version of the document. Please feel free to send this around for review at your level. We will follow-up with feedback from OGC on the attached document.
>
> **Deliberative Process / Ex. 5**
>
> If you have any questions or concerns, please don't hesitate to call.
> ---
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972
> 202-748-7139 (cell)
> ---
> Follow OLEM on Twitter @EPALand
>
> ---
>
> **From:** Gioffre, Patricia
> **Sent:** Tuesday, September 12, 2017 2:29 PM
> **To:** Earl Salo <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
> **Cc:** Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>
> **Subject:** OGC Review requested: Updated EPCRA/CERCLA action summary
> **Importance:** High
>
> **Attorney Client / Ex. 5**
>
> ---
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972
> 202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

<draft webpage udate CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste at Farms.docx>

<draft webpage CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste_clean.docx>

<Waterkeeper Reqs for Air Releases of Haz Subs from Animal Waste at Farms (003).docx>

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 9/14/2017 1:48:23 PM
To: Salo, Earl [Salo.Earl@epa.gov]; Davis, Patrick [davis.patrick@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]
Subject: RE: REVISED: EPCRA/CERCLA website announcement

Thank you Earl!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Salo, Earl
Sent: Thursday, September 14, 2017 9:33 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
Subject: RE: REVISED: EPCRA/CERCLA website announcement

Attorney Client / Ex. 5

From: Gioffre, Patricia
Sent: Thursday, September 14, 2017 8:26 AM
To: Davis, Patrick <davis.patrick@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: REVISED: EPCRA/CERCLA website announcement

Deliberative Process / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Davis, Patrick
Sent: Wednesday, September 13, 2017 5:29 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>

Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: Re: EPCRA/CERCLA website announcement

Hi Patty,

Deliberative Process / Ex. 5

Thanks,

Patrick Davis
Environmental Protection Agency
Deputy Associate Administrator, Office of Land and Emergency Management

Personal Phone / Ex. 6

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Sep 13, 2017, at 1:18 PM, Gioffre, Patricia <Gioffre.Patricia@epa.gov> wrote:

> Patrick,
> In follow-up to today's meeting, I am sending you the draft website announcement that OEM forwarded to OGC. I have also attached a clean version of the document. Please feel free to send this around for review at your level. We will follow-up with feedback from OGC on the attached document.
>
> **Deliberative Process / Ex. 5**
>
> If you have any questions or concerns, please don't hesitate to call.
> ---
> Patty Gioffre
> US EPA/OLEM/OEM
> 202-564-1972
> 202-748-7139 (cell)
> ---
> Follow OLEM on Twitter @EPALand
>
> ---
>
> **From:** Gioffre, Patricia
> **Sent:** Tuesday, September 12, 2017 2:29 PM
> **To:** Earl Salo <Salo.Earl@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>
> **Cc:** Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>
> **Subject:** OGC Review requested: Updated EPCRA/CERCLA action summary
> **Importance:** High
>
> **Attorney Client / Ex. 5**
>
> ---

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

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<draft webpage udate CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste at Farms.docx>

<draft webpage CERCLA EPCRA Reporting Reqs for Air Releases of Haz Subs from Animal Waste_clean.docx>

Message

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 8/11/2017 4:21:13 PM
To: Clark, Becki [Clark.Becki@epa.gov]
Subject: FW: CERCLA/EPCRA reporting requirement for farms

Vanessa is working on a response to this email from David Fotouhi and Patrick Davis.

D. Michele Indermark
HQ EPA
OLEM/OEM
Special Assistant
WJCN 1448C
(w) 202-564-0794
Indermark.michele@epa.gov

From: Davis, Patrick
Sent: Thursday, August 10, 2017 11:37 PM
To: Fotouhi, David <fotouhi.david@epa.gov>
Cc: Brown, Byron <brown.byron@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>
Subject: Re: CERCLA/EPCRA reporting requirement for farms

Hi David,

I am in Santa Fe With DOE on Friday. Reggie Cheatham, copied here, can give us an update on the administrative steps. A working group is a good idea.

Reggie, who should lead this working group?

Patrick Davis
Environmental Protection Agency
Deputy Associate Director, Office of Land and Emergency Management

Personal Phone / Ex. 6

Emails sent to this address may be subject to FOIA.

Sent from my iPhone

On Aug 10, 2017, at 7:11 PM, Fotouhi, David <fotouhi.david@epa.gov> wrote:

Attorney Client / Ex. 5

Attorney Client / Ex. 5

David Fotouhi

Deputy General Counsel
Office of General Counsel
U.S. Environmental Protection Agency
Tel: +1 202.564.1976
fotouhi.david@epa.gov

Message

From: Clark, Becki [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A906E07F1CD143B9A3C2DDAB813B8140-CLARK, BECKI]
Sent: 9/6/2017 8:44:18 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]
Subject: RE: Update on CERCLA/EPCRA "guidance" and the OAR document

Patty,
I just spoke to Patrick, and he will help move the webpage through OPA at his level. He asked me whether the OAR document is a lynch pin to moving forward on our webpage? Sounds like it.

From: Gioffre, Patricia
Sent: Wednesday, September 06, 2017 4:30 PM
To: Clark, Becki <Clark.Becki@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>
Subject: Update on CERCLA/EPCRA "guidance" and the OAR document

Deliberative Process / Ex. 5

I reached out to Robin Dunkins in OAR and she is still hoping to finalize the document this month but is waiting for concurrence from USDA/NRCS.

In the meantime, we will continue working on getting the technical content pulled together for the "guidance." I've started to work with Eileen Mayer (our fabulous web guru) to begin developing a webpage to house this information. **Deliberative Process / Ex. 5** If it gets held up we will elevate.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

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Message

From: Clark, Becki [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A906E07F1CD143B9A3C2DDAB813B8140-CLARK, BECKI]
Sent: 1/30/2018 9:37:21 PM
To: Sams, Reeder [Sams.Reeder@epa.gov]
Subject: Fwd: Farm groups back EPA motion to delay manure air rule - Livestock - Capital Press

FYI for your reading pleasure. No court ruling yet.

Sent from my iPhone

Begin forwarded message:

From: "Thomas, Latosha" <Thomas.Latosha@epa.gov>
Date: January 30, 2018 at 4:26:36 PM EST
To: "Gioffre, Patricia" <Gioffre.Patricia@epa.gov>, "Jennings, Kim" <Jennings.Kim@epa.gov>, "Lewis, Jen" <Lewis.Jen@epa.gov>, "Salo, Earl" <Salo.Earl@epa.gov>, "Cheatham, Reggie" <cheatham.reggie@epa.gov>, "Clark, Becki" <Clark.Becki@epa.gov>, "Sands, Jeffrey" <sands.jeffrey@epa.gov>, "Subramanian, Hema" <Subramanian.Hema@epa.gov>, "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Taylor, Trish" <Taylor.Trish@epa.gov>, "Benjamin, Kent" <Benjamin.Kent@epa.gov>
Cc: "Hyman Moore, Julie" <Hyman.Julie@epa.gov>, "Roache, Brendan" <Roache.Brendan@epa.gov>
Subject: FW: Farm groups back EPA motion to delay manure air rule - Livestock - Capital Press

FYI

http://www.capitalpress.com/Livestock/20180130/farm-groups-back-epa-motion-to-delay-manure-air-rule

Farm groups back EPA motion to delay manure air rule

Two producer groups asked a court Monday to delay requiring farmers report gases from their livestock.

Alice Welch/USDA

Beef cattle in a feedlot near Medicine Park, Okla. Two national producer groups on Jan. 29 supported the Environmental Protection Agency's motion seeking more time to prepare farmers to estimate and report the amount of gas released in a day by their livestock.

Two national farms groups told a federal court Monday that puzzled producers need more time to understand how to calculate the volume of gas released each day by their livestock.

The National Pork Producers and U.S. Poultry & Egg Association filed a brief with the D.C. Circuit Court supporting the Environmental Protection Agency's motion to put off the rule for three months.

"There continues to be significant confusion throughout the livestock industry with regard to these reporting requirements, especially among smaller producers who have less technical support," wrote Pork Producers legal counsel Michael Formica in a court declaration.

The rule will require producers whose animals release at least 100 pounds of ammonia or hydrogen sulfide in a 24-hour period to register with the EPA and the Coast Guard's National Response Center.

There is no generally accepted way to estimate emissions from decaying manure, according to the EPA, which said the rule was unnecessary and impractical.

The D.C. court, however, agreed with environmental groups that having the information on file could be useful to emergency responders.

The EPA was waiting Tuesday to see whether the D.C. court will finalize the reporting mandate or grant the agency more time to prepare producers. The EPA has released worksheets developed at universities to help farmers estimate emissions, but says there are too many climate, geographic and operational factors to say how many cows, pigs or chickens it takes to meet the reporting threshold.

The pork and poultry trade groups attached to their brief a letter signed Jan. 19 by 10 Democratic senators taking the EPA to task for not giving more guidance to producers.

The senators, who didn't comment on whether the rule was necessary, urged the EPA to ask the court to delay the rule. The lawmakers said they were concerned unprepared farmers would be sued for not complying.

"In our view, the agency has been woefully late in rolling out guidance on this matter, and needs more time to ensure that our constituents, who face legal liability for untimely or inaccurate reporting, understand the reporting requirements," the senators wrote.

The court ruled last year producers have to report manure emissions to comply with the Comprehensive Environmental Response, Compensation and Liability Act, commonly known as the Superfund law. The federal government can levy fines of up to $50,000 a day for not reporting emissions. The law also allows environmental groups to sue to enforce the law.

The Waterkeeper Alliance led a coalition of environmental groups that sued the EPA to force producers to report emissions. Efforts to obtain a comment from the organization Tuesday were unsuccessful.

The D.C. court has granted two previous delays. EPA filed a motion for a third stay Jan. 19. It told the court it would spend the time educating farmers and developing streamlined reporting forms.

Appointment

From: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Sent: 4/26/2018 12:37:25 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Sullivan, Greg [Sullivan.Greg@epa.gov]; ODea, Elise [odea.elise@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Danielle Jones [Danielle_Y_Jones@ EOP / Ex. 6 ; Swenson, Erik [Swenson.Erik@epa.gov]
CC: Fotouhi, David [Fotouhi.David@epa.gov]; Cook, Steven [cook.steven@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Miles, James [miles.james@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]

Subject: Interagency Discussion with DOJ and OMB on Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM
Show Time As: Busy

Recurrence: (none)

Conference Number / Ex. 6

Appointment

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 4/24/2018 3:52:11 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Discuss: OMB/Interagency Comments on Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Attachments: EO 12866 Interagency Review Comments EPCRA Q and A - routine agricultural operations.docx; EO 12866 Interagency Review Comments EPCRA Q and A - Farm Act.docx
Location: WJC North 6450; Conference line- **Conference Number / Ex. 6**

Start: 4/24/2018 5:30:00 PM
End: 4/24/2018 6:30:00 PM
Show Time As: Busy

All-We can stay in the room for the OMB/DOJ Conference call that starts at 2:30 pm.

From Gerain's email:

EO 12866 Interagency Revi... EO 12866 Interagency Revi...

Attached are the interagency reviewers (minus DOJ's) comments on the two guidance documents. We will hear DOJ's concerns today at 2:30.

BTW, for the following interagency comments, which I had discussed with OMB last week:

Deliberative Process / Ex. 5

Appointment

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 3/28/2018 2:33:38 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; ODea, Elise [odea.elise@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Michaud, John [Michaud.John@epa.gov]

Subject: EPCRA Interpretive guidance for farms
Location: WJC North 6528 call in: Conference Number / Ex. 6

Start: 3/29/2018 1:00:00 PM
End: 3/29/2018 2:00:00 PM
Show Time As: Busy

Meeting to discuss the EPCRA interpretive guidance for farms and bolstering the interpretation/responding to comments received.

Appointment

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 11/2/2017 4:09:49 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Hull, George [Hull.George@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Beasley, Lynn [Beasley.Lynn@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Noggle, William [Noggle.William@epa.gov]
CC: Costa, Allison [Costa.Allison@epa.gov]

Subject: CERCLA/EPCRA Next Steps
Attachments: FW: EPA attorney contact? ; More Qs As to include in the guidance.docx
Location: WJCN 6528; **Conference Number / Ex. 6**

Start: 11/6/2017 4:00:00 PM
End: 11/6/2017 5:00:00 PM
Show Time As: Busy

Update 2- Adding some draft Q&As to add to CERCLA guidance on the web.
Update- attached email from NRC attorney suggesting alternatives to NRC call requirement to reduce call volumes.

Let's reconvene this workgroup. A draft agenda is listed below. If you have any requests to add to the agenda, let me know.

Agenda:

- Update on Delay Request with the Court
- NRC Call volume issues
- Continuous Release Reporting Form/ ICR
- FOIA-Privacy concerns
- FR Notices: Vacatur and EPCRA Interpretation
    - Schedules
- Outreach update
- Guidance update
- Next meeting

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Appointment

From: Noggle, William [Noggle.William@epa.gov]
Sent: 10/16/2017 6:47:21 PM
To: Noggle, William [Noggle.William@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; DeBruhl, Brandon F. EOP/OMB [Brandon_F_DeBruhl@ EOP / Ex. 6]; Laity, Jim A. EOP/OMB [James_A._Laity@ EOP / Ex. 6]; USDA Reg [usdareg@obpa.usda.gov]; Mackay, Cheryl (ENRD [Cheryl.Mackay@usdoj.gov]; Waqar, Tayyaba [tayyaba.waqar@sba.gov]; cjz@obpa.usda.gov; Rojas, Pablo EOP/OMB (Intern) [Pablo.Rojas@ EOP / Ex. 6]; Ruggiero, Justin M. EOP/OMB (Intern) [Justin.M.Ruggiero@ EOP / Ex. 6]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Hull, George [Hull.George@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; eric.t.gormsen@usdoj.gov; Franklin, Kathy [Franklin.Kathy@epa.gov]
CC: Poe, Michael - OBPA, Washington, DC [Michael.Poe@obpa.usda.gov]; Abbott, Linda - OCE [LAbbott@oce.usda.gov]; Jiron, Dan - OSEC, Washington, DC [Dan.Jiron@osec.usda.gov]; Rawles, Earnest -FS [erawles@fs.fed.us]; Greg Zwicke [greg.zwicke@ftc.usda.gov]; Glenn Carpenter [Glenn.Carpenter@wdc.usda.gov]; Reck, William - NRCS, Washington, DC [bill.reck@wdc.usda.gov]; FLINIAU, HOLLY - OGC [HOLLY.FLINIAU@OGC.USDA.GOV]; Kunickis, Sheryl - OSEC [Sheryl.Kunickis@osec.usda.gov]; Knaebel, David - ARS [David.Knaebel@ARS.USDA.GOV]; Barringer, Jody M. EOP/OMB [Jody_M._Barringer@ EOP / Ex. 6]; Matukumalli, Lakshmi - NIFA [lmatukumalli@nifa.usda.gov]; Lipshultz, Jon (ENRD) [Jon.Lipshultz@usdoj.gov]; Clark, Becki [Clark.Becki@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Indermark, Michele [Indermark.Michele@epa.gov]; Karen.Waldvogel@dm.usda.gov

Subject: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
Attachments: Interagency 0.2_CERCLA 103 Reporting Guidance for Farms_10.18.2017.docx
Location: Conference Number / Ex. 6

Start: 10/18/2017 6:00:00 PM
End: 10/18/2017 7:00:00 PM
Show Time As: Tentative

To all –
This meeting is to discuss interagency comments on the CERCLA and EPCRA Ag Guidance.

Conference Number / Ex. 6

Thanks,
Bill
202-566-1306

Appointment

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/10/2017 2:24:09 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Beasley, Lynn [Beasley.Lynn@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Prins, Christopher [Prins.Christopher@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Hull, George [Hull.George@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]

Subject: EPCRA/CERCLA Vacatur
Attachments: EO12866_EPCRA Ag Reporting_2050-ZA12_FinalPolicy_20171006 OIRA comments.docx; Guidance for Farms DRAFT 10062017 .docx
Location: Room 6528 WJCNorth Conference call- Conference Number / Ex. 6 see below for Adobe Connect link)

Start: 10/10/2017 5:30:00 PM
End: 10/10/2017 6:30:00 PM
Show Time As: Tentative

Adobe Connect- **Conference Number / Ex. 6**

Agenda-

- EPCRA 304 Q&A- Over at OMB-received comments this morning (see attached)
- CERCLA 103- website draft text updated (see attached)
- Press inquiry (due at 4 pm)
- ICR issues for continuous release reporting
- FR notice to remove exemption- schedule

Appointment

From: Davis, Patrick [davis.patrick@epa.gov]
Sent: 10/3/2017 3:42:11 PM
To: Davis, Patrick [davis.patrick@epa.gov]; Brooks, Becky [Brooks.Becky@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Clark, Becki [Clark.Becki@epa.gov]; Bennett, Tate [Bennett.Tate@epa.gov]; danielleq@fb.org; Gordon, Stephen [gordon.stephen@epa.gov]; donp@fb.org; andreww@fb.org; Hostage, Barbara [Hostage.Barbara@epa.gov]
CC: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: EPCRA/CERCLA w/Farm Bureau - Conference Number / Ex. 6
Location: 1301 Constitution Avenue, NW, DC 20004, Room 3146 West Building

Start: 10/3/2017 6:30:00 PM
End: 10/3/2017 7:15:00 PM
Show Time As: Tentative

Security:

Please have the guards call OLEM's main number **202-566-0200** for an escort when you arrive.

Closest Metro Station - Federal Triangle Metro on the Orange/Blue/Silver lines

Our Address:

William J. Clinton Building West
1301 Constitution Ave, NW
(On Constitution between 14th and 13th across from the National Museum of American History)

POC: Becky Brooks - 566-2762
Caroline Kenely – 566-2235

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 4/26/2018 8:40:48 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: FW: Meeting with DOJ on EPCRA Guidance

☺ ☺

From: Cook, Steven
Sent: Thursday, April 26, 2018 4:40 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: RE: Meeting with DOJ on EPCRA Guidance

Excellent work

From: Cogliano, Gerain
Sent: Thursday, April 26, 2018 4:39 PM
To: Cook, Steven <cook.steven@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>
Cc: Simon, Nigel <Simon.Nigel@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Meeting with DOJ on EPCRA Guidance

Hi Steven,

Attorney Client / Ex. 5

Just got the revised version to send to OMB. Expecting concluding review either tonight or tomorrow morning.

Gerain

Appointment

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 4/26/2018 12:57:28 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: Discuss Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM
Show Time As: Busy

Appointment

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 4/26/2018 12:48:23 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: Discuss Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM

Recurrence: (none)

Appointment

From: Kenely, Caroline [Kenely.Caroline@epa.gov]
Sent: 4/26/2018 12:40:13 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: Discuss Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM
Show Time As: Busy

Appointment

From: Indermark, Michele [Indermark.Michele@epa.gov]
Sent: 4/26/2018 4:43:20 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: FW: Interagency Discussion with DOJ and OMB on Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM
Show Time As: Busy

Appointment

From: Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]
Sent: 4/26/2018 4:35:38 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Meeting Forward Notification: Interagency Discussion with DOJ and OMB on Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM

Recurrence: (none)

Your meeting was forwarded

Jennings, Kim has forwarded your meeting request to additional recipients.

Meeting

Interagency Discussion with DOJ and OMB on Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)

Meeting Time

Thursday, April 26, 2018 3:00 PM-3:30 PM.

Recipients

Indermark, Michele

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

Sent by Microsoft Exchange Server

Appointment

From: Sullivan, Greg [Sullivan.Greg@epa.gov]
Sent: 4/26/2018 4:21:20 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Tentative: Interagency Discussion with DOJ and OMB on Q&As for CERCLA and EPCRA Reporting Requirements for Air Releases of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14)
Location: Conference call

Start: 4/26/2018 7:00:00 PM
End: 4/26/2018 7:30:00 PM

Recurrence: (none)

Appointment

From: Fotouhi, David [Fotouhi.David@epa.gov]
Sent: 4/24/2018 9:06:56 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: Meeting with OMB and DOJ to discuss comments on Q&As for CERCLA and EPCRA Reporting Requirements for Air Release of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14) undergoing EO 12866 Interagency Review
Location: Conference Call

Start: 4/24/2018 6:30:00 PM
End: 4/24/2018 7:00:00 PM

Recurrence: (none)

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 2/23/2018 4:17:28 PM
To: Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Jacob, Sicy [Jacob.Sicy@epa.gov]
Subject: RE: RIA

Deliberative Process / Ex. 5

Although we should pursue the opportunity to discuss with Danielle, I suspect that she will elevate the issue. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

From: Cooperstein, Sharon
Sent: Friday, February 23, 2018 11:11 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

Hi Gerain,

Deliberative Process / Ex. 5

Thanks,

Sharon

From: Cogliano, Gerain
Sent: Thursday, February 22, 2018 3:58 PM
To: Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

Danielle didn't answer. She has what sounds like an outdated out-of-office message. Left message to call me. Will try again soon.

From: Cooperstein, Sharon
Sent: Thursday, February 22, 2018 3:33 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>

Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

Thanks for looping me in. Gerain- would you prefer to reach out to Danielle or should I?

From: Jennings, Kim
Sent: Thursday, February 22, 2018 3:30 PM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: FW: RIA

Deliberative Process / Ex. 5

See the email chain below for the full discussion.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Lewis, Jen
Sent: Thursday, February 22, 2018 3:13 PM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Jacob, Sicy
Sent: Thursday, February 22, 2018 3:02 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Thursday, February 22, 2018 3:01 PM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

From: Jacob, Sicy
Sent: Thursday, February 22, 2018 2:59 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Thursday, February 22, 2018 2:54 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>

Cc: ODea, Elise <odea.elise@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Including Sicy to this conversation to ensure I have this right.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

From: Lewis, Jen
Sent: Thursday, February 22, 2018 2:11 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RIA

Kim and Patty,

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 2/22/2018 9:20:34 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
CC: Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]
Subject: Re: RIA

Thanks,
Kim

On Feb 22, 2018, at 3:58 PM, Cogliano, Gerain <Cogliano.Gerain@epa.gov> wrote:

Danielle didn't answer. She has what sounds like an outdated out-of-office message. Left message to call me. Will try again soon.

From: Cooperstein, Sharon
Sent: Thursday, February 22, 2018 3:33 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
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Subject: FW: RIA

Deliberative Process / Ex. 5

See the email chain below for the full discussion.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Lewis, Jen
Sent: Thursday, February 22, 2018 3:13 PM
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Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Jacob, Sicy
Sent: Thursday, February 22, 2018 3:02 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Thursday, February 22, 2018 3:01 PM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

From: Jacob, Sicy
Sent: Thursday, February 22, 2018 2:59 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Thursday, February 22, 2018 2:54 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
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Attorney Client / Ex. 5

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US EPA/OLEM/OEM
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202-748-7139 (cell)

From: Lewis, Jen
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Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RIA

Kim and Patty,

Attorney Client / Ex. 5

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]
Sent: 2/22/2018 8:45:14 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: RIA

Sounds good. Can you perhaps conference me in to that call?

From: Cogliano, Gerain
Sent: Thursday, February 22, 2018 3:45 PM
To: Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

I will.

From: Cooperstein, Sharon
Sent: Thursday, February 22, 2018 3:33 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

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Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: FW: RIA

Deliberative Process / Ex. 5

See the email chain below for the full discussion.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

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Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
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From: Jacob, Sicy
Sent: Thursday, February 22, 2018 3:02 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
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Washington DC 20004
(202) 564-8019

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Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

From: Jacob, Sicy
Sent: Thursday, February 22, 2018 2:59 PM

To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Thursday, February 22, 2018 2:54 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: RIA

Attorney Client / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

From: Lewis, Jen
Sent: Thursday, February 22, 2018 2:11 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: ODea, Elise <odea.elise@epa.gov>
Subject: RIA

Kim and Patty,

Attorney Client / Ex. 5

Jen

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 1/18/2018 4:24:32 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: AA's OEM Weekly for Jan. 15 - Jan. 19, 2018
Attachments: OEM Weekly - January 19 2017.docx

Regulations Implementation Division (RID)

CERCLA/EPCRA Farms Guidance (revisions to last week's update are in blue)

- Agricultural stakeholders will be required to report releases of hazardous substances from animal waste once the DC Circuit court issues a mandate as soon as January 22, 2018 that vacates the CERCLA and EPCRA administrative reporting exemption.

Deliberative Process / Ex. 5

- **Outreach-** Communication materials have been distributed to regional staff and stakeholders and OEM is scheduled to participate on several conference calls with stakeholders to prepare them for the upcoming reporting requirements. The conference calls are targeted to agricultural trade associations, NASTTPO, state, tribal and local emergency response officials, ECOS and NASDA, and other stakeholders.
- **NRC-** The NRC will not be answering calls from farm owners/operators who are calling to report a continuous release. They will only be taking emails. The NRC will direct ALL telephone the calls from farm owners/operators to the EPA EPCRA, RMP and Oil Information Center. OEM is working hard to expand our contract with the Information Center to include taking the farm owner/operator NRC notifications and to bring on and train folks to take notification calls. However, this is outside their area of expertise and their system has limited capacity. EPA offered additional funding to the NRC to assist them in revising their system to allow them to take phone calls. The NRC was not interested in receiving additional funding for this task. The NRC email address is farms@uscg.mil. For more information, contact Kim Jennings at 202-564-7998, Sicy Jacob at 202-564-8019 or Patty Gioffre at 202-564-1972.

From: Indermark, Michele
Sent: Thursday, January 18, 2018 11:20 AM
To: OLEM OD Deputies <OLEMODDeputies@epa.gov>; OLEM IO Materials <OLEMIOMaterials@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OEM Everyone <OLEMOEMEveryone@epa.gov>
Subject: AA's OEM Weekly for Jan. 15 - Jan. 19, 2018

Good morning Everyone,

Attached you will find OEM's weekly report for Jan. 15 – Jan. 19, 2018. Should you have questions please call or email. Thanks.

D. Michele Indermark

HQ EPA
OLEM/OEM
Special Assistant
WJCN 1448C
(w) 202-564-0794
Indermark.michele@epa.gov

Appointment

From: Sullivan, Greg [Sullivan.Greg@epa.gov]
Sent: 4/24/2018 4:53:17 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Tentative: Meeting with OMB and DOJ to discuss comments on Q&As for CERCLA and EPCRA Reporting Requirements for Air Release of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14) undergoing EO 12866 Interagency Review
Location: Conference Call

Start: 4/24/2018 6:30:00 PM
End: 4/24/2018 7:00:00 PM

Recurrence: (none)

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 1/11/2018 7:01:00 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM Weekly for week ending January 11, 2018
Attachments: OEM Weekly - January 11 2017a.docx

Regulations Implementation Division (RID)

CERCLA/EPCRA Farms Guidance (revisions to last week's update are in blue)

- Agricultural stakeholders will be required to report releases of hazardous substances from animal waste once the DC Circuit court issues a mandate as soon as January 22, 2018 that vacates the CERCLA and EPCRA administrative reporting exemption.
- Deliberative Process / Ex. 5
- **Outreach**- OEM is sending regular updates to regional staff (removal managers, CERCLA/EPCRA program contacts, and the ag advisors) to keep them informed of rapidly evolving information. OEM is also busy coordinating on communications and has developed a toolkit for messaging the implementation of the requirements. The toolkit includes social media messages, a public service announcement, factsheet, trade article, and website widgets. We have also been engaged with congressional staff on messaging and providing technical support on questions from congressional staffers.
- **NRC**-OEM has coordinated with the NRC to provide additional guidance to farmers in the auto-generated email that is sent in response to the initial notification. The email provides additional direction on next steps for reporting requirements and a link to the EPA website. OEM continues to coordinate with the NRC staff on concerns related to the volume of calls expected from farmers. The NRC has simplified the email address to farms@uscg.mil. EPA continues to coordinate with the NRC on an approach to allow farmers who have no email access to provide an immediate notification of a continuous release as required under CERCLA section 103. The NRC has a statutory responsibility to receive initial continuous release notifications. At this time, the NRC is intending to direct callers to EPA to receive initial continuous release notifications. OEM is expanding the scope of the contract for the EPCRA, RMP and Oil Information Center in order to prepare to take overflow calls from farmers who have no access to email. For more information, contact Kim Jennings at 202-564-7998, Sicy Jacob at 202-564-8019 or Patty Gioffre at 202-564-1972.

From: Williams, Doris
Sent: Thursday, January 11, 2018 12:04 PM
To: Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Perovich, Gina <Perovich.Gina@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson

<Griffin.Jayson@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Pollard, Marcia <Pollard.Marcia@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; McCollum, Harriet <McCollum.Harriet@epa.gov>; Pettit, Jonathan <Pettit.Jonathan@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>; Beasley, Craig <Beasley.Craig@epa.gov>; Lee, Eugene <Lee.Eugene@epa.gov>; Oh, Peter <Oh.Peter@epa.gov>; Oliveira, Beatriz <Oliveira.Beatriz@epa.gov>; Vescio, Joseph <Vescio.Joseph@epa.gov>; Boynton, Lisa <Boynton.Lisa@epa.gov>; Casillas, Laura <Casillas.Laura@epa.gov>; Faulkner, Mike <Faulkner.Mike@epa.gov>; Grier, Tim <Grier.Tim@epa.gov>; Ridenour, Steve <Ridenour.Steve@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; OLEM OEM RMD <OLEM_OEM_RMD@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>
Subject: OEM Weekly for week ending January 11, 2018

Good Afternoon All,

Attached is the OEM Weekly.

Doris D. Williams, Executive Assistant
Office of Emergency Management, USEPA
202-564-0053(O); 202-564-9400 (M)
Williams.doris@epa.gov

Appointment

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 4/23/2018 4:52:38 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: Meeting with OMB and DOJ to discuss comments on Q&As for CERCLA and EPCRA Reporting Requirements for Air Release of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14) undergoing EO 12866 Interagency Review
Location: Conference Call

Start: 4/24/2018 6:30:00 PM
End: 4/24/2018 7:00:00 PM
Show Time As: Busy

Appointment

From: Michaud, John [Michaud.John@epa.gov]
Sent: 4/23/2018 3:45:29 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]

Subject: Accepted: Meeting with OMB and DOJ to discuss comments on Q&As for CERCLA and EPCRA Reporting Requirements for Air Release of Hazardous Substances from Animal Waste at Farms (RIN 2050-ZA14) undergoing EO 12866 Interagency Review
Location: Conference Call

Start: 4/24/2018 6:30:00 PM
End: 4/24/2018 7:00:00 PM
Show Time As: Busy

Message

From: Principe, Vanessa [Principe.Vanessa@epa.gov]
Sent: 1/12/2018 4:37:48 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: Thank you and another request RE: EPCRA/CERLA reporting

Reportable Quantities from animal waste for Ammonia and Hydrogen Sulfide (NPRM)

Deliberative Process / Ex. 5

From: Cogliano, Gerain
Sent: Friday, January 12, 2018 10:40 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>
Cc: Hostage, Barbara <Hostage.Barbara@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Re: Thank you and another request RE: EPCRA/CERLA reporting

Deliberative Process / Ex. 5

From: Gioffre, Patricia
Sent: Friday, January 12, 2018 10:08 AM
To: Clark, Becki; Jennings, Kim; Cheatham, Reggie; Principe, Vanessa
Cc: Cogliano, Gerain; Hostage, Barbara; Franklin, Kathy
Subject: RE: Thank you and another request RE: EPCRA/CERLA reporting

OEM/PARMS- I pulled together a list -see attached.
Any concerns?

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Clark, Becki
Sent: Friday, January 12, 2018 9:33 AM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: Thank you and another request RE: EPCRA/CERLA reporting

Got it. We are working on putting together the list. I'm looping in Vanessa, who is acting for Kim today.

From: Brooks, Becky
Sent: Friday, January 12, 2018 9:00 AM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: Thank you and another request RE: EPCRA/CERLA reporting

Barry is fine with the one-pager. When he gets in this morning, I will ask him if he wants us to share it beyond OLEM in advance of this afternoon's meeting or if he plans to just take copies.

Separately, Barry would like a list of each of the different items we're working on for CERCLA/EPCRA: vacatur, ICR, etc., and the date we think it will advance to the next step (e.g., to OMB for review, to OGC for review, waiting to hear back from OGC, etc.).

Thank you. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Jennings, Kim
Sent: Thursday, January 11, 2018 4:24 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>
Subject: RE: EPCRA/CERLA reporting

Hi Becky,

Attached is the one-pager Barry requested. Please let me know if you have any questions.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Brooks, Becky
Sent: Thursday, January 11, 2018 11:16 AM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: FW: EPCRA/CERLA reporting

I spoke to Barry and he feels we need to do a meeting w/Ryan tomorrow. Becki, I shared w/Barry the conversation you and I had yesterday and that I was trying to schedule the meeting after January 22. Barry would like to suggest doing the meeting tomorrow afternoon, if that works for OEM (he understands that it may be Becki only). He asked for a 1 – 2 pager by the end of today to give you and him time to look at it prior to the meeting.

Please let me know if there are time preferences for a meeting tomorrow. Depending on Barry's schedule and what we can move around, he may or may not attend this meeting. Thanks. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Cheatham, Reggie
Sent: Thursday, January 11, 2018 10:41 AM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>
Subject: Fwd: EPCRA/CERLA reporting

I need input from RID on what Ryan has outlined below. We should look at this as doable and address those things we would be responsible for. Let's chat if needed today.

Thanks

Reggie Cheatham, Director
Office of Emergency Management
202/564-8003(w) 202/689-9400(c)
cheatham.reggie @epa.gov
Doris Williams, Executive Assistant
202/564-0053

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: January 11, 2018 at 9:22:38 AM EST
To: "Brown, Byron" <brown.byron@epa.gov>, "Cheatham, Reggie" <cheatham.reggie@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Breen, Barry" <Breen.Barry@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>, "Sands, Jeffrey" <sands.jeffrey@epa.gov>
Subject: EPCRA/CERLA reporting

All, we will have a new DAA for OLEM starting at the end of January or first week of February. Experienced long time attorney to help drive the agenda in a timely manner on issues like CCR, EPCRA/CERCLA reporting, Superfund implementation to help Kell and others.

Deliberative Process / Ex. 5

In the end, we need to meet about expectations for the text and time lines. Can we do that tomorrow?

Ryan Jackson
Chief of Staff
U.S. Environmental Protection Agency

Deliberative Process / Ex. 5

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 1/10/2018 5:32:20 PM
To: Noggle, William [Noggle.William@epa.gov]
CC: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: EPCRA/CERCLA

Importance: High

Thanks, Bill.
Bill Nickerson called me about 11:30 am this morning, and asked the question about whether we made any substantive changes to the guidance Q & A's.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Barbara Hostage, Director
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

EPA West Room 4130A
Phone Number: 202-566-1933
Fax Number: 202-566-1934
Mail Code: 5103T

From: Noggle, William
Sent: Wednesday, January 10, 2018 12:15 PM
To: Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: FW: EPCRA/CERCLA

Deliberative Process / Ex. 5

From: Cooperstein, Sharon
Sent: Wednesday, January 10, 2018 12:09 PM
To: Noggle, William <Noggle.William@epa.gov>
Subject: RE: EPCRA/CERCLA

Thanks Bill,

B. Nickerson suggested holding off on drafting a piece on the guidance for Veronica. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,

S

From: Noggle, William
Sent: Wednesday, January 10, 2018 12:04 PM
To: Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>
Subject: FW: EPCRA/CERCLA

fyi

From: Brooks, Becky
Sent: Wednesday, January 10, 2018 8:01 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; ODea, Elise <odea.elise@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: RE: EPCRA/CERCLA

Patty – Last night, I received OGC's comments, through Bill Noggle. Attached is what I sent forward to Veronica this morning. Apologies for the confusion. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Gioffre, Patricia
Sent: Wednesday, January 10, 2018 7:57 AM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; ODea, Elise <odea.elise@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: FW: EPCRA/CERCLA

Attorney Client / Ex. 5

Please reply to all with any edits. Thanks!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Brooks, Becky
Sent: Tuesday, January 09, 2018 2:40 PM

To: Noggle, William <Noggle.William@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: RE: EPCRA/CERCLA

Deliberative Process / Ex. 5

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Noggle, William
Sent: Tuesday, January 09, 2018 1:58 PM
To: Brooks, Becky <Brooks.Becky@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Subject: FW: EPCRA/CERCLA

Becky,
Here is the info on the EPCRA/CERLA Ag for Veronica and Ryan:

Continuous Release Reporting Form for Farms – EPA published a Federal Register Notice on December 5, 2017 (82 FR 57443) seeking public comments on the ICR and the Continuous Release Reporting forms that EPA developed for farms. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Sicy, Patty,
Thanks for the info.

Bill
202-566-1306

From: Brooks, Becky
Sent: Tuesday, January 09, 2018 10:00 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>

Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: FW: EPCRA/CERCLA

Please see Veronica's email below. Can you please provide us with a brief update? Thanks. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Darwin, Veronica
Sent: Tuesday, January 09, 2018 8:27 AM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: EPCRA/CERCLA

Good Morning,
Ryan asked for an update on the program's progress on the rulemaking efforts and the revision of the continuous release reporting form. Can you please send me a summary of OLEM's activities on this issue sometime this morning? A couple of paragraphs would be great. Thank you!!

Veronica

Veronica G. Darwin
Senior Advisor for Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
darwin.veronica@epa.gov
Personal Phone / Ex. 6

Message

From: Noggle, William [Noggle.William@epa.gov]
Sent: 1/9/2018 6:50:04 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]
CC: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: This morning -- EPCRA/CERCLA update for Ryan Jackson

Thanks

From: Gioffre, Patricia
Sent: Tuesday, January 09, 2018 1:34 PM
To: Noggle, William <Noggle.William@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: RE: This morning -- EPCRA/CERCLA update for Ryan Jackson

See below for my suggested edits.

Deliberative Process / Ex. 5

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Noggle, William
Sent: Tuesday, January 09, 2018 12:39 PM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: RE: This morning -- EPCRA/CERCLA update for Ryan Jackson

Sicy,
Thanks for all the info.

Kim, Patty,
Are you ok with passing up the info below?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,
Bill
202-566-1306

From: Jacob, Sicy
Sent: Tuesday, January 09, 2018 11:35 AM
To: Noggle, William <Noggle.William@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: RE: This morning -- EPCRA/CERCLA update for Ryan Jackson

Hi Bill: I am working on revising the ICR, the form, and the instructions to the form. Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

The form and the instructions are currently being reviewed by OECA. Then we will ask OGC to review.

Deliberative Process / Ex. 5

Thanks.

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Noggle, William
Sent: Tuesday, January 09, 2018 11:16 AM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: This morning -- EPCRA/CERCLA update for Ryan Jackson

Sicy, Patty, Kim,

Deliberative Process / Ex. 5

Also, what's the status on both rules?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,
Bill
202-566-1306

From: Hostage, Barbara
Sent: Tuesday, January 09, 2018 10:16 AM
To: Noggle, William <Noggle.William@epa.gov>
Subject: FW: EPCRA/CERCLA

Hi, Bill.
I think Gerain may have already sent this to you.
Can you put something together to send back to Nick and Becky.
The OEM weekly report may be a good source of information.
I will re-forward last week's to you.
Thanks!

Barbara Hostage, Director
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

EPA West Room 4130A
Phone Number: 202-566-1933

Fax Number: 202-566-1934
Mail Code: 5103T

From: Brooks, Becky
Sent: Tuesday, January 09, 2018 10:00 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: FW: EPCRA/CERCLA

Please see Veronica's email below. Can you please provide us with a brief update? Thanks. Becky

Becky Brooks
Special Assistant
Office of Land and Emergency Management
U.S. Environmental Protection Agency
ph. 202-566-2762

From: Darwin, Veronica
Sent: Tuesday, January 09, 2018 8:27 AM
To: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: EPCRA/CERCLA

Good Morning,
Ryan asked for an update on the program's progress on the rulemaking efforts and the revision of the continuous release reporting form. Can you please send me a summary of OLEM's activities on this issue sometime this morning? A couple of paragraphs would be great. Thank you!!

Veronica

Veronica G. Darwin
Senior Advisor for Land and Emergency Management
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
darwin.veronica@epa.gov

Personal Phone / Ex. 6

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 12/21/2017 2:55:39 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM Weekly Report for week of December 21, 2017
Attachments: OEM Weekly - December 21 2017a.docx

- **Streamlined Continuous Release Report for Farmers**- On December 5th, EPA published a Federal Register notice seeking comments on a streamlined continuous release report for farmers. Farmers will be able to complete this form to meet the CERCLA 103 requirements to submit a written report to the EPA within 30 days of notifying the National Response Center (NRC) (or 30 days after the mandate is issued for those farmers who have already notified the NRC). The comment period closed on Friday, December 15th.

Deliberative Process / Ex. 5

- **Outreach**- OEM is sending regular updates to regional staff (removal managers, CERCLA/EPCRA program contacts, and the ag advisors) to keep them informed of rapidly evolving information.

- **NRC**-OEM has coordinated with the NRC to provide additional guidance to farmers in the auto-generated email that is sent in response to the initial notification. The email provides additional direction on next steps for reporting requirements and a link to the EPA website.
  OEM continues to coordinate with the NRC staff on concerns related to the volume of calls expected from farmers. The NRC has simplified the email address to farms@uscg.mil. EPA continues to coordinate with the NRC on an approach to allow farmers who have no email access to provide an immediate notification of a continuous release as required under CERCLA section 103. The NRC has a statutory responsibility to receive initial continuous release notifications. At this time, the NRC is reluctant to open phone lines for farmers. OEM is expanding the scope of the contract for the EPCRA, Risk Management Program (RMP) and Oil Information Center in order to prepare to take overflow calls from farmers who have no access to email. For more information, contact Kim Jennings at 202-564-7998, Sicy Jacob at 202-564-8019 or Patty Gioffre at 202-564-1972.

From: Williams, Doris
Sent: Thursday, December 21, 2017 9:47 AM
To: Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Perovich, Gina <Perovich.Gina@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Whittle, Sandra <Whittle.Sandra@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Pollard, Marcia <Pollard.Marcia@epa.gov>; Irizarry, Gilberto

<Irizarry.Gilberto@epa.gov>; McCollum, Harriet <McCollum.Harriet@epa.gov>; Pettit, Jonathan <Pettit.Jonathan@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>; Beasley, Craig <Beasley.Craig@epa.gov>; Easter, Patrick <Easter.Patrick@epa.gov>; Lee, Eugene <Lee.Eugene@epa.gov>; Oh, Peter <Oh.Peter@epa.gov>; Oliveira, Beatriz <Oliveira.Beatriz@epa.gov>; Vescio, Joseph <Vescio.Joseph@epa.gov>; Boynton, Lisa <Boynton.Lisa@epa.gov>; Casillas, Laura <Casillas.Laura@epa.gov>; Faulkner, Mike <Faulkner.Mike@epa.gov>; Grier, Tim <Grier.Tim@epa.gov>; Ridenour, Steve <Ridenour.Steve@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; OLEM OEM RMD <OLEM_OEM_RMD@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>
Subject: OEM Weekly Report for week of December 21, 2017

Good Morning All,

Attached is the OEM Weekly Report.

Doris D. Williams, Executive Assistant
Office of Emergency Management, USEPA
202-564-0053(O); 202-564-9400 (M)
Williams.doris@epa.gov

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 1/25/2018 3:26:35 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM Weekly Report to OLEM for January 26
Attachments: OEM Weekly - January 26 2017.docx

AA Level Hot Topics

Regulations Implementation Division (RID)

CERCLA/EPCRA Farms Guidance (revisions to last week's update are in blue)

- Agricultural stakeholders will be required to report releases of hazardous substances from animal waste once the DC Circuit Court issues a mandate that vacates the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and Emergency Planning and Community Right-to-know Act (EPCRA) administrative reporting exemption.

Deliberative Process / Ex. 5

- **Outreach-** Communication materials have been distributed to regional staff and stakeholders. OEM participated in calls with stakeholders this week including the American Farm Bureau on 1/22; Association of Clean Water Administrators on 1/24 and USDA Agricultural Research Service on 1/25.
- **National Response Center (NRC)**- The NRC will not be answering calls from farm owners/operators who are calling to report a continuous release. They will only be accepting emails to farms@uscg.mil. The NRC will direct all telephone the calls from farm owners/operators to the EPA EPCRA, Risk Management Program and Oil Information Center. OEM has expanded our contract with the Information Center to include taking the farm owner/operator NRC notifications. However, this is outside their area of expertise and their system has limited capacity.

Deliberative Process / Ex. 5

For more information, contact Kim Jennings at 202-564-7998, Sicy Jacob at 202-564-8019 or Patty Gioffre at 202-564-1972.

From: Indermark, Michele
Sent: Thursday, January 25, 2018 10:13 AM
To: OLEM OEM Everyone <OLEMOEMEveryone@epa.gov>; OLEM IO Materials <OLEMIOMaterials@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>
Subject: OEM Weekly Report to OLEM for January 26

Attached is OEM's report for the week of January 22 – January 26. Please contact me if you need additional information.

D. Michele Indermark
HQ EPA
OLEM/OEM
Special Assistant
WJCN 1448C
(w) 202-564-0794
Indermark.michele@epa.gov

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 11/2/2017 4:34:18 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM Weekly Report for week ending November 3, 2017
Attachments: OEM Weekly November 3 - 2017a.docx

Risk Management Plan (RMP) Rule

- Deliberative Process / Ex. 5
- **Litigation Support-** RID is providing technical support to OGC and DOJ on responding to litigation on the RMP delay rule. A group of petitioners, led by Air Alliance Houston, is challenging the final rule which delays the effective date of the RMP Amendments rule to February 19, 2019. Based on an expedited briefing schedule, DOJ/EPA expects to file a brief on December 8, 2017.
- Deliberative Process / Ex. 5 Deliberative Process / Ex. 5 For more information, contact Jim Belke at 202-564-8023 or Kim Jennings at 202-564-7998.

CERCLA/EPCRA Farms Guidance

- On October 25th EPA posted the CERCLA/EPCRA farm guidance on the website. RID is conducting outreach with industry stakeholders in order to respond to questions and concerns. The guidance is available at https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms. For more information, contact Sicy Jacob at 202-564-8019 or Patty Gioffre at 202-564-1972.

Updated Mexico-US Joint Contingency Plan (JCP)

- On October 31, PROD briefed the U.S. Co-Chair for the Emergency Preparedness and Response Border-wide Workgroup, Reggie Cheatham, OEM Director, on the recently updated Mexico-US Joint Contingency Plan (JCP) that is ready to be signed and implemented. The updated JCP has a robust binational notification system that has been restructured to reflect lessons learned from actual emergencies and notification drills. The changes to the notification system were coordinated with the National Response Center, the National Communications Center (CENACOM) in Mexico City as well as with our EPA Regional colleagues in Regions 6 and 9. Extensive reviews were conducted by OGC regulation experts, the International Law office in addition to the Office of International and Tribal Affairs and the Department of State. Contact: Beatriz Oliveira, 202-564-2080.

From: Williams, Doris
Sent: Thursday, November 02, 2017 12:28 PM
To: Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Perovich, Gina

<Perovich.Gina@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Whittle, Sandra <Whittle.Sandra@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Pollard, Marcia <Pollard.Marcia@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; McCollum, Harriet <McCollum.Harriet@epa.gov>; Pettit, Jonathan <Pettit.Jonathan@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>; Beasley, Craig <Beasley.Craig@epa.gov>; Easter, Patrick <Easter.Patrick@epa.gov>; Lee, Eugene <Lee.Eugene@epa.gov>; Oh, Peter <Oh.Peter@epa.gov>; Oliveira, Beatriz <Oliveira.Beatriz@epa.gov>; Vescio, Joseph <Vescio.Joseph@epa.gov>; Boynton, Lisa <Boynton.Lisa@epa.gov>; Casillas, Laura <Casillas.Laura@epa.gov>; Faulkner, Mike <Faulkner.Mike@epa.gov>; Grier, Tim <Grier.Tim@epa.gov>; Ridenour, Steve <Ridenour.Steve@epa.gov>; Runge, Roberta <Runge.Roberta@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; OLEM OEM RMD <OLEM_OEM_RMD@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>
Subject: OEM Weekly Report for week ending November 3, 2017

Hello All,

Attached is the OEM Weekly Report.

Doris D. Williams, Executive Assistant
Office of Emergency Management, USEPA
202-564-0053(O); 202-564-9400 (M)
Williams.doris@epa.gov

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 4/20/2018 2:45:27 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]
Subject: RE: Need document for OMB!
Attachments: Summary of EPCRA QA&A comments 4-20-18.docx

This should address the EPCRA Q&A comments. This is only a summary of comments. I also included general comments from citizens opposed to relief on reporting to be conservative.

Patty Gioffre
USEPA/OLEM/OEM/RID
202-564-1972
202-748-7139 (cell)

From: Cogliano, Gerain
Sent: Friday, April 20, 2018 9:51 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>
Subject: Re: Need document for OMB!

ok

From: Gioffre, Patricia
Sent: Friday, April 20, 2018 9:50 AM
To: Cogliano, Gerain
Cc: Jennings, Kim
Subject: RE: Need document for OMB!

Well. We don't have a comment response document. We have a summary of comments that have not gone through any interagency review.

Since the majority of comments are on the CERCLA requirements to report, many no longer apply. I will pull together the comments on the EPCRA Q&A only. Give me a little time.

Patty Gioffre
USEPA/OLEM/OEM/RID
202-564-1972
202-748-7139 (cell)

From: Cogliano, Gerain
Sent: Friday, April 20, 2018 8:56 AM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>
Subject: Need document for OMB!
Importance: High

Hi Patty,

Danielle just asked for the comment response document based on the comments received on the animal waste farms website. She wants to send it to the interagency reviewers as a background doc---not anything to comment on.

Thanks.

Gerain

Summary Compilation of Comments Received on EPCRA FAQ on Animal Waste Guidance (as of January 12, 2018)

The tables below list the name and/or organization of 29 public commenters by type of commenter (agricultural trade group or farmer, environmental group, other group, and private citizens) who submitted comments via the CERCLA103.guidance@epa.gov email address. Each commenter has a commenter number.

Comments from agricultural trade groups or farmers- total of 8

Blue shading indicates EPCRA comments are identified further in this document.

Commenter number	Commenter Name and/or organization
1	Scott Yager, National Cattlemen's Beef Association (5 pages)
2	Ray Hilburn, Alabama Poultry and Egg Association (2 pages)
3	Jim Magagna, Wyoming Stock Growers Association (1 page)
4	Bill Satterfield, Delmarva Poultry Industry (2 pages)
5	Steven Pratt, Enviro-Ag Engineering (2 pages)
6	Julie McCaleb, individual cattle producer (1 page)
7	Holly Porter, Delmarva Poultry Industry (1 page)
8	Michael Formica, National Pork Producers Council (4 pages)

Comments from environmental or public interest groups- total of 7

Blue shading indicates EPCRA comments are identified further in this document.

Commenter number	Commenter Name and/or organization
9	Katlyn Clark, Waterkeepers Chesapeake (6 pages)
10	Robert Martin, Center for Livable Future, Johns Hopkins Bloomberg School of Public Health (5 pages of comments plus 13 attached technical reports ((670 pages))
11	Jonathan Smith, Earthjustice on behalf of itself, Center for Food Safety, Environmental Integrity Project, Humane Society of the United States, Sierra Club, and Waterkeeper Alliance. (13 pages of comments plus 13 attachment documents- technical reports and prior rulemaking comments (1996 pages))
12	Jonathan J. Smith et al, Earthjustice representing 64 individuals, business owners, and community, health, environmental, religious, and socially responsible agriculture organizations. (6 pages).
13	Tara Heinzen, Food and Water Watch (5 pages)
14	Steve Brittle, Don't Waste Arizona (25 pages)
15	Pam Mackay-Taylor, Iowa Chapter of Sierra Club (3 pages)

Comments from other groups (state organizations or universities)- total of 4

Commenter number	Commenter Name and/or organization
16	Richard Stowell, University of Nebraska (1 page)
17	Britt Aasmundstad, National Association of State Departments of Agriculture (2 pages)
18	David Aiken, University of Nebraska (1 page)
19	Doug Goehring, North Dakota Dept. of Agriculture (1 page)

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00025527-00001

Summary Compilation of Comments Received on EPCRA FAQ on Animal Waste Guidance (as of January 12, 2018)

Comments from private citizens- Total of 10

Blue shading indicates EPCRA comments are identified further in this document.

Commenter number	Commenter Name and/or organization
20	Jane Magee, Tonopah, Arizona (2 pages)
21	Margaret Whiting, Waterloo, Iowa (1 page)
22	Linda Butler, Maricopa County, Arizona (3 pages)
23	Sharon Campbell, Arizona (location assumed) (1 page)
24	Elaine Kotzyba-Morgan, Tonopah, Arizona (1 page)
25	Lorna Proper, Arlington, Arizona (2 pages)
26	Lloyd Rogers, west of Phoenix, Arizona (1 page)
27	Bob Walls, Fairfield, Iowa (2 pages)
28	Steven Love, Arlington, Arizona (2 pages_
29	Doris Heisler, Tonopah, Arizona (2 pages)

Summary of Issues Identified in Comments:

Below is a brief list of issues identified by commenters followed by the commenter number in parenthesis.

Emergency response agencies need/use of emissions data

CAFO emissions are also not of concern to local emergency response agencies, they are not high risk and reporting of these emissions is wasting people's time. (6)

EPA should continue to require reporting by AFOs under EPCRA so that reports of hazardous releases will be available to the affected communities and independent experts (10) and to state and local emergency response agencies to further their public health and safety goals. (11) (12) (14) and to take actions in response to emissions that threaten health or safety. (13) Evacuations have been needed to protect public safety from dangerous plumes of hydrogen sulfide. (13)

EPA's new application of the EPCRA "routine agricultural operations" exemption arbitrarily denies state and local agencies critical information while only relieving AFOs minimal added burden of forwarding the same information to three entities instead of one. (11) (12)

Opposition to release reporting exemption under EPCRA

EPA's Guidance largely circumvents the US DC Circuit Court's impetus for requiring CAFOs and AFOs to report hazardous emissions in the first place – to protect communities and provide much needed information for local, state and federal authorities and emergency responders. (9)

There are also concerns with impacts that these hazardous emissions have on regional and local waterways because highly soluble ammonia can be deposited in surrounding water bodies and degrade water quality. Ammonia emissions may also chemically react with atmospheric pollutants, such as NO_x and SO_2 to produce airborne particles can cause regional and national problems downwind. (9)

These emissions estimates also shed light on whether airsheds are meeting all Clean Air Act standards or whether individual facilities should be subject to Clean Air Act major source controls under a state's State Implementation Plan. (13)

Scientific literature on emissions of these substances, reviews of their toxicity, risk exposure levels and related health effects observed in people living or attending school near animal feeding operations (citations to literature provided) demonstrates that multiple risks may be posed by ammonia and hydrogen sulfide releases from animal waste. (10) (11) (14). The court also noted that the risk of harm from AFOs "isn't just theoretical; people have become seriously ill and even died as a result" of their emissions. (12) (27)

EPA's "routine agricultural operations" exemption of emissions reporting of AFOs under EPCRA is unlawful (11) (12) (13)because it is inconsistent with previous EPA statements that this exemption was not the intent of Congress,(11) (12)(13) (27)(14)[1], violates the plain meaning of existing EPCRA exemption (14) (27) because AFOs do not "use" ammonia and hydrogen sulfide, they produce it and emit it into the air (11) (12)(13), is at odds with the D.C. Circuit's Opinion (14) which found that EPA had no "discretion to fashion other exemptions" from CERCLA or EPCRA reporting (11) (12) (13) (27), and violates the Administrative Procedures Act by applying the EPCRA exemption outside of Notice-and-Comment Rulemaking.(11) (12)(13)(27) EPA should revise guidance to eliminate this EPCRA exemption for reporting animal waste emissions from AFOs. (11)(12)(13)(14)

EPA's new application of the EPCRA "routine agricultural operations" exemption interpretation would exempt all AFOs from *all* EPCRA reporting (11).

EPCRA reporting would not place any additional burden on the AFOs, since they must prepare continuous release reports or notifications of changes in releases under CERCLA anyway and can comply with EPCRA by simply forwarding the very same notification, to a federal agency under CERCLA, to the state and local emergency response agencies. (27)

<u>Complaints of health effects caused by CAFOs</u>

The stench on the two-hour drive from Waterloo to Des Moines on Highway 20 West and Interstate 35 South in Iowa as I pass many, many CAFOs is terrible! Some days are worse than others probably depending on which way the wind is blowing, or how much manure has collected in the pits, or if the manure has been spread on the land. Too many children in Iowa have asthma. Since we don't yet have local control of CAFO construction in Iowa, the CAFOs are too close to towns, schools and nursing homes. Please put in place strong rules that protect community health. (21)

There have been many studies connecting ammonia and hydrogen sulfide emissions to serious health conditions, such as exacerbation of asthma, scarring of the respiratory tract, and even death. Many citizens in my rural Iowa community live near these animal factories, and we know firsthand the real meaning of these harms. (27)

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[1] EPA also rejected this argument in Petitioner National Pork Producers Council's ("NPPC's") Western District of Wisconsin challenge to the Final Rule, *National Pork Producers Council v. Jackson*, 638 F. Supp. 2d 1020 (W.D. Wis. 2009).

Many families in our community, including mine, are not only often forced to close our doors and windows to keep the stench out, but also suffer from headaches, asthma and nausea after going outside. Many suffer from burning airways and decreased lung capacity because of the toxic emissions that are being released every day from AFOs in our community. I therefore strongly urge the EPA to revise the Interim Guidance to undo the EPCRA exemption and to require all AFOs to disclose their emissions under both EPCRA and CERCLA. (27)

Issues involving Hickman's Egg Ranch facilities in Arizona

There were many comments opposing the exemption reporting of animal waste emissions under EPCRA and these commenters also had specific issues with emissions and emissions reporting involving two farms in Arizona, Hickman's Egg Ranch in Arlington, AZ and Tonopah, AZ.

Inaccurate reporting

DWAZ is currently conducting citizen suit enforcement of EPCRA Section 304 against Hickman's Egg Ranch, Inc.'s facilities in Maricopa County, Arizona, for failure to provide a written follow-up report for its releases of ammonia. Hickman's CERCLA continuous release reports filed in March 2017 vastly understate the amounts of ammonia being released, as reflected in the Statistically Significant Increase (SSI) reported. These reports even count one facility as two separate facilities, which also violates EPCRA, and the SSI is triggered when the amount of ammonia being reported as released is doubled. Despite this being pointed out to EPA Region 9, there is no response, and no action to correct this. (14)

Application of RQ levels

To my knowledge the current EPA rules state that industries like Hickman's cannot emit more than 100 pounds per day of these gasses. His actual emissions are in the tonnage range according to some documents I obtained. Levels of ammonia and hydrogen sulfide this high would be regarded as TOXIC in other industries requiring the evacuation of the area under the current EPA rules, but this never happens because of Hickman's agriculture exemptions. (28)

Per information that I have read, the Tonopah Hickman operation is producing emissions in excess of the current EPA allowable amounts. Because their current CAFO property was formerly used as a family farm growing crops with an Agricultural Exemption, Hickman's have now expanded their operation to include the CAFO with several million chickens. It is now only about half of the proposed size, according to their development plan, that may contain as many as 8 -12 million chickens in the future. (29)

Health effects, exposed sensitive populations and diminished property values

The undesirable health effects are directly attributed to these CAFOs, like Hickman's in Tonopah and Arlington, AZ. My eyes are watering, I'm coughing, and my sinuses are affected due to unseen emissions from nearby CAFOs. (20)

One agricultural industry that is affecting our community is the Hickman Family Egg Farm. (Tonopah, Arizona) There are over 9 MILLION hens at their two facilities (Tonopah and Arlington) and they have been greatly affecting our health and enjoyment of life. Their facilities are surrounded by homes, and only about ½ mile UPWIND from our main business area. The construction of their hen houses leave the entire east end of the buildings open and the prevailing winds carry their horrible odors, ammonia, dander and toxins directly into the community. These nearby homes have families with children

suffering with bloody noses, trips to the emergency rooms because they can't breathe, nausea from the horrible stench that is causing weight loss, elderly retired people who are now on oxygen because they can't breathe and are not financially able to move. The chance of them even selling their homes is ZERO because no one wants to come out with Realtors to view the homes because of their proximity to the poultry farm. (22)

I recently attended a meeting at an elementary school located near the Hickman's facility in Arlington, AZ. The concentration of ammonia was so high that complaints were filed because it burned eyes and caused respiratory problems. The children attending the preschool and elementary school are being affected by this daily, and emissions are at times so strong that the children have to be kept inside because of the ammonia and horrible stench, causing breathing issues and making children ill. If you can smell ammonia it is already over the safe threshold for children. (22)

Regarding Hickman Manufacturing eggs: I am so tired of getting sick because of the ammonia and feathers flying around they don't respect or care for the people they are affecting and the damage they are causing to everyone in Arlington and Tonopah Arizona. (23)

Regarding Hickman egg ranch in Tonopah, AZ: My nose hurts. I cough and sneeze. I have headaches that I never had before. And it STINKS OF AMMONIA. Help us out here. There is a grammar school and a high school between the chicken factory (501-C) and my home, 6 miles east. These kids and all us old folks are subject to whatever the 10 million chickens expel. There are over 5000 families affected. (24)

As someone who lives within about 3.5 miles of a Super Mega CAFO housing over 5 million chickens known as Hickman's Family Farm in Arlington, Arizona, relieving them from reporting emissions of ammonia and hydrogen sulfide concerns me. There are an Elementary and Preschool about 3 miles from this facility. Hickman's also has a second facility located less than a mile from Saddle Mountain RV Park in Tonopah that is home to winter residents that come from all over North America and comprise of mostly senior citizens. There are also families with children next door to the Tonopah facility. This is a real danger to their health. (25)

My husband and I have been having health issues as these so called "Family Farms" keeps growing unchecked. The odors alone are unbearable when the wind direction is blowing our way, keeping us prisoners in our home. Even when the odor isn't as strong the effects on our bodies is noticeable. We have had burning nostrils and throats. The only evidence of agricultural activity is the thousands of chicken feathers flying around the neighborhood. Not only are they processing the manure from this facility in Arlington, but they truck in the manure from other facilities to be processed here (millions of pounds of manure per year). (25)

I live in a rural community west of Phoenix, Arizona. A few years ago Hickman's Egg Factory built a large plant approximately 7 miles east of our house. Then to enlarge their operation they built another Egg Factory approximately 7 miles to the west of our house. Now we get smell either direction the wind is blowing. We now get the heavy smell of ammonia, and something I call dust that hangs in the air late evening until early morning, with a light stench all day long. It has cause breathing problems with both my wife and I. We have to take allergy medicine to cut back on the runny nose, shortness of breath and coughing. We've notice that our breathing problems also limit the hours we can now work outside. My wife, especially, can't set outside very long or she starts having runny nose or coughing problems. The

flies have moved in since the Egg Factories have started up which almost eliminates the outdoor activates. (26)

Many families in our community, including mine, are not only often forced to close our doors and windows to keep the stench out, but also suffer from headaches, asthma and nausea after going outside. Many suffer from burning airways and decreased lung capacity because of the toxic emissions that are being released every day from AFOs in our community. (27)

I live just 2.50 miles from a chicken CAFO called Hickman's Egg Ranch in Arlington AZ. On some days when the wind is blowing from the direction the Hickman's facility the ammonia and hydrogen sulfide levels are so high that breathing the outside air for more than a few minutes actually burns my nose and throat and I even experience pain in my lungs. On these days I have to wear a respirator to do any outdoor activity. (28)

Not only is Hickman's operations disrupting our quality of life but it has also destroyed our property values. My parents and I are currently trying to sell our property to move away from Hickman's, but after 2 years of trying to sell our realtor has told us that Hickman's presence is the reason why nobody wants to buy our property at a price we need to move. This is why I and others in the community are currently suing Hickman's, not only for violating the CERCLA and EPCRA rules but also for being a pure nuisance to the community. (28)

I have been keeping a journal since April of 2017 documenting all the days ammonia and hydrogen sulfide have reach levels in my area that made it painful to breathe the outside air. And on some days the levels were so high that it actually invaded the inside of my home even with the windows closed. If you want a copy of my journal I will be happy to send it to you as a PDF file. (28)

My throat, head, and sinuses burn and become irritated and inflamed, and I cough and sneeze from the irritants in the air that I am breathing on a daily basis. Their site is only 1/2-mile from our small "downtown" businesses, and in a residential area. (29)

We have had lawsuits filed against them since primarily their Tonopah operation inception, and there are currently lawsuits against them due to the overabundance of toxic emissions being produced and emitted into the air and settling on the ground and other areas, as well as being a nuisance to us and our community. Due to the health concerns and restrictions it has placed on us to be able to enjoy our homes and properties, their CAFO has also had a negative impact on our home and property values. We strongly request that the recent proposals to relax the rules for reporting Ammonia, hydrogen sulfide and other noxious gasses emitted by CAFO operations not be allowed to happen. (29)

Air monitoring data

In 2018 [sic] the ADEQ (AZ Dept. of Environmental Quality) was concerned enough about the ammonia levels that they modeled the ammonia dispersion from the Tonopah and Arlington Hickman egg facilities. They estimated 1910 pounds/day of ammonia releases from the Tonopah facility and 3653 pounds/day of ammonia releases from the Arlington facility. That did not even include any releases of ammonia from the rotary dryer used to burn/ dry manure which could add hundreds of pounds of ammonia / day. Their model shows the danger of ammonia in the area where the Arlington Elementary school is located. This higher concentration of ammonia is up to 3 times the chronic exposure standard.

Maricopa County currently only monitors hydrogen sulfide and completely ignores the monitoring of ammonia. (22)

Manure processing in rotary kiln

I believe that the importation of manure from other facilities and processing it into organic fertilizer to be sold would take Hickman's Eggs out of agricultural and into the realm of industrial and/or manufacturing. Rumor has it that they make more money off of the fertilizer business than off the eggs. What about all the pollutants and noxious emissions from constantly stirring and baking manure in a rotary kiln? This has been known to belch brown smoke high into the air. The last 4 weeks have been horrible. I have had several asthma attacks after being outside my door for under 10 minutes. I have been suffering with nasal and chest congestion, coughing and sneezing all because the weather has changed a bit and the cooler air and wind direction is leaving us at the mercy of ammonia, hydrogen sulfide and God only knows what other pathogens. I do know that there is particulate matter in the air as we can see the results of the farm stirring and drying the thousands of pounds of manure that is being turned into fertilizer. (25)

Compilation of public comment excerpts

Below is a compilation of excerpts from public comments received through the CERCLA103guidance@epa.gov email that are relevant to the EPCRA release reporting guidance. Some of the excerpts have been paraphrased for brevity and to eliminate redundant discussion. The comment excerpts appear in comment number order with the comment number in parenthesis after each comment.

Comment excerpts from National Cattlemen's Beef Association (1)

The Agency's Q&A on EPCRA Reporting Requirements (the guidance), which defines the "routine agricultural operation" exemption is extremely helpful in providing clarity to livestock producers. EPA's guidance on EPCRA reporting for routine agricultural operations is substantially and procedurally legal. NCBA urges EPA to begin the rulemaking process. As stated previously, interpretative guidance does not have the long-term stability of a final rule, and cattle producers need certainty. (1)

EPA should develop an agency interpretation on the effect of the "normal application of fertilizer" and other statutory exemptions such as "naturally occurring substance" which exist under CERCLA that could apply to agriculture. (1)

Comment excerpts from Julie McCaleb, individual cattle producer (6)

The requirement is an overreach of the intent of the EPCRA/CERCLA law and emergency managers and fire departments don't care to know what cows are emitting of ammonia on pasture. CAFO emissions are also not of concern to local emergency response agencies, they are not high risk and reporting of these emissions is wasting people's time. (6)

Comment excerpts from Waterkeepers Chesapeake (9)

On April 11th 2017, the United States D.C. Circuit Court of Appeals found that EPA had unlawfully exempted CAFOs and AFOs from the reporting requirements outlined in CERCLA §103 and EPRCA §304. While the decision was meant to close an EPA loophole that has long exempted CAFOs and AFOs from

reporting the same hazardous substances – like ammonia and hydrogen sulfide – as other industries, EPA's Guidance largely circumvents the US DC Circuit Court's impetus for requiring CAFOs and AFOs to report hazardous emissions in the first place – to protect communities and provide much needed information for local, state and federal authorities and emergency responders. (9)

In addition to human health impacts, we are generally concerned with the impacts that these hazardous emissions have on regional and local waterways. For instance, ammonia is highly soluble and will deposit in surrounding water bodies and degrade water quality. Ammonia, in its gaseous form, can deposit close to the source of emissions - causing local water quality issues in addition to downstream impacts (for example, in the Chesapeake Bay). Ammonia may also produce secondary particles due to its ability to chemically react with atmospheric pollutants, such as NO_x and SO_2; these particles can travel long distances and cause regional and national problems downwind. (9)

Comment excerpts from Johns Hopkins Bloomberg School of Public Health (10)

EPA should take account of the scientific literature on emissions of these substances, reviews of their toxicity, and related health effects observed in people living or attending school near animal feeding operations (citations to literature provided). This literature demonstrates that multiple risks may be posed by ammonia and hydrogen sulfide releases from animal waste. It makes clear the importance of public access, including access by affected communities and independent experts, to information about these releases. We urge EPA to continue to require reporting by animal feeding operations under the Emergency Planning and Community Right-to-Know Act (EPCRA) so that reports of hazardous releases will be available to the public. (10)

Comment excerpts from Earthjustice on behalf of six organizations (11)

Federal law requires AFOs to disclose their emissions under both CERCLA and EPCRA. EPA's unlawful expansion of one of EPCRA's narrow reporting exemptions denies state and local emergency response agencies—and the communities they serve—information that is critical to protect safety and health. Many of these issues were raised during EPA's related 2008 rulemaking to exempt AFOs from release reporting, but that rule was struck down as illegal by the D.C. Circuit earlier this year.

Relevant documents from that rulemaking docket (attached) documents show that state and local emergency response agencies found this disclosure of pollutant information from AFOs useful for them to further their public health and safety goals. Communities across the country also commented in support of disclosure of the toxic pollutants emanating from nearby AFOs. Multiple studies in the record show that ammonia and hydrogen sulfide emissions from AFOs have serious health impacts on communities. (11)

Under the guise of instructing AFOs on how to comply with EPCRA, the Interim Guidance instead directs AFOs *not to comply* with that statute which is inconsistent with EPA's 2008 statement that "there is no indication that Congress meant to exclude emissions from manure from [EPCRA] reporting requirements" was a "direct response" to industry's theory that AFOs are exempt from EPCRA reporting because of the "routine agricultural operations" provision. The Interim Guidance would impermissibly exempt *all* AFOs from *all* EPCRA reporting, even though the 2008 illegal Final Rule still required Large AFOs to disclose releases from animal waste into the air under EPCRA, and required all AFOs to disclose releases into media other than air (*e.g.*, water) or from sources other than animal waste (*e.g.*, ammonia

tanks). Prior to the issuance of the D.C. Circuit's mandate, EPA must revise its Interim Guidance to (1) to do away with the total EPCRA Exemption and require AFOs to report under *both* CERCLA and EPCRA. (11)

The commenter presents detailed arguments against legality of the EPCRA exemption, concluding that the exemption violates the plain meaning of EPCRA's exclusion of "[a]ny substance to the extent it is used in routine agricultural operations" from the definition of "hazardous chemical" and is at odds with the D.C. Circuit's Opinion. The EPCRA exemption violates the Administrative Procedure Act. It arbitrarily denies state and local agencies critical information while only relieving AFOs minimal added burden of forwarding the same information to three entities instead of one. The exemption Violates Rulemaking Procedure by applying the EPCRA Exemption outside of notice-and-comment rulemaking, (11)

<u>Comment excerpts from Earthjustice on behalf of 64 individuals, businesses and organizations (12)</u>

We strongly oppose the Interim Guidance's total exemption of AFOs from reporting under EPCRA. This illegal EPCRA exemption denies state and local emergency response agencies and the communities they serve basic information about polluting facilities within their jurisdictions. EPCRA reporting would place no additional burden on the AFOs that must prepare continuous release reports or notifications of changes in releases under CERCLA anyway. (12)

EPA has previously rejected this legal theory used for the EPCRA at least three times. The exemption is contrary to the plain language of the statute and violates even the court ruling, which found that EPA had no "discretion to fashion other exemptions" from CERCLA or EPCRA reporting because those statutes contain "sweeping reporting mandate[s]" with no "language of delegation" to EPA. The court also noted that the risk of harm from AFOs "isn't just theoretical; people have become seriously ill and even died as a result" of their emissions. (12)

EPA guidance that AFOs need not report under EPRCRA now, prior to the conclusion of a promised "rulemaking to clarify" the EPCRA exemption, violates the Administrative Procedure Act ("APA") and further deprives neighbors and community members the chance to object before this unfair and dangerous loophole takes effect. We strongly urge EPA to revise the Interim Guidance to undo the EPCRA exemption and require all AFOs to disclose their emissions under both EPCRA and CERCLA. (12)

<u>Comment excerpts from Food and Water Watch (13)</u>

The new EPCRA exemption for all AFO emissions is plainly unlawful, circumvents the D.C. Circuit Court of Appeals' recent decision and based on an implausible reading of EPCRA's statutory language. AFOs do not "use" ammonia and hydrogen sulfide, they produce it and emit it into the air that rural communities breathe. This pollution is clearly outside the scope of the statute's limited exemption from the definition of "hazardous chemical" for "substance[s] . . . used in routine agricultural operations," and thus reporting is required for all AFOs emitting at or above the reportable quantity of ammonia or hydrogen sulfide. Moreover, as discussed by Earthjustice and incorporated herein by reference, EPA has properly rejected this untenable industry reading of the statute multiple times. (13)

The new EPCRA exemption does not allow the public the opportunity to weigh in before facilities rely on it to avoid complying with the statute's clear reporting requirements. This amounts to a rulemaking without proper notice and comment, in violation of the Administrative Procedure Act. The agency's

stated intent to conduct a future rulemaking to formalize this new interpretation does not remedy its violation of federal law. (13)

The new EPCRA exemption undermines Congress' primary intent of EPCRA and rural communities' right to know what factory farms are exposing them to. Citizens who experience the harmful effects of ammonia and hydrogen sulfide gas – ranging from respiratory symptoms, nausea, and headaches to exacerbated asthma, eye irritation, and effects on mood – often have absolutely no access to useful information about the sources of the pollution or whether levels of these toxic gases exceed relevant health standards. These emission estimates also shed light on whether airsheds are meeting all Clean Air Act standards or whether individual facilities should be subject to Clean Air Act major source controls under a state's State Implementation Plan. Emergency response authorities also rely directly on EPCRA reports to take appropriate actions in response to emissions that threaten health or safety. Emissions from AFOs have given rise to such situations, necessitating evacuations to protect public safety from dangerous plumes of hydrogen sulfide. (13)

Comment excerpts from Don't Waste Arizona (14)

This proposed guidance ignores the plain language of the EPCRA statutes, and the intent of the law, which is to provide citizens with easy access to critical information about the potential impacts of hazardous chemicals released in their communities and the threats posed by these hazardous chemicals that may be stored or transported through their communities. This proposal appears to be a deliberate attempt to subvert the law and the rights of citizens to get this information required by EPCRA. This proposed guidance also ignores the specific language of the recent (April 2017) DC Court of Appeals ruling that threw out the CERCLA reporting exemption for Concentrated Animal Feed Operations (CAFOs) that EPA adopted in 2008. (14)

DWAZ is currently conducting citizen suit enforcement of EPCRA Section 304 against Hickman's Egg Ranch, Inc.'s facilities in Maricopa County, Arizona, for failure to provide a written follow-up report for its releases of ammonia. (14)

DWAZ incorporates excerpts from Waterkeeper's Response arguments in its comments on EPA'S October 25, 2017 Interim Guidance and EPCRA Q&A, which disagrees with exempting *all* AFOs from *all* EPCRA reporting. Commenter notes that prior to the issuance of the Interim Guidance, EPA had expressly and repeatedly rejected the EPCRA theory it now espouses. Third, EPA also rejected this argument in Petitioner National Pork Producers Council's ("NPPC's") Western District of Wisconsin challenge to the Final Rule, *National Pork Producers Council v. Jackson*, 638 F. Supp. 2d 1020 (W.D. Wis. 2009). (14)

The commenter re-state the main arguments that Waterkeeper made to the court which were that the Court should clarify that its mandate does not allow for EPA's new EPCRA Exemption. Waterkeeper emphasized that the Court opinion forecloses the interpretation of EPCRA set forth in the Interim Guidance and EPCRA Q&A, the Court already implicitly rejected EPA's new interpretation of EPCRA and EPA's new interpretation cannot be squared with the plain meaning of EPCRA. (14)

Comment excerpts from Jane Magee, Tonopah, Arizona (20)

It is with hopefulness that you pay attention to the comments by the citizens who are adversely affected by CAFOS and the exemption of public reporting through EPCRA. The lack of not enforcing CAFOs to

report emissions has made the EPA grossly negligent in protecting the public and has contributed to harming many people. The dangers of these emissions have been documented. The undesirable health effects are directly attributed to these CAFOs, like Hickmans in Tonopah and Arlington, AZ. My eyes are watering, I'm coughing, and my sinuses are affected due to unseen emissions from nearby CAFOs. (20)

Comment excerpts from Margert Whiting, Waterloo, Iowa (21)

I drive often from Waterloo to Des Moines on Highway 20 West and Interstate 35 South, and I pass many, many CAFOs on the two-hour drive. The stench is terrible! Some days are worse than others probably depending on which way the wind is blowing, or how much manure has collected in the pits, or if the manure has been spread on the land. (21)

There are many times more hogs in Iowa than people in Iowa (3 million people and 23 million hogs

expected to grow to 30 million). This a lot of untreated manure putting toxins in our air and water.

The ammonia and hydrogen sulfide are toxic to our health. Too many children in Iowa have asthma. Since we don't yet have local control of CAFO construction in Iowa, the CAFOs are too close to towns, schools and nursing homes. Please put in place strong rules that protect community health. (21)

Comment excerpts from Linda Butler, Maricopa County, Arizona (22)

The CERCLA / EPCRA changes you're proposing for AFO's & CAFO's are very disturbing and

dangerous to the health of the public. It takes away the public's right to know about releases of dangerous chemicals like ammonia and hydrogen sulfide in our community. One agricultural industry that is affecting our community is the Hickman Family Egg Farm. (Tonopah, Arizona) There are over 9 MILLION hens at their two facilities (Tonopah and Arlington) and they have been greatly affecting our health and enjoyment of life. Their facilities are surrounded by homes, and only about ½ mile UPWIND from our main business area. The construction of their hen houses leaves the entire east end of the buildings open and the prevailing winds carry their horrible odors, ammonia, dander and toxins directly into the community. These nearby homes have families with children suffering with bloody noses, trips to the emergency rooms because they can't breathe, nausea from the horrible stench that is causing weight loss, elderly retired people who are now on oxygen because they can't breathe and are not financially able to move. The chance of them even selling their homes is ZERO because no one wants to come out with Realtors to view the homes because of their proximity to the poultry farm. . We have attended Board of Supervisor meetings to complain and also ask for help. There have been close to 300 complaints filed with Maricopa County Air Quality Dept. as well as the Arizona Department of Air Quality. Nothing has been done to improve our living conditions because those departments keep quoting the EPA's indecision to enforce pollution standards. (22)

This agri-industry is currently being sued because it refuses to comply with Federal EPCRA regulations requiring documentation on their Toxic Release, and they have even admitted they exceed the minimum reporting threshold. Again, nothing is being done to hold them accountable.

I recently attended a meeting at an elementary school located near the Hickman's facility in Arlington. The concentration of ammonia was so high that complaints were filed because it burned eyes and caused respiratory problems. The children attending the preschool and elementary school are being affected by this daily, and emissions are at times so strong that the children have to be kept inside

because of the ammonia and horrible stench, causing breathing issues and making children ill. If you can smell ammonia it is already over the safe threshold for children. (22)

In 2018 the ADEQ (AZ Dept. of Environmental Quality) was concerned enough about the ammonia levels that they modeled the ammonia dispersion from the Tonopah and Arlington Hickman egg facilities. They estimated 1910 pounds/day of ammonia releases from the Tonopah facility and 3653 pounds/day of ammonia releases from the Arlington facility. That did not even include any releases of ammonia from the rotary dryer used to burn/ dry manure which could add hundreds of pounds of ammonia / day. Their model shows the danger of ammonia in the area where the Arlington Elementary school is located. This higher concentration of ammonia is up to 3 times the chronic exposure standard.

Maricopa County currently only monitors hydrogen sulfide and completely ignores the monitoring of ammonia. Because of the EPA's inability to put a Statute "on the books" the County is even trying to eliminate any monitoring of hydrogen sulfide and will also remove any restriction on Odors or Gaseous emissions. Emission requirements need to be strengthened instead of weakened. We are losing any ability to hold the County or the State accountable for protecting our health because of the EPA's negligence. I oppose the exemption from CAFO's / AFO's having to report under the EPCRA regulations. We need to be able to know what toxic chemicals are being released in our community, and we need to be able to hold those polluting industries accountable. (22)

<u>Comment excerpts from Sharon Campbell, Arizona (assumed) (23)</u>

Regarding Hickman Manufacturing eggs: I am so tired of getting sick because of the ammonia and feathers flying around they don't respect or care for the people they are affecting and the damage they are causing to everyone in Arlington and Tonopah Arizona. (23)

<u>Comment excerpts from Elaine Kotzyba-Morgan, Tonopah, Arizona (24)</u>

Regarding Hickman egg ranch in Tonopah, AZ: My nose hurts. I cough and sneeze. I have headaches that I never had before. And it STINKS OF AMMONIA. Help us out here. There is a grammar school and a high school between the chicken factory (501-C) and my home, 6 miles east. These kids and all us old folks are subject to whatever the 10 million chickens expel. There are over 5000 families affected. (24)

<u>Comment excerpts from Lorna Proper, Arlington, Arizona (25)</u>

I am frustrated by your current plan to relieve AFO's and CAFO's from reporting their emissions of ammonia and hydrogen sulfide. As someone who lives within about 3.5 miles of a Super Mega CAFO housing over 5 million chickens known as Hickman's Family Farm in Arlington, Arizona, this concerns me. There are an Elementary and Preschool about 3 miles from this facility. Hickman's also has a second facility located less than a mile from Saddle Mountain RV Park in Tonopah that is home to winter residents that come from all over North America and comprise of mostly senior citizens. There are also families with children next door to the Tonopah facility. This is a real danger to their health. (25)

My husband and I have been having health issues as these so called "Family Farms" keeps growing unchecked. The odors alone are unbearable when the wind direction is blowing our way, keeping us prisoners in our home. Even when the odor isn't as strong the effects on our bodies is noticeable. We have had burning nostrils and throats. The only evidence of agricultural activity is the thousands of chicken feathers flying around the neighborhood. Not only are they processing the manure from this

facility in Arlington, but they truck in the manure from other facilities to be processed here (millions of pounds of manure per year). (25)

I believe that the importation of manure from other facilities and processing it into organic fertilizer to be sold would take them out of agricultural and into the realm of industrial and/or manufacturing. Rumor has it that they make more money off of the fertilizer business than off the eggs. What about all the pollutants and noxious emissions from constantly stirring and baking manure in a rotary kiln? This has been known to belch brown smoke high into the air. The last 4 weeks have been horrible. I have had several asthma attacks after being outside my door for under 10 minutes. I have been suffering with nasal and chest congestion, coughing and sneezing all because the weather has changed a bit and the cooler air and wind direction is leaving us at the mercy of ammonia, hydrogen sulfide and God only knows what other pathogens. I do know that there is particulate matter in the air as we can see the results of the farm stirring and drying the thousands of pounds of manure that is being turned into fertilizer. (25)

There is a need and reason for the reporting rules of EPCRA – the Emergency Planning and Community Right-to-Know Act and CERCLA – Comprehensive Environmental Response, Compensation, and Liability Act. Where are we to go and what recourse do we have if the agency whose job is to protect our environment is turning a blind eye to the situation. Super CAFO's should not be exempted. (25)

A typical small family farm can operate without serious consequences to the environment because the quantities of ammonia and hydrogen sulfide and other emissions can easily be dissipated. When you start packing millions of chickens in a concentrated situation, while it may be great for the so-called farmer, the environment can no longer manage to dissipate these enormous amounts of emissions. There can be no doubt that they are exceeding the reportable and hazardous emissions of ammonia over the 100 pounds per day. It would be unreasonable to think that they would be even under 1000 pounds per day. Why is it that a refrigerant technician can be held accountable for small releases of refrigerants of which ammonia is one and these CAFO's can release thousands of pounds without consequence? (25)

<u>Comment excerpts from Lloyd Rogers, west of Phoenix, Arizona (26)</u>

I live in a rural community west of Phoenix, Arizona. A few years ago, Hickman's Egg Factory built a large plant approximately 7 miles east of our house. Then to enlarge their operation they built another Egg Factory approximately 7 miles to the west of our house. Now we get smell either direction the wind is blowing. We now get the heavy smell of ammonia, and something I call dust that hangs in the air late evening until early morning, with a light stench all day long. It has cause breathing problems with both my wife and I. We have to take allergy medicine to cut back on the runny nose, shortness of breath and coughing. We've notice that our breathing problems also limit us to the amount of hours we can now work outside. My wife, especially, can't set outside very long or she starts having runny nose or coughing problems. The flies have moved in since the Egg Factories have started up which almost eliminates the outdoor activates. Our community would like to have our quality of life back before it's so far gone we'll never retrieve what we've lost. I am now hearing that the EPA wants to change the rules and exempt business from reporting problems. This is a total mistake because unless you live in one of these areas you have no idea how bad things really are. I want to know if any company is polluting our

neighborhood. If the EPA would crack down on those violators that disregard people for profit, things would be cleaned up and we could have a great neighborhood again. (26)

Comment excerpts from Bob Walls, Fairfield, Iowa (27)

I strongly oppose the Interim Guidance's total exemption of AFOs from reporting under the EPCRA which would again illegally deny state and local emergency response agencies, and the communities they serve, basic information about polluting facilities within their jurisdictions.

Furthermore, EPCRA reporting would not place any additional burden on the AFOs, since they must prepare continuous release reports or notifications of changes in releases under CERCLA anyway. Therefore, facilities are able to comply with EPCRA simply by forwarding the very same notification, which is already being sent to a federal agency under CERCLA, to the state and local emergency response agencies. (27)

Congress long ago passed legislation making it clear that communities deserve to know what toxic chemicals are being released nearby. Communities have waited for these protections for over a decade, and the EPA should not take them away again. (27)

EPA has previously rejected the legal theory used in the new EPCRA exemption theory at least three times. The exemption is contrary to the plain language of the statute and violates the court ruling. In vacating the EPA's prior attempt to exempt AFOs from release reporting, the court found that the EPA had no "discretion to fashion other exemptions" from CERCLA or EPCRA reporting because those statutes contain "sweeping reporting mandate[s]" with no "language of delegation" to the EPA. (27)

EPA's allowing AFOs not to report under EPRCRA, pending the conclusion of a promised "rule-making to clarify" the EPCRA exemption violates the Administrative Procedure Act ("APA") and further depriving affected communities the chance to object before this unfair and dangerous loophole takes effect. (27)

When the D.C. Circuit Court struck down the EPA's last illegal disclosure exemption, the court noted that the risk of harm from AFOs "isn't just theoretical; people have become seriously ill and even died as a result of their emissions." Many families in our community, including mine, are not only often forced to close our doors and windows to keep the stench out, but also suffer from headaches, asthma and nausea after going outside. Many suffer from burning airways and decreased lung capacity because of the toxic emissions that are being released every day from AFOs in our community. I therefore strongly urge the EPA to revise the Interim Guidance to undo the EPCRA exemption and to require all AFOs to disclose their emissions under both EPCRA and CERCLA. (27)

Comment excerpts from Steven Love, Arlington, Arizona (28)

I live just 2.50 miles from a chicken CAFO called Hickman's Egg Ranch in Arlington AZ. That might seem like a long distance but it is not. On some days when the wind is blowing from the direction the Hickman's facility the ammonia and hydrogen sulfide levels are so high that breathing the outside air for more than a few minutes actually burns my nose and throat and I even experience pain in my lungs. On these days I have to wear a respirator to do any outdoor activity. (28)

To my knowledge the current EPA rules state that industries like Hickman's cannot emit more than 100 pounds per day of these gasses. His actual emissions are in the tonnage range according to some documents I obtained. Levels of ammonia and hydrogen sulfide this high would be regarded as TOXIC in

other industries requiring the evacuation of the area under the current EPA rules, but this never happens because of Hickman's agriculture exemptions. (28)

Not only is his operations disrupting our quality of life but he has also destroyed our property values. Me and my parents are currently trying to sell our property to move away from Hickman's, but after 2 years of trying to sell our realtor has told us that Hickman's presence is the reason why nobody wants to buy our property at a price we need to move. This is why I and others in the community are currently suing Hickman's, not only for violating the CERCLA and EPCRA rules but also for being a pure nuisance to the community. If you relax the EPCRA AND CERCLA rules all you will do is allow CAFOs like Hickman's to further destroy our communities with impunity. (28)

I have been keeping a journal since April of 2017 documenting all the days ammonia and hydrogen sulfide have reach levels in my area that made it painful to breathe the outside air. And on some days the levels were so high that it actually invaded the inside of my home even with the windows closed.

If you want a copy of my journal I will be happy to send it to you as a PDF file. (28)

Comment excerpts from Doris Heisler, Tonopah, Arizona (29)

I am a neighbor to the Hickman Egg Facility at Tonopah, AZ. -- residing only about 1/2 mile from the factory operation. I have been experiencing problems with odors, feathers, and dander, as well as manure and feather particulates, and other issues both outside and inside of my home since Hickman's facility located near me. With an apparent abundance of Ammonia, hydrogen sulfide, and other noxious gasses being emitted into the air by their CAFO operation (per information that I read earlier), it does present a health risk to me and other residents living nearby, as well as to our community.

My throat, head, and sinuses burn and become irritated and inflamed, and I cough and sneeze from the irritants in the air that I am breathing on a daily basis. Per information that I have read, the Tonopah Hickman operation is producing emissions in excess of the current EPA allowable amounts. Because their current CAFO property was formerly used as a family farm growing crops with an Agricultural Exemption, Hickman's have now expanded their operation to include the CAFO with several million chickens. It is now only about half of the proposed size, according to their development plan, that may contain as many as 8 -12 million chickens in the future. This is all because they were able to include all of the CAFO operations to the original agriculture exemption for growing crops for resale, through Maricopa County. Their site is only 1/2-mile from our small "downtown" businesses, and in a residential area. (29)

We have had lawsuits filed against them since primarily their Tonopah operation inception, and there are currently lawsuits against them due to the overabundance of toxic emissions being produced and emitted into the air and settling on the ground and other areas, as well as being a nuisance to us and our community. Due to the health concerns and restrictions it has placed on us to be able to enjoy our homes and properties, their CAFO has also had a negative impact on our home and property values. We strongly request that the recent proposals to relax the rules for reporting Ammonia, hydrogen sulfide and other noxious gasses emitted by CAFO operations not be allowed to happen. (29)

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/26/2017 11:06:39 AM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: Re: EPCRA CERCLA Ag Guidance is now available

You are too kind! Thanks Gerain.

On Oct 26, 2017, at 7:05 AM, Cogliano, Gerain <Cogliano.Gerain@epa.gov> wrote:

Thank **you**, Patty!!!!!!!!!!!!!!!!!!!!!!!!!!!!

It was never in more capable hands!!!!!!!!!!!!

From: Gioffre, Patricia
Sent: Wednesday, October 25, 2017 9:30 PM
To: Swenson, Erik; Lewis, Jen; Salo, Earl; Michaud, John; Jacob, Sicy; Franklin, Kathy; Bosecker, Elizabeth; Principe, Vanessa; Sullivan, Tim; Ziegel, Dean; Beasley, Lynn; Hostage, Barbara; Cogliano, Gerain; Noggle, William; Hull, George; Beaman, Joe; Cooperstein, Sharon; Dunkins, Robin; Costa, Allison; Schrock, Bill
Cc: Clark, Becki; Cheatham, Reggie; Jennings, Kim; Brooks, Becky; Taylor, Trish; Breen, Barry; Simon, Nigel; Darwin, Veronica; Davis, Patrick; Janifer, Pamela; Grantham, Nancy; Gerardin, Margaret; Mayer, Eileen; Indermark, Michele; Hilosky, Nick
Subject: EPCRA CERCLA Ag Guidance is now available

I am pleased to announce that the EPCRA/CERCLA ag guidance is live on the EPA website. To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste, see: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

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CERCLA and EPCRA Reporting Requirements for Air Releases ...

www.epa.gov

On December 18, 2008, EPA published a final rule that exempted all farms from reporting air releases of hazardous substances from animal waste. This final rule ...

Thank you all for your assistance developing this guidance and for your support through the interagency review process. It was a lot of work and we couldn't have done it without your expertise!

Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Appointment

From: Noggle, William [Noggle.William@epa.gov]
Sent: 10/18/2017 5:53:33 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; DeBruhl, Brandon F. EOP/OMB [Brandon_F_DeBruhl@ EOP / Ex. 6]; Laity, Jim A. EOP/OMB [James_A._Laity@ EOP / Ex. 6]USDA Reg [usdareg@obpa.usda.gov]; Mackay, Cheryl (ENRD [Cheryl.Mackay@usdoj.gov]; Waqar, Tayyaba [tayyaba.waqar@sba.gov]; cjz@obpa.usda.gov; RJohansson@oce.usda.gov; Rojas, Pablo EOP/OMB (Intern) [Pablo.Rojas@ EOP / Ex. 6]; Ruggiero, Justin M. EOP/OMB (Intern) [Justin.M.Ruggiero@ EOP / Ex. 6] Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Hull, George [Hull.George@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; eric.t.gormsen@usdoj.gov; Franklin, Kathy [Franklin.Kathy@epa.gov]
CC: Poe, Michael - OBPA, Washington, DC [Michael.Poe@obpa.usda.gov]; Abbott, Linda - OCE [LAbbott@oce.usda.gov]; Adcock, Rebeckah - OSEC, Washington, DC [Rebeckah.Adcock@osec.usda.gov]; Self, Heather - OGC [HEATHER.SELF@OGC.USDA.GOV]; Jiron, Dan - OSEC, Washington, DC [Dan.Jiron@osec.usda.gov]; Rawles, Earnest - FS [erawles@fs.fed.us]; Greg Zwicke [greg.zwicke@ftc.usda.gov]; Glenn Carpenter [glenn.carpenter@wdc.usda.gov]; Reck, William - NRCS, Washington, DC [bill.reck@wdc.usda.gov]; FLINIAU, HOLLY - OGC [HOLLY.FLINIAU@OGC.USDA.GOV]; Barkdull, Sam - OBPA, Washington, DC [Sam.Barkdull@obpa.usda.gov]; Kunickis, Sheryl - OSEC [Sheryl.Kunickis@osec.usda.gov]; Knaebel, David - ARS [David.Knaebel@ARS.USDA.GOV]; Barringer, Jody M. EOP/OMB [Jody_M._Barringer@ EOP / Ex. 6]; Smith, Steven I. - NIFA [sismith@nifa.usda.gov]; Robinson, Mark M. - NIFA [Mark.M.Robinson@nifa.usda.gov]; Chitnis, Parag - NIFA [Parag.Chitnis@nifa.usda.gov]; Matukumalli, Lakshmi - NIFA [lmatukumalli@nifa.usda.gov]

Subject: Ag Guidance - Discuss Interagency Comments on both EPCRA and CERCLA
Attachments: Interagency 0.2_CERCLA 103 Reporting Guidance for Farms_10.18.2017.docx
Location: Conference Number / Ex. 6

Start: 10/18/2017 6:00:00 PM
End: 10/18/2017 7:00:00 PM
Show Time As: Tentative

To all –
This meeting is to discuss interagency comments on the CERCLA and EPCRA Ag Guidance.

Dial in: Conference Number / Ex. 6
Code:

Thanks,
Bill
202-566-1306

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 10/20/2017 7:59:16 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: mtg with OMB and EPA politicals

No worries. I have a summary from David, just checking if I can share it. If not, I can give you a call.

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Cogliano, Gerain
Sent: Friday, October 20, 2017 3:55 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>
Subject: FW: mtg with OMB and EPA politicals

I really did mean to send this to you with the others. Sorry.

From: Cogliano, Gerain
Sent: Friday, October 20, 2017 3:51 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>
Subject: mtg with OMB and EPA politicals

Deliberative Process / Ex. 5

Gerain Cogliano
OLEM's Regulatory Steering Committee Representative

Policy and Regulatory Management Team Leader
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

WJC West Room 4130
Phone Number: 202-566-1929
Fax Number: 202-566-1934
Mail Code: 5103T
cogliano.gerain@epa.gov

For ADP information:
http://intranet.epa.gov/adpilibrary
http://intranet.epa.gov/olem/policy/index.htm

Message

From: Noggle, William [Noggle.William@epa.gov]
Sent: 10/16/2017 5:25:35 PM
To: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: FW: Need verification - OMB review of CERCLA Q&As

fyi

From: Bowman, Liz
Sent: Monday, October 16, 2017 1:24 PM
To: Davis, Patrick <davis.patrick@epa.gov>
Cc: Bolen, Brittany <bolen.brittany@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Noggle, William <Noggle.William@epa.gov>
Subject: Re: Need verification - OMB review of CERCLA Q&As

We are holding on this until we can huddle w David and Brittany on messaging. We want to make some good news here.

Sent from my iPhone

On Oct 16, 2017, at 1:22 PM, Davis, Patrick <davis.patrick@epa.gov> wrote:

> Hi,
>
> May we please post the CERCLA guidance to our website today while the interagency review is occurring? The regulated ag community is expecting it to be posted today so that they can begin educating farmers around the country before they have to comply on November 15.
>
> Thanks,
> Patrick Davis

> **From:** Noggle, William
> **Sent:** Monday, October 16, 2017 9:32 AM
> **To:** Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Rees, Sarah <rees.sarah@epa.gov>; Nickerson, William <Nickerson.William@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hull, George <Hull.George@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>
> **Subject:** Need verification - OMB review of CERCLA Q&As
>
> Patrick, Veronica,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks,
Bill
202-566-1306

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/20/2017 6:28:47 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]
Subject: Interagency Response to EPCRA CERCLA Guidance Comments
Attachments: Waterkeeper EPCRA routine ag Draft 10.20.17.docx; Interagency 0.2_CERCLA 103 Reporting Guidance for Farms_10.20.2017_EPA response.docx

Waiting for confirmation from OGC that it is OK to send the two attachments over to OMB.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 1/4/2018 7:02:51 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OCPA Consolidated Report for January 8 and 15, 2018
Attachments: OCPA consolidated report Jan 8 and Jan 15, 2018.docx

Congressional, State and Local

- ***House Oversight and Government Reform Request*** -- EPA received a request from the House Oversight and Government Reform Committee for information on significant guidance documents the agency has issued since 2008. PARMS provided the information to respond to this request and OCPA sent it OCIR on Thursday 1/4.
- ***Senate EPW Briefing on PFAS*** – The Senate EPW Committee staff have requested a bipartisan briefing on PFAS-related activities, which will be scheduled during the week of 1/8. OW and ORD will be leading the briefing, and PARMs will be representing OLEM.
- ***Bi-Partisan Senate Letter on CERCLA/EPCRA*** – In late December, EPA received letter from a bipartisan group of 11 Senators expressing concerns about EPA's recent CERCLA/EPCRA guidance on reporting requirements for farm waste. In the letter, the Senators ask for a briefing within the next 3 weeks, and responses to 4 questions on how EPA is working with farmers on the new reporting requirement, which is set to take effect on January 22. OEM is developing a response to this letter.

From: Benjamin, Kent
Sent: Thursday, January 04, 2018 1:57 PM
To: OLEM IO Materials <OLEMIOMaterials@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>
Cc: Barolo, Mark <Barolo.Mark@epa.gov>; Bartsch, Charlie <Bartsch.Charlie@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Bergman, Shawna <Bergman.Shawna@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Brockett, Aretha <Brockett.Aretha@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Commodore, Carolin <Commodore.Carolin@epa.gov>; Cooper, GailAnn <Cooper.GailAnn@epa.gov>; Ellenberger, Karen <Ellenberger.Karen@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Hill, Teresa <Hill.Teresa@epa.gov>; Johnson, Barbara A. <Johnson.BarbaraA@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Kafle, Achyut <Kafle.Achyut@epa.gov>; Kenely, Caroline <Kenely.Caroline@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; MaGowan, Maricruz <MaGowan.Maricruz@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; McDonald, Carolyn <McDonald.Carolyn@epa.gov>; ORCR Press <ORCR_Press@epa.gov>; Radtke, Meghan <Radtke.Meghan@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Siedschlag, Gregory <Siedschlag.Gregory@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Sullivan, Karen <Sullivan.Karen@epa.gov>; Sutton, Amanda <Sutton.Amanda@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Thomas, Marc <Thomas.Marc@epa.gov>; Waite, Jacqueline <Waite.Jacqueline@epa.gov>; Young, Dianna <Young.Dianna@epa.gov>; OLEM OCPA <OLEM_OCPA@epa.gov>
Subject: RE: OCPA Consolidated Report for January 8 and 15, 2018

I got so excited about the Super Moon I forgot the attachment.

Kent A. Benjamin, M.S., Dep. Office Director
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management
Tel. 202-564-9095; Mobile: 202-480-4927

Email: *benjamin.kent@epa.gov*
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

From: Benjamin, Kent
Sent: Thursday, January 04, 2018 1:57 PM
To: OLEM IO Materials <OLEMIOMaterials@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>
Cc: Barolo, Mark <Barolo.Mark@epa.gov>; Bartsch, Charlie <Bartsch.Charlie@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Bergman, Shawna <Bergman.Shawna@epa.gov>; Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>; Brockett, Aretha <Brockett.Aretha@epa.gov>; Hoskinson, Carolyn <Hoskinson.Carolyn@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Cohen, Nancy <Cohen.Nancy@epa.gov>; Colip, Matthew <colip.matthew@epa.gov>; Commodore, Carolin <Commodore.Carolin@epa.gov>; Cooper, GailAnn <Cooper.GailAnn@epa.gov>; Ellenberger, Karen <Ellenberger.Karen@epa.gov>; Gartner, Lois <Gartner.Lois@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>; Hill, Teresa <Hill.Teresa@epa.gov>; Johnson, Barbara A. <Johnson.BarbaraA@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Kafle, Achyut <Kafle.Achyut@epa.gov>; Kenely, Caroline <Kenely.Caroline@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Lloyd, David <Lloyd.DavidR@epa.gov>; MaGowan, Maricruz <MaGowan.Maricruz@epa.gov>; Manges, Ellen <Manges.Ellen@epa.gov>; McDonald, Carolyn <McDonald.Carolyn@epa.gov>; ORCR Press <ORCR_Press@epa.gov>; Radtke, Meghan <Radtke.Meghan@epa.gov>; Salyer, Kathleen <Salyer.Kathleen@epa.gov>; Siedschlag, Gregory <Siedschlag.Gregory@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Sullivan, Karen <Sullivan.Karen@epa.gov>; Sutton, Amanda <Sutton.Amanda@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Thomas, Marc <Thomas.Marc@epa.gov>; Waite, Jacqueline <Waite.Jacqueline@epa.gov>; Young, Dianna <Young.Dianna@epa.gov>; OLEM OCPA <OLEM_OCPA@epa.gov>
Subject: OCPA Consolidated Report for January 8 and 15, 2018

Call if you have questions.
Happy New Year on the Gregorian Calendar.
Remember to find time to observe the Red Super Moon on January 31st. Look up in the sky it's a comet, it's a meteor, no it's Super Moon!

Kent A. Benjamin, M.S., Dep. Office Director
Office of Communications, Partnerships and Analysis
Office of Land and Emergency Management
Tel. 202-564-9095; Mobile: 202-480-4927
Email: *benjamin.kent@epa.gov*
FOLLOW OLEM on Twitter @EPAland
"There is a difference between planning and preparing."

COMMENTS ON EPCRA REPORTING EXEMPTION FOR FARMS

(as of December 18, 2017)

Commenters

- Don't Waste Arizona (DWAZ)
- Earthjustice, on behalf of 64 individuals/business owners/organizations
- Environmental health scientists/professors (10) associated with the Johns Hopkins Bloomberg School of Public Health and other institutions (referred to as Johns Hopkins)
- Food & Water Watch, Center for Biological Diversity and Humane Society of the United States (referred to as FWW) (also joined the Earthjustice comments)
- National Association of State Departments of Agriculture
- National Cattlemen's Beef Association
- Private citizens (10)
    - *Note that one of these comment is almost identical to Earthjustice's cover letter
- Waterkeepers Chesapeake (a coalition of 19 Riverkeepers, Shorekeepers and Coastkeepers)

Overarching Topics

- Harm, risk and exposure to farm releases
- Impact of reporting exemption on state and local emergency responders/communities
- Statutory interpretation/legal arguments
- Procedural arguments
- Miscellaneous

Harm, Risk and Exposure to Farm Releases

- **DWAZ**
  - "[T]he scale and scope of these CAFOs present a nuisance and health threat . . . . [W]hen children go outside of the school, and perhaps in and outside of their own homes, they are also being exposed to dangerous levels of ammonia. Ammonia is a corrosive substance and the main toxic effects are restricted to the sites of direct contact with ammonia (i.e., skin, eyes, respiratory tract, mouth, and digestive tract)." (page 6)
  - Discussion of human health impacts/exposure risk of ammonia and hydrogen sulfide; Agency for Toxic Substances and Disease Registry data. (pages 6-9)
  - "Even in 2005, when the first EPA studies began to examine what amounts of ammonia and hydrogen sulfide were being released by the AFOs, there was a stated concern about the potential adverse impacts on public health that these types of facilities might be causing." (page 11)
- **Earthjustice**
  - "Ammonia and hydrogen sulfide emissions can cause serious health impacts such as exacerbation of asthma, scarring of the respiratory tract, and even death." (sign-on comments, page 2)[1]
  - "[T]he D.C. Circuit . . . noted that the risk of harm from AFOs 'isn't just theoretical; people have become seriously ill and even died as a result' of their emissions. Our members can confirm that the harm is very real. We must close our doors and windows to keep out the stench. We get headaches and feel nauseous when we go outside. We suffer from burning airways and decreased lung capacity because of the toxic emissions that emanate from AFOs." (sign-on comments, page 3)
- **FWW**
  - Discusses human health impacts of AFO releases. (page 2)
- **Johns Hopkins**
  - "[T]he agency should take account of the scientific literature on emissions of these substances, reviews of their toxicity, and related health effects observed in people living or attending school near animal feeding operations. This literature demonstrates that multiple risks may be posed by ammonia and hydrogen sulfide releases from animal waste." (page 1)
  - "It is well established that exposure to ammonia and/or hydrogen sulfide can elicit adverse health effects in humans. As EPA itself has concluded, exposure to ammonia threatens the respiratory system, and exposure to hydrogen sulfide harms the respiratory and nervous systems." (pages 2-3, including cites to EPA studies)
- **Private Citizens** (numerous statements re: human health impact/nuisance of farm releases)
- **Waterkeepers Chesapeake**
  - Discusses ammonia's impacts on waterways. (pages 1-2)

---

[1] Earthjustice submitted two comment letters—a cover letter signed by 64 organizations, as well as a more substantive letter (the first document in Volume I of their comments).

Impact of Reporting Exemption on State and Local Emergency Responders/Communities

- **DWAZ**
  - "[T]he information that EPCRA requires is very critically important to affected communities." (page 6)
  - By removing EPCRA reporting requirements, "[t]here is no mechanism for an immediate access to this information by the public and their physicians, if at all. . . . The question also remains about how a member of the public would know how to access this information, or if they would be charged a fee for filing a public records request with EPA and the time it might take to process the request and provide the CERCLA continuous release reports. Meanwhile, the public may need this information very quickly to assist with medical issues. So the result is denying the public its statutory right to know information, perhaps in life and health threatening ways." (page 6)
  - "[T]he data provided by the EPCRA written followup report is very relevant to determining what effects the ammonia being released may be having." (page 7)
  - "The public has a federal right to know this chemical release information." (page 11)
- **Earthjustice**
  - "This illegal EPCRA exemption denies state and local emergency response agencies and the communities they serve basic information about polluting facilities within their jurisdictions. . . . [Communities] deserve to know that their local emergency responders have that information and the reassurance that the responders can effectively protect the communities." (sign-on comments, page 2)
  - "EPA's unlawful expansion of one of EPCRA's narrow reporting exemptions denies state and local emergency response agencies—and the communities they serve—information that is critical to protect safety and health." (page 2)
  - Cites to comments on the 2008 rule attesting to the benefit of the release reports to state and local emergency responders. (page 2)
  - Discusses impact of denying this information to state and local responders, as these entities are best equipped to respond to potentially lethal emissions from AFOs, and that the exemption denies valuable public health information to communities living near AFOs. (pages 10-11)
- **FWW**
  - Discusses importance of release information to communities and emergency response authorities. (page 2)
- **Johns Hopkins**
  - Scientific literature on emissions of these substances "makes clear the importance of public access, including access by affected communities and independent experts, to information about these releases." (pages 1-2)
  - "The conclusions of EPA's toxicological reviews as well as epidemiologic evidence from populations living or attending school near animal feeding operations support the need for public access to information on ammonia, hydrogen sulfide, and other hazardous substances released by animal feeding operations. We urge EPA to

continue to require reporting by these operations under EPCRA so these reports will be available to affected communities and independent researchers." (page 4)

- **Private Citizens** (numerous statements re: the community's right to know about farm releases and the benefit of the EPCRA reporting requirement; statements opposing removing the reporting requirement)
- **Waterkeepers Chesapeake**
  - "EPA's Guidance largely circumvents the Court's impetus for requiring CAFOs and AFOs to report hazardous emissions in the first place – to protect communities and provide much needed information for local, state and federal authorities and emergency responders." (page 1)
  - The reporting exemption circumvents the "D.C. Circuit's goal of informing state and local authorities about dangerous releases from these facilities." (pages 3-4)

<u>Statutory Interpretation/Legal Arguments</u>

- **DWAZ**
  - "This proposed guidance ignores the plain language of the EPCRA statutes, and the intent of the law, which is to provide citizens with easy access to critical information about the potential impacts of hazardous chemicals released in their communities and the threats posed by these hazardous chemicals that may be stored or transported through their communities." (page 2)
  - "When CERCLA and EPCRA were passed decades ago, CAFOs were not contemplated, so there has not been a regulatory adjustment to the reality of a facility that releases large amounts of these dangerous chemicals on a daily basis." (page 7)
  - Includes excerpts from D.C. Circuit case and Waterkeeper's brief challenging EPA's preliminary interpretation. (pages 19-20)
  - "Clearly, EPA's latest scheme to keep information required by EPCRA to be reported to and/or available to affected communities is in the exact same vein as what the DC Court of Appeals has ruled against." (page 20)
- **Earthjustice**
  - "Congress long ago made clear that neighbors and communities deserve to know what toxic chemicals are being released nearby." (sign-on comments, page 2)
  - "The EPCRA exemption proposed in the Interim Guidance is flatly illegal, and EPA itself has previously rejected this legal theory at least three times." (sign-on comments, page 2)
  - "In vacating EPA's prior attempt to exempt AFOs from release reporting, the court found that EPA had no 'discretion to fashion other exemptions' from CERCLA or EPCRA reporting because those statutes contain 'sweeping reporting mandate[s]' with no 'language of delegation' to EPA." (sign-on comments, page 2)
  - The exemption is contrary to the plain language of the statute (pages 7-8) and violates the court's ruling/order (page 9).

  - AFOs *produce* ammonia and hydrogen sulfide as levels exceeding RQs and so must report emissions under EPCRA. (pages 3-4)
  - EPA's EPCRA interpretation is one that EPA has rejected "for nearly a decade." (page 5)
  - "[B]ecause the Interim Guidance would exempt *all* AFOs from *all* EPCRA reporting, it has a broader effect with respect to EPCRA than even the illegal Final Rule—that Final Rule still required Large AFOs to disclose releases from animal waste into the air under EPCRA, and required all AFOs to disclose releases into media other than air (*e.g.*, water) or from sources other than animal waste (*e.g.*, ammonia tanks)." (page 6)
  - The Interim Guidance misstates the law w/ respect to AFOs subject to the Air Compliance Agreement; the Agreement does not alter AFOs' reporting obligations. (page 6)
- **FWW**
  - The reporting exemption "directly undermines Congress' primary intent in enacting EPCRA." (page 2)
  - "The new EPCRA exemption for all AFO emissions is plainly unlawful and based on an implausible reading of EPCRA's statutory language." AFOs do not "use" ammonia and hydrogen sulfide, they produce it and emit it into the air that rural communities breathe. The exemption contradicts EPA's previous statements rejecting this interpretation of the statute. (pages 4-5)
- **National Cattlemen's Beef Association**
  - "The EPA is not bound by the interpretation of the court in Tyson Foods (City of Tulsa v. Tyson Foods, Inc., 258 F. Supp. 2d 1263 (N.D. Okla. 2003). Rather, the agency's reasonable interpretation of the 'routine agricultural operation' exemption should be given proper deference." (page 1)
  - Asserts that the Agency would receive *Chevron* deference for defining the ambiguous term, "routine." (pages 1-2)
  - "It is certainly reasonable to include manure management under the 'routine agricultural operation' umbrella. Every livestock operation manages manure from its animals – this is a natural process that cannot be prevented or reduced. The storage, treatment, agitation, and land application of manure not only typical practices used on livestock operations across the nation, but are practices endorsed by the EPA and USDA as best management practices. Ammonia and hydrogen sulfide emissions, like the output of manure itself, are a naturally occurring product of animal waste. Until technology is available that allows livestock producers to manage manure without these emissions, the two cannot be treated as separate processes. The production of manure – and requisite management thereafter – will lead to ammonia and hydrogen sulfide emissions. There is no way to adequately manage animal waste without the presence of such emissions. Thus, because the creation of animal waste is routine in an agricultural operation, so are the emissions that come from the waste." (pages 1-2)

- **Waterkeepers Chesapeake**
  - "Creating yet another exemption goes directly against the D.C. Circuit Court's Opinion that the EPA has no 'discretion to fashion other exemptions' from the reporting requirements. . . . EPA's Guidance should be amended to reflect the Court's decision that all CAFOs and AFOs that emit hazardous substances above the reportable quantity (i.e. 100 pounds of ammonia or hydrogen sulfide/day) must report to the appropriate authorities under CERCLA and EPCRA." (pages 2-3)
  - "EPA's decision to exempt CAFOs and AFOs from reporting under EPCRA evades the statutory interplay between CERCLA and EPCRA. As the Court explains, 'In drafting the EPCRA reporting requirements, Congress expressly tied them to CERCLA's. Thus all of EPCRA's reporting mandates are piggybacked on the CERCLA mandates in one form or another. And once EPCRA reporting is required, EPCRA goes on to mandate that the information from those reports be disclosed to the general public.'" (page 4)

<u>Procedural Arguments</u>

- **Earthjustice**
  - "EPA is telling AFOs that they need not report under EPRCRA now, prior to the conclusion of a promised 'rulemaking to clarify' the EPCRA exemption. In so doing, EPA is violating the Administrative Procedure Act ('APA') and further depriving neighbors and community members the chance to object before this unfair and dangerous loophole takes effect." (pages 2-3)
  - Per administrative law principles, EPA must supply a reasoned basis for changing its position—here, the Agency seeks to support an exemption/legal theory that it has rejected for a decade. (page 11)
  - EPA's Interim Guidance is a legislative rule that was promulgated in violation of the APA. (pages 11-13)
- **FWW**
  - "The EPCRA portion of the Interim Guidance is particularly problematic, as EPA's interpretation of the statute has radically changed and the public does not have the opportunity to weigh in before facilities rely on it to avoid complying with the statute's clear reporting requirements. This amounts to a rulemaking without proper notice and comment, in violation of the Administrative Procedure Act. The agency's stated intent to conduct a future rulemaking to formalize this new interpretation does not remedy its violation of federal law." (page 2)
- **National Cattlemen's Beef Association**
  - "[T]he D.C. Circuit determined in the Pacific Gas and Electric Co. case that 'a general statement of policy is the outcome of neither a rulemaking nor an adjudication; it is neither a rule nor a precedent but is merely an announcement to the public of the policy which the agency hopes to implement in future rulemakings or adjudications. The guidance in question sets no standard for compliance, but rather provides an interpretation for a previously existing exemption. The Pacific Gas court goes on to

describe a statement of policy as a document that 'presages an upcoming rulemaking.' This is exactly the purpose of EPA's EPCRA guidance. The document is not meant to serve as a final agency action, but an intermediary document, bridging the gap between the Waterkeeper court's decision, and completion of a final rule that will hold the force of legislation. The document in question puts no duty on the livestock production industry, and creates no new right. This document simply puts on finer point on language already included in the statute." (page 2)

Misc.

- **DWAZ**
  - Discusses flaws with CERCLA release reporting scheme and why CERCLA reporting is an inadequate replacement for EPCRA reporting. (pages 3-5)
  - Suggests emergency response procedures and monitoring schemes for releases of ammonia/hydrogen sulfide at CAFOs. (pages 9-10)
- **Earthjustice**
  - "EPCRA reporting would place no additional burden on the AFOs that must prepare continuous release reports or notifications of changes in releases under CERCLA anyway—a facility complies with EPCRA by forwarding the very same notification sent to a federal agency under CERCLA to state and local emergency response agencies." (sign-on comments, page 2)
- **FWW**
  - Interim Guidance for CERCLA reporting has significant deficiencies; e.g., EPA lacks authority to authorize AFOs to report all hazardous emissions as continuous releases. (pages 3-4)
- **National Association of State Departments of Agriculture**
  - "[T]he biggest lingering question for producers is how can they be certain whether or not they need to report. NASDA understands that this is the heart of this issue and that EPA is working to provide clarity. However, in the long-term, NASDA encourages the agency to pursue a rulemaking to formally resolve these questions and provide compliance assistance to producers." (page 1)
- **National Cattlemen's Beef Association**
  - "While the document in question certainly meets the standard for legal interpretative guidance, NCBA urges EPA to begin the rulemaking process. As stated previously, interpretative guidance does not have the long-term stability of a final rule, and cattle producers need certainty." (page 2)
  - "The NRC . . . set[] up an e-mail address for operations to report. However, this method of reporting may be in violation of the CERCLA regulation. NCBA is concerned that producers may send an email to fulfill their initial notification requirement but still be vulnerable to legal challenge for failure to report. Producers need further clarity from the EPA and National Response Team that reporting via email is in fact sufficient to meet statutory and regulatory requirements." (page 4)
- **Private Citizens** (statements re: EPA should regulate emissions from farms)

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/24/2017 7:01:51 PM
To: Jennings, Kim [Jennings.Kim@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]; Dunkins, Robin [Dunkins.Robin@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]
CC: Costa, Allison [Costa.Allison@epa.gov]; Schrock, Bill [Schrock.Bill@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]
Subject: EPA Passback on OMB Interagency Comments on EPCRA CERCLA Guidance
Attachments: EO12866_CERCLA Ag Reporting_2050-ZA12_FinalPolicy_Passback_10.23_17 EPA.docx; EO12866_EPCRA Ag Reporting_2050-ZA12_FinalPolicypassback_10.23.17_EPA.docx

Attached are revised documents to send over to OMB. These capture all of the edits from the morning meeting and includes the table at the end of the document that organizes the emission tools by species.

A few notes:
We discussed language from OAR that is intended to describe the NAEMS study. Attorney Client / Ex. 5
Attorney Client / Ex. 5

Let me know if you have any questions or concerns.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 10/23/2017 1:49:45 PM
To: Noggle, William [Noggle.William@epa.gov]
CC: Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Michaud, John [Michaud.John@epa.gov]
Subject: Re: interagency comments

Deliberative Process / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

On Oct 23, 2017, at 9:35 AM, Noggle, William <Noggle.William@epa.gov> wrote:

To all –

Deliberative Process / Ex. 5

conclude interagency review. However, Brandon is also planning to send comments from SBA and OMB by 11 this morning. He said the OMB comments will focus on the 'emissions calculator' issue to be discussed at 1pm today.

Please prep your management that we're looking for a quick turnaround today on review of any changes to the guidance.

Thanks,
Bill
202-566-1306

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 10/19/2017 11:08:56 AM
To: Noggle, William [Noggle.William@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: checklist - EPCRA/CERCLA

Hi, Bill.
Let's discuss before this goes anywhere beyond EPA.
Perhaps we should not send this, but just speak from it at the 3:30 pm meeting.

Barbara Hostage, Director
Policy Analysis and Regulatory Management Staff (PARMS)
Office of Program Management (OPM)
Office of Land and Emergency Management (OLEM)

EPA West Room 4130A
Phone Number: 202-566-1933
Fax Number: 202-566-1934
Mail Code: 5103T

From: Noggle, William
Sent: Wednesday, October 18, 2017 4:41 PM
To: Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: FW: checklist - EPCRA/CERCLA

I'm sure I've missed something, but want to keep you in the loop…

From: Noggle, William
Sent: Wednesday, October 18, 2017 4:40 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>
Subject: checklist - EPCRA/CERCLA

Patty, Jen,
Since I'm unclear if OMB will close review this week, I'd like to send them our checklist and ask them to confirm. Could you please take a quick look and let me know if I'm missing anything?

Deliberative Process / Ex. 5

6) Hotline - Becky (USDA) suggested that we establish a hotline for this type of reporting. Patty will raise to EPA senior leadership. Is a response on this issue necessary to conclude interagency?
7) Specific comments on the CERCLA guidance (EPA is currently working on all of these):

Deliberative Process / Ex. 5

8) W

I'm hoping that all questions relating to schedule and type of rule, as well as the RIA, ICR, and new form, can be addressed separately from interagency review.

Thanks,
Bill

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 10/5/2017 3:43:49 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM Weekly Report for week ending October 6, 2017
Attachments: OEM Weekly - October 5 - 2017a.docx

Regulations Implementation Division (RID)

Meeting with Farm Bureau representatives

- On October 3, RID staff and the OLEM Principal Deputy AA met with representatives from the American Farm Bureau Federation to hear their concerns related to farms reporting under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) section 103 of the and Emergency Planning and Community Right to Know Act (EPCRA) section 304. The discussion focused on the difficulty farmers face in estimating emissions from animal waste; privacy concerns associated with personally identifiable information that may be included in reports; and concerns pertaining to citizen lawsuits. EPA expects to provide guidance to farms to help them understand their requirements to comply with CERCLA and EPCRA reporting by October 16, 2017. For more information, contact Patty Gioffre 202-564-1972.

Interagency Coordinating Committee on Oil Pollution Research (ICCOPR) Quarterly Meeting

- On October 4, RID staff participated in the rescheduled Fourth Quarter Meeting for FY 2017 of the Interagency Coordinating Committee on Oil Pollution Research (ICCOPR) (rescheduled from September due to hurricane response efforts) held at CSRA International in Arlington, VA. Jill Brandenberger and Katye Denslow with the Pacific Northwest National Laboratory (PNNL) gave a presentation on their oil spill research capabilities. George Graettinger of NOAA gave a presentation on remote sensing. Member agencies discussed the progress made so far on preparing the required biennial report to Congress. Finally, member agencies provided their regular research updates. For more information, contact Vanessa Principe 202-564-7913 / Greg Wilson 202-564-7989.

SWPPP/SPCC Conference Call with the Office of Water (OW)

- On October 4, 2017, RID staff attended a conference call with OW to discuss industry concerns relating to the overlap of Stormwater Pollution Prevention Plan (SWPPP) and Spill Prevention, Control and Countermeasure (SPCC) Plan requirements. OW has been tasked to respond to stakeholder testimony to the House Small Business Committee regarding OW information collections. The stakeholder testimony recommends eliminating duplicative federal reporting requirements, pointing to the National Pollution Discharge Elimination System Program as an example. The stakeholder cited SWPPP requirements that cross-reference SPCC requirements in two stormwater permits (the Construction General Permit and Multi-Sector Industrial Stormwater General Permit). OEM will continue to work with OW to develop a response. For more information, contact Mark W. Howard 202-564-1964.

From: Williams, Doris
Sent: Thursday, October 05, 2017 11:05 AM
To: Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Perovich, Gina <Perovich.Gina@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Whittle, Sandra <Whittle.Sandra@epa.gov>; Givens, Lessa

<Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Pollard, Marcia <Pollard.Marcia@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; McCollum, Harriet <McCollum.Harriet@epa.gov>; Pettit, Jonathan <Pettit.Jonathan@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>; Beasley, Craig <Beasley.Craig@epa.gov>; Easter, Patrick <Easter.Patrick@epa.gov>; Lee, Eugene <Lee.Eugene@epa.gov>; Oh, Peter <Oh.Peter@epa.gov>; Oliveira, Beatriz <Oliveira.Beatriz@epa.gov>; Vescio, Joseph <Vescio.Joseph@epa.gov>; Boynton, Lisa <Boynton.Lisa@epa.gov>; Casillas, Laura <Casillas.Laura@epa.gov>; Dinan, Janine <Dinan.Janine@epa.gov>; Faulkner, Mike <Faulkner.Mike@epa.gov>; Grier, Tim <Grier.Tim@epa.gov>; Ridenour, Steve <Ridenour.Steve@epa.gov>; Runge, Roberta <Runge.Roberta@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Schumann, Jean <Schumann.Jean@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; OLEM OEM RMD <OLEM_OEM_RMD@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>
Subject: OEM Weekly Report for week ending October 6, 2017

Good Morning All,

Attached is the OEM Weekly Report.

Doris

Office of Communications, Partnerships and Analysis
Consolidated Report to the AA
Weeks of Oct 16 and Oct 23, 2017

Items to the IO requiring concurrence or signature
Week of October 16, 2017

- N/A

Week of October 23, 2017

- N/A

TOPIC AREAS

Congressional, State and Local

- ***Senate EPW Briefing on RCRA HW Exemptions*** -- The Senate EPW Committee has contacted OCIR's DAA to request a call/briefing on RCRA hazardous waste exemptions in order to explore ways to properly dispose of fireworks by FBI-accredited bomb squads throughout the country. OCPA is working with ORCR to schedule this call.
- ***New Version of the Farm Regulatory Certainty Act*** – OCIR provided OLEM with a revised version of the House Energy and Commerce Committee's (HEC) Farm Certainty Act, which would amend the citizen suit provisions of the Solid Waste Disposal Act related to manure or crop residue that is stored or returned to the soil as fertilizer by an agricultural operation. The new version of the bill reflects some of the technical assistance provided by ORCR, OECA, and OGC on an earlier draft. The HEC expects to hold a hearing on this bill in November.
- ***OMB Requests to Review Testimony and Legislation*** – OCPA has been reviewing a number of pieces of draft legislation and other federal agency testimony that do not directly relate to OLEM, including: the Consent Decree Transparency Act of 2017, the Compliance with the Antideficiency Act of 2017, the Political Appointee Burrowing Prevention Act of 2017, and DOI/Fish and Wildlife Service's testimony on the Paperwork Reduction Act.

Stakeholder Engagement

- The Superfund Task Force Communications/Stakeholder Engagement team is meeting on October 17 to finalize the A3 tracking form and review status of the SharePoint site, coordination with the other SFTF goal teams and planning for external partner / stakeholder meetings.

Tribal

- Tribal Consultation semi-annual data-call – each program submits tribal consultation projections between now and March 31, 2018, for Acting AA Barry approval.
- Region 6 initiated tribal consultation with the Oklahoma tribal partners regarding the Coal Combustion Residuals (CCR) Permit Program Application (Application) from the State of Oklahoma.

RE-Powering

- On October 26th at 2:00 ET, NREL, in collaboration with the Green Power Partnership, will be conducting a webinar that will provide guidance on how to apply for NREL's free training program for city and county staff to learn about putting solar on their facilities. NREL and the GPP recently highlighted this new opportunity for technical assistance on a RE-Powering Regional call and noted the potential nexus between the two programs. As a result, several RE-Powering team members are working with cities and potential partners within their regions to apply for this program. Applications will be available starting October 26th and due November 17th. For more information, register for the webinar here: https://register.gotowebinar.com/register/2723327959973778433

Organizational Assessment:

- The OLEM FY 2017 Organizational Assessment was submitted this week.

Internal Communications Update:

- Please check out OLEM's Intranet Homepage for the latest Employee-At-A-Glance update. If you have an OLEM colleague you would like to highlight, please contact Matt Colip at colip.matthew@epa.gov.

Upcoming Travel

- Adam Klinger will be giving a presentation and attending a conference in Boston, MA between November 1-3, 2017 entitled Solar Project Development on Landfills/Brownfields. The presentation will provide an overview and update of the RE-Powering America's Land Initiative.
- Jessica on TDY: 10/23-10/26

Final OLEM Communications Tracker

October 12, 2017

Green = updates/new entries

OLEM's Communications Development Process:

Phase 1:	8-9 weeks out: AA/DAA early input meeting held
Phase 2	7 weeks out: Final communication template (one-pager) sent to OPA for early input
Phase 3	4 weeks out: OD approved communication strategy and materials sent to OCPA for review
Phase 4	2 weeks out: Final communication strategy and materials sent to OPA for review
Phase 5	5 days out: All OPA comments addressed
Final Phase	Announcement made and post announcement activities carried out

October 16

OEM **Guidance on CERCLA/EPCRA Reporting Requirements for Farms** **Oct 16, 2017**	• OEM to develop guidance on CERCLA/EPCRA reporting requirements that Farms will have to comply with beginning 11/14/17 as a result of the DC Circuit Court's decision in *Waterkeeper vs. EPA*. • Guidance availability scheduled for October 16, unless extension requested and granted * OEM drafting comms plan for guidance outreach strategy. o Draft planning tool to OPA 10/02/17. o Draft communication strategy to OPA 10/04/17 o Draft press release and desk statement to OPA 10/11/17
OSRTI **Missouri Lead Site Tour & West Lake Site Meetings (Oct. 17-19)**	• Trip will include visits to several lead sites in southeastern Missouri and a visit with WLL stakeholders.
October 23	
OCPA ECOS Superfund Task Force Workgroup October Call Oct 23, 2017	* ECOS sets the agenda for these calls, OCPA coordinates OLEM participation. * Tentative topic for 10/23 discussion: California's comments on Task Force Report. * OCPA will provide more information as it becomes available.
OCPA **ASTSWMO Executive Committee Meeting with Acting AA and ODs** **Arlington, VA** Oct 24, 2017	* An ASTSWMO Executive Committee Meeting with Acting AA and ODs will be held at the Crystal City Gateway Marriott in Arlington, VA.
All OLEM Offices **ASTSWMO Annual Meeting** **Arlington, VA** Oct 26-27, 2017	* Oct 26-27, ASTSWMO Annual Meeting, Arlington, VA
October 30	
November 6	
November 13	
ORCR **America Recycles Day** **Nov 15**	• Phase 1 – September 19 * Phase 2 – September 21
ORCR **America Recycles Day Keynote Speech** **Nov 15**	• TBD keynote speech at the 2017 State of Recycling Forum. Topic: Plastics – Improving Quality. Driving Demand. The event is co-hosted by Keep America Beautiful and Institute of Scrap Recycling Industries. Investigating possibility of EPA co-hosting.
ORCR **America Recycles Day Proclamation** **Nov 15**	• **Draft proclamation sent to OMB for OMB and White House review on 10/3/17.**
FYI ONLY: **National League of Cities (NLC) City Summit Annual Conference,** **Charlotte, NC** **Nov 15-18**	* FYI ONLY: National League of Cities (NLC) City Summit Annual Conference, Charlotte, NC * According to the NLC, this is the largest national conference for all city leaders–elected, appointed, and staff. Over 3,500 local leaders are expected. * The Energy, Environment and Natural Resources Committee will convene on 11/15 to consider Resolutions that will form the basis of NLC's public advocacy efforts, particularly with Congress. * The Committee is led by Mayor Sal Panto (Easton, PA) as Chair, and Mayor Pro Tem Hattie Poris-Jones (Fairburn, GA), and Deputy Mayor Cynthia Pratt (Lacey, WA), as Vice Chairs.
November 20	

ORCR **Food Recovery Challenge Awards** **One day this week**	• Phase 1 – September 19 • Phase 2 – September 21
November 27	
December 4	
OBLR Brownfields Conference Pittsburgh, PA Dec. 4 – 7, 2017	• Bi-annual event • EPA is co-sponsoring with the International City / County Management Assoc. (ICMA)
December 11	
TBD or On-going	
ORCR **Wasted Food Opportunities Map** **Target Date was Aug. 14**	Phase 1: July 10 during ORCR General (ORCR sent products to OPA on July 29, OCPA sent comments to ORCR on July 31. Comments addressed. Awaiting OCPA OD approval of social media) Phase 2: Skipped Phase 3: To Acting AA for approval on Aug 3 Phase 4: August 7 Phase 5:
FFRRO **Hanford Superfund Site ROD** **(signature date TBD)**	• Hanford Area 100 ROD to be signed by the Administrator. • FFRRO coordinating with R10 on developing communications materials.
ORCR **108b** **Dec. 1, 2017**	• Court ordered deadline
OBLR **Brownfields Video**	• Overview of program; 3-5 minutes long with non-EPA testimony • OCPA, OBLR and OPA working to compile existing footage • draft script submitted to OPA (OM) 08/14/17 • Target date: TBD • Followed by 2 or 3 site-specific success story "featurette" videos;
OCPA FYI Only **Upcoming State/Local Association Meetings** December 2017-2018	FYI Only: **Upcoming State/Local Association Meetings** • Dec 7 or 14, Possible in person Local Government Advisory Committee Meeting, EPA HQ • Jan 24-26, USCM 86th Winter Meeting, Washington, DC • June 8-11, USCM 86th Annual Meeting, Boston, MA

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 10/12/2017 4:17:09 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM Weekly Report for week ending October 13, 2017
Attachments: OEM Weekley October 12 2017a.docx

AA Level Hot Topics

- **Risk Management Plan (RMP) Rule** – RID briefed senior leaders on options for revising the RMP Amendments rule on October 3, 2017. We need an Administrator decision on how to proceed with developing the proposed rule. EPA delayed the effective date of the RMP Amendments to February 19, 2019.

Deliberative Process / Ex. 5

From: Williams, Doris
Sent: Thursday, October 12, 2017 11:30 AM
To: Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Perovich, Gina <Perovich.Gina@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Whittle, Sandra <Whittle.Sandra@epa.gov>; Givens, Lessa <Givens.Lessa@epa.gov>; Griffin, Jayson <Griffin.Jayson@epa.gov>; Jakabhazy, Elise <Jakabhazy.Elise@epa.gov>; Koch, Natalie <Koch.Natalie@epa.gov>; Mickelsen, Leroy <Mickelsen.Leroy@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Ottlinger, Michael <Ottlinger.Michael@epa.gov>; Serre, Shannon <Serre.Shannon@epa.gov>; Bright, David <bright.david@epa.gov>; Cardarelli, John <Cardarelli.John@epa.gov>; Cruz, FranciscoJ <Cruz.FranciscoJ@epa.gov>; Curry, Tim <Curry.Timothy@epa.gov>; Hudson, Scott <Hudson.Scott@epa.gov>; Kaelin, Lawrence <Kaelin.Lawrence@epa.gov>; Kudarauskas, Paul <Kudarauskas.Paul@epa.gov>; Nalipinski, Mike <Nalipinski.Mike@epa.gov>; Thomas, Mark J. <Thomas.Markj@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Clark, Becki <Clark.Becki@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Irizarry, Gilberto <Irizarry.Gilberto@epa.gov>; McCollum, Harriet <McCollum.Harriet@epa.gov>; Pettit, Jonathan <Pettit.Jonathan@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Woodyard, Josh <Woodyard.Joshua@epa.gov>; Beasley, Craig <Beasley.Craig@epa.gov>; Easter, Patrick <Easter.Patrick@epa.gov>; Pollard, Marcia <Pollard.Marcia@epa.gov>; Lee, Eugene <Lee.Eugene@epa.gov>; Oh, Peter <Oh.Peter@epa.gov>; Oliveira, Beatriz <Oliveira.Beatriz@epa.gov>; Vescio, Joseph <Vescio.Joseph@epa.gov>; Boynton, Lisa <Boynton.Lisa@epa.gov>; Casillas, Laura <Casillas.Laura@epa.gov>; Dinan, Janine <Dinan.Janine@epa.gov>; Faulkner, Mike <Faulkner.Mike@epa.gov>; Grier, Tim <Grier.Tim@epa.gov>; Ridenour, Steve <Ridenour.Steve@epa.gov>; Runge, Roberta <Runge.Roberta@epa.gov>; Schlieger, Brian <schlieger.brian@epa.gov>; Schumann, Jean <Schumann.Jean@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; OLEM OEM RMD <OLEM_OEM_RMD@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>
Subject: OEM Weekly Report for week ending October 13, 2017

Attached is the OEM Weekly Report.

Doris D. Williams, Executive Assistant
Office of Emergency Management, USEPA
202-564-0053(O); 202-564-9400 (M)
Williams.doris@epa.gov

Message

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/10/2017 7:45:28 PM
To: Jacob, Sicy [Jacob.Sicy@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]; Hull, George [Hull.George@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Beasley, Lynn [Beasley.Lynn@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Prins, Christopher [Prins.Christopher@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]
Subject: FYI-revised EPCRA CERCLA web content
Attachments: Guidance for Farms DRAFT 10102017 .docx

Importance: High

I have sent the attached document forward for OEM IO review. Thanks to all for your assistance in drafting this document!

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Gioffre, Patricia
Sent: Tuesday, October 10, 2017 3:42 PM
To: Cheatham, Reggie <cheatham.reggie@epa.gov>; Becki Clark (Clark.Becki@epa.gov) <Clark.Becki@epa.gov>
Cc: Jennings, Kim (Jennings.Kim@epa.gov) <Jennings.Kim@epa.gov>; Michele Indermark (Indermark.Michele@epa.gov) <Indermark.Michele@epa.gov>
Subject: Review requested- EPCRA CERCLA web content
Importance: High

Reggie/Becki-
Attached is the revised web content explaining the EPCRA CERCLA court vacatur.

Deliberative Process / Ex. 5

Also, please note that we are correcting hyperlinks in the attached document. We will have these corrected before the document is posted to the website.

This should be ready to send forward for senior level review and approval.

Let me know if you have any questions or comments.

Patty Gioffre
USEPA (OLEM/OEM)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

Appointment

From: Gioffre, Patricia [Gioffre.Patricia@epa.gov]
Sent: 10/10/2017 2:24:05 PM
To: Jacob, Sicy [Jacob.Sicy@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Bosecker, Elizabeth [Bosecker.Elizabeth@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Beasley, Lynn [Beasley.Lynn@epa.gov]; Ziegel, Dean [Ziegel.Dean@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Noggle, William [Noggle.William@epa.gov]; Prins, Christopher [Prins.Christopher@epa.gov]; Michaud, John [Michaud.John@epa.gov]; Hull, George [Hull.George@epa.gov]; Beaman, Joe [Beaman.Joe@epa.gov]

Subject: EPCRA/CERCLA Vacatur
Attachments: EO12866_EPCRA Ag Reporting_2050-ZA12_FinalPolicy_20171006 OIRA comments.docx; Guidance for Farms DRAFT 10062017 .docx
Location: Room 6528 WJCNorth Conference call- 866-299-3188 202-564-1972# (see below for Adobe Connect link)

Start: 10/10/2017 5:30:00 PM
End: 10/10/2017 6:30:00 PM
Show Time As: Tentative

Adobe Connect- http://epawebconferencing.acms.com/oemrid/

Agenda-

- EPCRA 304 Q&A- Over at OMB-received comments this morning (see attached)
- CERCLA 103- website draft text updated (see attached)
- Press inquiry (due at 4 pm)
- ICR issues for continuous release reporting
- FR notice to remove exemption- schedule

Message

From: Franklin, Kathy [Franklin.Kathy@epa.gov]
Sent: 12/28/2017 5:01:20 PM
To: Salo, Earl [Salo.Earl@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; ODea, Elise [odea.elise@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Costa, Allison [Costa.Allison@epa.gov]; Hostage, Barbara [Hostage.Barbara@epa.gov]; Noggle, William [Noggle.William@epa.gov]
CC: Jennings, Kim [Jennings.Kim@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]
Subject: FW: FYI Inside EPA on CERCLA Reporting for AFOs

FYI, Forwarding this to OGC and a few others involved in the CERCLA/EPCRA ag rules. There are two InsideEPA articles in emails below. The one sent by Stacey discusses possible regulation of CAFOs under CAA NSPS and the last one in the chain deals with comments on our streamlined CERCLA continuous release form for farms.

Kathy Franklin
USEPA, Office of Emergency Management
WJ Clinton North Bldg., Rm. 6450G Mailcode 5104A
1200 Pennsylvania Ave. NW, Washington, DC 20460 (Zip 20004 for private courier delivery)
Phone: 202-564-7987
Email: franklin.kathy@epa.gov

From: Yonce, Stacey
Sent: Thursday, December 28, 2017 11:38 AM
To: Jacob, Sicy <Jacob.Sicy@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; Canino, Richard <Canino.Richard@epa.gov>
Cc: Hull, George <Hull.George@epa.gov>
Subject: RE: FYI Inside EPA on CERCLA Reporting for AFOs

I found this one interesting as well. If you follow this link to the article, you can use the link in the article to see the 120-page letter about our comprehensive strategy on CAFOs. They are only a subset of the farms affected by the reporting rule, but emissions methodology developed for them could apply more broadly:

https://insideepa.com/sites/insideepa.com/files/documents/dec2017/epa2017_2500.pdf

EPA Eyes 'Comprehensive' Air Strategy For CAFOs But Mandates Unclear

December 27, 2017

EPA is developing a "comprehensive strategy" to address air pollution from concentrated animal feeding operations (CAFOs) that includes a nationwide study of the facilities' emissions and reviewing Clean Air Act (CAA) "tools" for them, but it remains unclear whether the plan will include any mandates for CAFOs to reduce their emissions.

In a letter released publicly this week, but dated Dec. 15, EPA tells various groups it is denying their 2009 petitions for regulation of CAFOs' air emissions under Clean Air Act new source performance standards (NSPS), which would also include existing sources. Administrator Scott Pruitt says the agency will not now decide whether to pursue such regulation, but rather will develop a strategy to deal with air pollution from CAFOs first.

EPA published notice of the denial in the Dec. 26 *Federal Register*. Lawsuits challenging the decision must be filed in the U.S. Court of Appeals for the District of Columbia Circuit by Feb. 26, EPA says in the notice.

Environmentalists have long sought regulation of CAFOs' air emissions, but to date EPA has not committed to emissions limits for such facilities, citing a lack of adequate methods to estimate their air emissions.

They recently succeeded in a lawsuit seeking some first-time reporting mandates for smaller livestock operations that EPA had previously exempted from other federal environmental law reporting requirements. The agency is now working to collect the necessary information to implement an appellate ruling ending that waiver.

However, farm groups strongly opposed ending the reporting exemption, and they also urged EPA to reject the petition asking it to impose CAA emissions reduction rules on CAFOs.

The petitioners that filed with the Obama administration seeking NSPS regulation of CAFOs are the Humane Society of the United States; Association of Irritated Residents; Center on Race, Poverty and the Environment; Clean Air Task Force; Dairy Education Alliance; El Comite Para el Bienestar de Earlimart; Environmental Integrity Project; Friends of the Earth; Sierra Club and Waterkeeper Alliance.

But Pruitt in his letter denies their petitions, saying, "EPA has developed and is implementing a comprehensive strategy to address CAFO air emissions."

He says more information is necessary before the agency could decide on listing CAFOs as a source category for regulation under CAA section 111, which would require establishment of NSPS for the sector. Such listing would also require standards reflecting the "best system of emissions reduction" for existing sources.

Upcoming Strategy

Pruitt says the strategy "includes conducting a nationwide study of air emissions from CAFOs and developing improved emission-estimating methodologies for these emissions; gathering additional information about the magnitude of CAFO emissions and their control options; considering to what extent existing CAA regulations address CAFO emissions; evaluating the various CAA regulatory tools that might be used to further address CAFO emissions; and then determining which regulatory tool or tools would be most appropriate to regulate CAFO emissions to protect public health and welfare."

EPA has already been studying the issue for years, and long delayed its response to the petitioners, drawing lawsuits from some to force the agency to act.

However, EPA's decision does not foreclose the possibility of future regulation. "This denial is not based on a determination as to whether CAFOs meet the requirements for listing under CAA section 11 l(b)(l)(A)," Pruitt says. "In the future, the EPA may initiate a process to determine whether to list CAFOs" for regulation.

The petitioners asked EPA to find that hydrogen sulfide and ammonia, the primary pollutants emitted by CAFOs, constitute air pollution that endangers public health or welfare; asked EPA to find that emissions of methane, nitrous oxide, hydrogen sulfide, ammonia, volatile organic compounds and particulate matter from CAFOs contribute significantly to air pollution that is reasonably anticipated to endanger public health and welfare; and asked the agency to promulgate "standards of performance" for both new and existing CAFOs for these pollutants.

But Pruitt writes, "EPA has concluded that the complex nature of emission sources and emissions from this sector requires the agency to continue its comprehensive approach toward this sector by first evaluating CAFO emissions and then determining further regulatory actions to address these emissions."

He further cites resource constraints and the need to meet statutory obligations, such as air toxics rule reviews, as limiting the agency's ability to evaluate CAFOs' air emissions. The EPA Office of Air Quality Planning and Standards, which would be charged with a listing determination and also conducts air toxics risk reviews, "has seen a general decline in its budget for several years," Pruitt says.

Pruitt in his letter acknowledges the slow pace of EPA's efforts in this area. The agency's Inspector General (IG) in a Sept. 19 report criticized the agency for not finalizing emissions estimation methodologies despite years of study and scientific review. EPA said in response to the IG report that it intends to publish a plan for establishing emissions estimation methodologies in March -- but this will not mean finalization of the methodologies themselves.

EPA has further not yet responded to a 2011 petition from environmentalists to regulate ammonia as a "criteria pollutant," which would require the agency to set national ambient air quality standards (NAAQS) for the pollutant. This in turn would require states to craft

compliance plans to bring them into compliance with the NAAQS, and to impose emissions controls on CAFOs or other ammonia sources.

CAFO Reporting

Meanwhile, EPA in response to an April ruling from the D.C. Circuit will require thousands of smaller animal feeding operations not currently reporting their air emissions to begin doing so by Jan. 22.

The court has already extended the deadline several times to allow EPA to develop tools and guidance on how farms can comply. Farms will have to report their emissions to the Coast Guard under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Superfund law. However, EPA has issued "interim guidance" exempting these farms from reporting emissions to local emergency response authorities under the the Emergency Planning and Community Right-To-Know Act (EPCRA). Environmentalists who sued EPA in the litigation, *Waterkeeper Alliance, et al. v. EPA*, say that EPA's EPCRA waiver contradicts prior agency policy and flouts the D.C. Circuit's April ruling. But the court in Dec. 18 order declined environmentalists' motion to "clarify" that its mandate forbids the EPCRA waiver. Industry groups, meanwhile, warn that reporting under CERCLA will be difficult or impossible precisely because EPA has yet to approve accurate emissions estimation methodologies. -- *Stuart Parker* (sparker@iwpnews.com)

From: Jacob, Sicy
Sent: Thursday, December 28, 2017 9:44 AM
To: Beaman, Joe <Beaman.Joe@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; Canino, Richard <Canino.Richard@epa.gov>
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Subject: RE: FYI Inside EPA on CERCLA Reporting for AFOs

Thanks, Joe. I saw this already. I had lots of fun reading all the criticisms on the ICR and our estimates during my long drive to the Smokey mountain. Very entertaining.

Sicy Jacob
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From: Beaman, Joe
Sent: Thursday, December 28, 2017 9:30 AM
To: Jennings, Kim <Jennings.Kim@epa.gov>; OLEM OEM RID <OLEM_OEM_RID@epa.gov>; Canino, Richard <Canino.Richard@epa.gov>
Cc: Swackhammer, J-Troy <Swackhammer.J-Troy@epa.gov>; Tarrab, Alan <tarrab.alan@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Yonce, Stacey <yonce.stacey@epa.gov>; Belke, Jim <Belke.Jim@epa.gov>; DeHaven, Leigh <DeHaven.Leigh@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Wilson, Gregory <Wilson.Gregory@epa.gov>; Howard, MarkW <Howard.MarkW@epa.gov>; Hull, George

<Hull.George@epa.gov>
Subject: FYI Inside EPA on CERCLA Reporting for AFOs

https://insideepa.com/daily-news/farm-groups-say-epa-afo-reporting-mandate-will-be-impossible-meet

Daily News

Farm Groups Say EPA AFO Reporting Mandate Will Be Impossible To Meet

December 27, 2017

Farm groups are warning EPA that its recent information collection request (ICR) to inform first-time emission reporting mandates for many small livestock producers not only significantly underestimates the reporting burden it will create, but also that several aspects of the reporting program will be impossible for producers to meet.

The criticisms, detailed in recent comments on the ICR, reflect a broader battle over whether all farms should have to meet mandates under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), or Superfund law, and the Emergency Planning and Community Right-To-Know Act (EPCRA). EPA had exempted many small animal feeding operations (AFOs) from the mandates, but environmentalists sued over the waiver.

The U.S. Court of Appeals for the District of Columbia Circuit in April vacated the exemption in *Waterkeeper Alliance, et al. v. EPA.* Under CERCLA, many previously exempt smaller AFOs must now report their emissions of hazardous substances such as ammonia and hydrogen sulfide to the Coast Guard's National Response Center (NRC), while EPCRA reports must be made to state and local emergency response authorities. Farm groups strongly oppose such requirements, which they say wrongly sweep up AFOs in regulatory regimes designed for industrial facilities.

The court has several times delayed issuance of its mandate now due Jan. 22, at EPA's request, so the agency can craft guidance and tools for farms to calculate and report their emissions.

The court Dec. 18 also declined environmentalists' motion to "clarify" its April ruling to explicitly forbid a new EPA legal interpretation that it issued in an October interim guidance. In the guidance, the agency in effect excludes most farms from EPCRA reporting with respect to their "routine agricultural operations."

Still, the CERCLA mandate remains in place and EPA took comment through Dec. 15 on its Dec. 5 Federal Register notice saying that it has submitted for White House Office of Management & Budget review a revision to a previously approved ICR in order to collect data from the once-exempt AFOs.

In Dec. 15 comments on the ICR for continuous release reporting under CERCLA Section 103, a coalition of 17 poultry sector groups led by the U.S. Poultry and Egg Association says that EPA has underestimated the number of farms affected by the vacatur of the final rule, and therefore the ICR , by a factor of three, along with the associated costs.

EPA in the ICR estimates the number of additional farms that will now be drawn into the reporting requirements due to the D.C. Circuit's ruling at 44,900, resulting in an additional reporting cost of $14,958,973 per year.

But the poultry groups say this is far short of the true numbers, with additional farms involved in the poultry sector alone numbering as many as 141,000. "This is more than three times the number delineated in the ICR and does not include other livestock groups including pork, dairy, beef cattle and equestrian farms," the groups say.

The true costs of reporting are therefore much higher than EPA estimates, and could be more than $47 million for the poultry sector alone, the poultry groups say.

Emissions Reporting

The farm groups' comments also point to a bigger problem than cost, saying that existing continuous reporting forms "require information that poultry and egg farmers are not able to provide."

Despite years of study by EPA and others, there are still not universally accepted methods to estimate emissions from livestock farming. The "reporting forms EPA provides [ask] for information that is unavailable. The generation of ammonia that results from the natural breakdown of manure is highly variable. The rate and quantity of ammonia emission depends on many different variables," the groups say.

"EPA was not able to develop an ammonia emission estimation methodology that was scientifically robust enough to be used by all farms in the United States. This prohibits poultry and egg farms from estimating daily emissions." Nor can farmers estimate maximum emissions or aggregated annual emissions accurately, the groups say.

Other farm sector groups echo similar concerns. The American Farm Bureau Federation in its Dec. 15 comments says EPA's estimate of how many entities will have to report "is woefully inadequate and vastly underrepresents the universe of producers who will be impacted by these reporting requirements."

Likewise, the National Cattlemen's Beef Association in Dec. 15 comments says, "EPA has provided no reasoning for its conclusion, leaving stakeholders to guess at EPA's determination methodology. This estimation only represents the tip of the iceberg, likely including only the largest operations required to report -- but not all operations that are subject to reporting liability."

The group further warns that a flood of calls to report now swamping the Coast Guard's NRC is creating long waits for calls to be answered, including for those that pertain to sudden and dangerous industrial releases.

The New Mexico Cattle Growers' Association in Dec. 15 comments says, the "inclusion of farms and ranchers under CERCLA and EPCRA will inhibit job creation and impose costs that exceed the environmental benefits," through "rigid requirements that don't work on cattle operations." The group asks EPA for regulatory relief to "modify the CERCLA and EPCRA reporting requirements to regulate no animal feeding operations."

Environmentalists' Comments

Yet in its Dec. 15 comments, the Humane Society of the United States argues just the opposite, that EPA's ICR "grossly exaggerates the burden on industry."

The group lists other alleged shortcomings with EPA's reporting guidance, including that it "improperly waives the requirement that 'farms' submit their location, latitude, and longitude; categorically allows 'farms' to submit continuous release reports despite the facilities' significant fluctuations in emissions; and unlawfully asserts that continuous release reporting requires only one initial report and one follow up report a year later, for a grand total of two reports ever."

After three years, the group says, the guidance "moves from laughable to the absurd, because EPA's view is that the 44,900 facilities will no longer have any obligation under EPA's guidance," unless they experience "an episodic release of a hazardous substance that exceeds" the previous estimate. -- *Stuart Parker* (sparker@iwpnews.com)

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RIN	Title	Tier	Deadline Rules (Court or Statutory)	Spring 2017 Reg Agenda FR Date	Agenda Stage of Rulemaking	Fall 2017 Reg Agenda FR Date	Agenda Stage of Rulemaking	New Action Fall 2017	Comments
2015-AA00	Revision of Procedural Rules for Hearings on Cancellations, Suspensions, Changes in Classifications, and Denials of Pesticide Registrations	3		Update 2017	Proposed Rule Stage				
2025-AA38	Environmental Protection Agency Freedom of Information Act Regulations Update	3		Update 2017	Proposed Rule Stage				
2025-AA39	Revisions to 40 CFR Part 2, Subpart b (Confidentiality of Business Information)	2		Update 2017	Proposed Rule Stage				
2025-AA40	E-Discovery Privacy Act and Privacy Act Exemptions	3		Update 2017	Proposed Rule Stage				
2040-AF65	Federal Mercury Aquatic-Dependent Wildlife Criteria Applicable to California	3		Update 2017	Proposed Rule Stage				
2040-AF69	Federal Numeric Nutrient Criteria Applicable to Missouri Lakes	3		Update 2017	Proposed Rule Stage			Y	
2040-AF70	Federal Aluminum Aquatic Life Criteria Applicable to Oregon	3		Update 2017	Proposed Rule Stage			Y	
2040-AF71	Rule to Withdraw of Certain Federal Water Quality Criteria for Lead Applicable to California	3		Update 2017	Proposed Rule Stage			Y	
2040-AF72	Rule to Withdraw Certain Federal Water Quality Criteria for Chlorodibromomethane Applicable to California	3		Update 2017	Proposed Rule Stage			Y	
2040-AF73	Rule to Withdraw Certain Federal Water Quality Criteria for Dichlorobromomethane Applicable to California	3		Update 2017	Proposed Rule Stage			Y	
2040-AF74	Definition of "Waters of the United States" – Recodification of Preexisting Rules	1		Update 2017	Proposed Rule Stage			Y	
2040-AF75	Second Action: Definition of "Waters of the U.S."	1		Update 2017	Proposed Rule Stage			Y	
2040-AF76	Postponement of Certain Compliance Dates for Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category	3		Update 2017	Proposed Rule Stage			Y	
2040-AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions	1		Update 2017	Proposed Rule Stage				
2040-AF48	Clean Water Act Methods Update Rule for the Analysis of Effluent	3		Update 2017	Final Rule Stage				

2040-AF67	Public Notice Requirements for Combined Sewer Overflow Discharges to the Great Lakes	3		Update 2017	Final Rule Stage				
2050-AG86	Bioreactor/Wet Landfill Regulations Under RCRA Subtitle D	3		ANPRM-9/00/2017	Prerule Stage	ANPRM-03/00/2018	Prerule Stage		
2050-AG88	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues From Electric Utilities: Remand Rule	3	Court: NPRM-as soon as practicable; Final-6/14/2019	NPRM-12/00/2017; Final-6/00/2019	Proposed Rule Stage	NPRM-12/00/2017; Final-6/00/2019	Proposed Rule Stage		Reg Plan entry
2050-AG92	Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations	3		NPRM-4/00/18; Final-9/00/2019	Proposed Rule Stage	NPRM-4/00/18; Final-9/00/2019	Proposed Rule Stage		
2050-AG61	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry	1	Court: Final Action-12/1/2017	Final-12/00/2017	Proposed Rule Stage	Final-12/00/2017	Final Rule Stage		Reg Plan entry; OGC does not want the text changed from what is currently in the entry. They also want the SISNOSE question marked as "undetermined."
2050-AG94	Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA	3		Direct Final-6/20/17; NPRM-6/20/17;NPRM comment period ends-7/20/17; Direct Final effective-9/18/17	Proposed Rule Stage	Direct Final-6/20/17; NPRM-6/20/17; Withdrawal of Direct Final: 9/00/17; Final-9/00/17	Completed		Will be able to put actual FR date of Withdrawal and Final Rule before Fall Reg Agenda is issued.
2050-AG80	User Fee Schedule for Electronic Hazardous Waste Manifest	2		Final-12/00/2017	Final Rule Stage	Final-12/00/2017	Final Rule Stage		
2050-AG83	Non-Hazardous Secondary Materials--Additions to List of Categorical Non-Waste Fuels; Other Treated Railroad Ties	3		Final-10/00/2017	Final Rule Stage	Final-02/00/2018	Final Rule Stage		
2050-AG90	Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents	3		Final-2/00/2018	Final Rule Stage	Final-12/00/2017	Final Rule Stage		
2060-AT22	Response to December 9, 2013 CAA Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont	3		Update 2017	Prerule Stage			Y	
2060-AO75	Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing	3		Update 2017	Proposed Rule Stage				
2060-AR57	Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide	2		Update 2017	Proposed Rule Stage			Y	
2060-AS32	National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting	3		Update 2017	Proposed Rule Stage				

2060-AS74	General Revisions to Emissions Monitoring and Reporting Requirements for Fossil Fuel-Fired Electric Generating Units	3	Update 2017	Proposed Rule Stage	
2060-AS79	National Emission Standards for Hazardous Air Pollutants: Manufacture of Amino/Phenolic Resins	3	Update 2017	Proposed Rule Stage	
2060-AS91	Revisions to Method 202: Dry Impinger Method for Determining Condensable Particulate Emissions From Stationary Sources	3	Update 2017	Proposed Rule Stage	
2060-AS92	Portland Cement Risk and Technology Review	2	Update 2017	Proposed Rule Stage	
2060-AS95	Revisions to Testing Regulations for Air Emission Sources	3	Update 2017	Proposed Rule Stage	Y
2060-AT04	Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019	1	Update 2017	Proposed Rule Stage	
2060-AT09	Revision to Method 23--Determination of Polychlorinated Dibenzo-P-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources	3	Update 2017	Proposed Rule Stage	
2060-AT13	Wool Fiberglass Manufacturing Rotary Spin Bonded Lines Technology Review	3	Update 2017	Proposed Rule Stage	
2060-AT25	NESHAP for Brick and Structural Clay Manufacturing; and NESHAP for Ceramics Manufacturing Reconsideration	3	Update 2017	Proposed Rule Stage	
2060-AT43	Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Air Conditioning Refrigerant	3	Update 2017	Proposed Rule Stage	Y
2060-AT45	Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard--Round 3	3	Update 2017	Proposed Rule Stage	Y
2060-AT47	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production	2	Update 2017	Proposed Rule Stage	Y
2060-AT48	National Emission Standards for Hazardous Air Pollutants for Off-Site Waste and Recovery Operations Reconsideration	3	Update 2017	Proposed Rule Stage	Y
2060-AT49	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks Residual Risk and Technology Review	3	Update 2017	Proposed Rule Stage	Y
2060-AT50	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector	3	Update 2017	Proposed Rule Stage	Y

2060-AT51	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans Residual Risk and Technology Review	3	Update 2017	Proposed Rule Stage	Y
2060-AT52	Air Quality: Revision to Definition of Volatile Organic Compounds--Exclusion of (Z)-1,1,1,4,4,4-Hexafluoro-2-Butene (HFO-1336mzz-Z)	3	Update 2017	Proposed Rule Stage	Y
2060-AT53	Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition Certain Industry, Consensus-Based Standards	3	Update 2017	Proposed Rule Stage	Y
2060-AT64	Stay of Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	3	Update 2017	Proposed Rule Stage	Y
2060-AT57	National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry Alternative Monitoring Method	3	Update 2017	Proposed Rule Stage	Y
2060-AT58	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing: Flame Attenuation Line Compliance Date Extension	3	Update 2017	Proposed Rule Stage	Y
2060-AT59	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Extension of Stay for Certain Requirements	3	Update 2017	Proposed Rule Stage	Y
2060-AT60	Extension of Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	3	Update 2017	Proposed Rule Stage	Y
2060-AT61	Relaxation of the RVP Gasoline Standard for Louisiana	3	Update 2017	Proposed Rule Stage	Y
2060-AT65	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Limited Stay of Certain Requirements	3	Update 2017	Proposed Rule Stage	Y
2060-AS46	Risk and Technology Review for the National Emission Standards for Hazardous Air Pollutants for Pulp and Paper Combustion Sources	3	Update 2017	Final Rule Stage	
2060-AS82	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements	2	Update 2017	Final Rule Stage	

2060-AS85	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works	3	Update 2017	Final Rule Stage	
2060-AS86	Technical Amendments to Performance Specification 18 and Procedure 6	3	Update 2017	Final Rule Stage	
2060-AS93	Risk and Technology Review of the National Emission Standards for Hazardous Air Pollutants From Manufacturing of Nutritional Yeast	3	Update 2017	Final Rule Stage	
2060-AT14	Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Risk and Technology Review Reconsideration	3	Update 2017	Final Rule Stage	
2060-AT15	Revisions to Procedure 2--Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources	3	Update 2017	Final Rule Stage	
2060-AT16	Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas	3	Update 2017	Final Rule Stage	
2060-AT17	Revisions to Method 301: Field Validation of Pollutant Measurement Methods From Various Waste Media	3	Update 2017	Final Rule Stage	
2060-AT18	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector	3	Update 2017	Final Rule Stage	
2060-AT42	Remaining Requirements for Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements	3	Update 2017	Final Rule Stage	Y
2070-AK17	Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)	3	Update 2017	Prerule Stage	
2070-AK29	TSCA Reporting and Recordkeeping Requirements; Standards for Small Manufacturers and Processors	3	Update 2017	Prerule Stage	Y
2070-AK00	Pesticides; Technical Amendments to Data Requirements	3	Update 2017	Proposed Rule Stage	
2070-AK06	Pesticides; Procedural Rule Amendment; Requirement for Certain Pesticide Actions to Publish Notices in the Federal Register	3	Update 2017	Proposed Rule Stage	
2070-AJ65	Microorganisms: General Exemptions From Reporting Requirements; Revisions of Recipient Organisms Eligible for Tier I and Tier II Exemptions	3	Update 2017	Proposed Rule Stage	

2070-AJ99	Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule	3	Update 2017	Proposed Rule Stage	
2070-AK07	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a)	1	Update 2017	Proposed Rule Stage	
2070-AK11	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing	1	Update 2017	Proposed Rule Stage	
2070-AK22	Mercury; Reporting Requirements for the TSCA Mercury Inventory	3	Update 2017	Proposed Rule Stage	
2070-AK27	Service Fees for the Administration of the Toxic Substances Control Act	3	Update 2017	Proposed Rule Stage	
2070-AK30	Labeling Relief; Formaldehyde Emission Standards for Composite Wood Products	3	Update 2017	Proposed Rule Stage	Y
2070-AK31	TSCA Chemical Data Reporting; Requirements for Inorganic Byproducts	3	Update 2017	Proposed Rule Stage	Y
2070-AK35	Compliance Date Extension; Formaldehyde Emission Standards for Composite Wood Products	3	Update 2017	Proposed Rule Stage	Y
2070-AK36	Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products	3	Update 2017	Proposed Rule Stage	Y
2070-AK26	Toxic Release Inventory (TRI); Response to Petition From the Toxics Use Reduction Institute (TURI) to Add 25 Chemicals	3	Update 2017	Proposed Rule Stage	
2070-AK32	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting	3	Update 2017	Proposed Rule Stage	Y
2070-AK40	Extension of Compliance Date(s); Agricultural Worker Protection Standard (40 CFR Part 170)	3	Update 2017	Proposed Rule Stage	Y
2070-AJ20	Pesticides; Certification of Pesticide Applicators	2	Update 2017	Final Rule Stage	
2070-AK13	Procedural Rule to Remove Obsolete Information	3	Update 2017	Final Rule Stage	
2070-AJ44	Formaldehyde Emission Standards for Composite Wood Products	2	Update 2017	Final Rule Stage	
2070-AJ54	Nanoscale Materials; Chemical Substances When Manufactured, Imported, or Processed as Nanoscale Materials; Reporting and Recordkeeping Requirements	2	Update 2017	Final Rule Stage	
2070-AJ91	Significant New Use Rule for Toluene Diisocyanates (TDI) and Related Compounds	3	Update 2017	Final Rule Stage	

2070-AK20	Procedures for Evaluating Existing Chemical Risks Under the Toxic Substances Control Act	2	Update 2017	Final Rule Stage
2070-AK23	Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act	2	Update 2017	Final Rule Stage
2070-AK24	TSCA Inventory Notification Active-Inactive Reporting Requirements	3	Update 2017	Final Rule Stage
2070-AK15	Toxics Release Inventory; Addition of Nonylphenol Ethoxylates	3	Update 2017	Final Rule Stage
2080-AA13	Update 40 CFR 26 Subpart K To Reflect Recent Changes To 40 CFR 26 Subpart A (The Common Rule)	3	Update 2017	Proposed Rule Stage
2090-AA40	Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency Financial Assistance Agreements	3	Update 2017	Final Rule Stage
2040-AF03	Development of Best Management Practices for Recreational Boats under Section 312(o) of the Clean Water Act	2	Update 2017	Long-Term Actions
2040-AF25	National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule	3	Update 2017	Long-Term Actions
2040-AF53	Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II--Batch Two (UNDS)	2	Update 2017	Long-Term Actions
2040-AF61	Water Quality Standards for Selenium in the San Francisco Bay and Delta	3	Update 2017	Long-Term Actions
2040-AF62	Federal Baseline Water Quality Standards for Indian Reservations	3	Update 2017	Long-Term Actions
2040-AF66	Federal Human Health Criteria Applicable to Idaho	3	Update 2017	Long-Term Actions
2040-AA94	National Primary Drinking Water Regulations: Radon	1	Update 2017	Long-Term Actions
2040-AC13	National Primary Drinking Water Regulations: Aldicarb	3	Update 2017	Long-Term Actions
2040-AD40	Underground Injection Control: Update of State Programs	3	Update 2017	Long-Term Actions
2040-AF28	National Primary Drinking Water Regulations: Regulation of Perchlorate	1	Update 2017	Long-Term Actions
2040-AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs)	1	Update 2017	Long-Term Actions

2040-AF37	National Primary Drinking Water Regulations: Finished Water Storage Facility Inspection Requirements Addendum to the Revised Total Coliform Rule	2	Update 2017	Long-Term Actions				
2040-AF55	Use of Lead Free Pipes, Fittings, Fixtures, Solder and Flux for Drinking Water	3	Update 2017	Long-Term Actions				
2040-AB85	Shore Protection Act, Section 4103(b) Regulations	3	Update 2017	Long-Term Actions				
2040-AF77	Reconsideration of the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category	3	Update 2017	Long-Term Actions			Y	
2050-AG82	Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act	2	Effective Date-TBD	Long-Term Actions	Effective Date-2/19/2019	Completed		Economically Significant
2050-AF01	RCRA Smarter Waste Reporting	3	NPRM-TBD	Long-Term Actions	NPRM-06/00/2020	Long-Term Actions		This action can not begin until after the e-Manifest sytem is implemented. Program and OGC wants to maintain in Long-Term. With the "Smarter Waste" rule, EPA will consider eliminating the current biennial reporting (BR) on hazardous waste shipments, but only when the eManifest system is in operation, and is working well enough, that States have confidence that it can replace the BR data. After eManifest is launched next spring, we will begin working with our State partners before we draft our proposal. Regarding NAICS codes: none determined at this time.
2050-AG39	Management Standards for Hazardous Waste Pharmaceuticals	3	Final Rule-5/00/2018	Long-Term Actions	Final Rule-7/00/2018	Final Rule Stage		
2050-AG93	Modernizing Ignitable Liquids Determinations	3	NPRM-8/00/2018	Long-Term Actions	NPRM-8/00/2018	Proposed Rule Stage		NAICS codes are unknown at this time; expecting to know within a few months.

2050-AG84	Water Resources Reform Development Act Farm Amendments to the Spill Prevention Control and Countermeasures Rule	3	Statutory: Final-12/10/2016	NPRM-TBD	Long-Term Actions	NPRM-01/00/2020	Long-Term Actions	Economically Significant
2050-AG87	Clean Water Act Hazardous Substances Spill Prevention	2	Court: NPRM-6/16/2018; Final-nlt 14 months after FR pub of NPRM (8/26/2019)	NPRM-6/00/2018; Final-9/00/2019	Long-Term Actions	NPRM-6/00/2018; Final-9/00/2019	Proposed Rule Stage	Reg Plan entry
2060-AL94	Protection of Stratospheric Ozone: Process for Exempting Emergency Uses of Methyl Bromide	3		Update 2017	Long-Term Actions			
2060-AO66	Plywood and Composite Wood Products (PCWP) Residual Risk and Technology Review and Amendments	3		Update 2017	Long-Term Actions			
2060-AR73	Reconsideration of the Polyvinyl Chloride and Copolymers National Emission Standards for Hazardous Air Pollutants	3		Update 2017	Long-Term Actions			
2060-AS26	Petition to Add n-Propyl Bromide to the List of Hazardous Air Pollutants	3		Update 2017	Long-Term Actions			
2060-AS50	Review of the National Ambient Air Quality Standards for Particulate Matter	1		Update 2017	Long-Term Actions			
2060-AS87	Air Quality: Revision to Definition of Volatile Organic Compounds - Exclusion of Dimethyl Succinate (DMS)	3		Update 2017	Long-Term Actions			
2060-AT00	Stationary Combustion Turbine RTR	2		Update 2017	Long-Term Actions			
2060-AT01	Engine Test Cells NESHAP RTR	2		Update 2017	Long-Term Actions			
2060-AT02	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards--Ethylene Production (Subparts XX and YY)	2		Update 2017	Long-Term Actions			
2060-AT03	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities	2		Update 2017	Long-Term Actions			
2060-AT05	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Risk and Technology Review	2		Update 2017	Long-Term Actions			
2060-AT07	Rubber Tire Manufacturing Risk and Technology Review	2		Update 2017	Long-Term Actions			
2060-AT08	Lime Manufacturing Risk and Technology Review	2		Update 2017	Long-Term Actions			

2060-AT10	Endangerment Finding for Lead Emissions From Piston-Engine Aircraft Using Leaded Aviation Gasoline	2	Update 2017	Long-Term Actions	
2060-AT12	National Emission Standard for Hazardous Air Pollutants (NESHAP) Risk and Technology Review: Reinforced Plastics Composites and Boat Manufacturing	2	Update 2017	Long-Term Actions	
2060-AT20	National Emission Standards for Hazardous Air Pollutant Emissions: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	3	Update 2017	Long-Term Actions	
2060-AT30	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries	2	Update 2017	Long-Term Actions	Y
2060-AT33	Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards	3	Update 2017	Long-Term Actions	Y
2060-AT34	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing Residual Risk and Technology Review	2	Update 2017	Long-Term Actions	Y
2060-AT35	Response to the June 2016 Section 126 Petition From Connecticut	3	Update 2017	Long-Term Actions	Y
2060-AT36	Response to the July 2016 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT37	Response to the August 2016 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT38	Response to the November 2016 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT39	Response to the August 2016 Section 126 Petition From Maryland	3	Update 2017	Long-Term Actions	Y
2060-AT40	Response to the 11/28/16 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT41	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications	3	Update 2017	Long-Term Actions	Y
2060-AT54	Review of the 2016 Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources	1	Update 2017	Long-Term Actions	Y
2060-AT55	Review of the Clean Power Plan	1	Update 2017	Long-Term Actions	Y
2060-AT56	Review of the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units	1	Update 2017	Long-Term Actions	Y

2060-AP43	Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities	2	Update 2017	Long-Term Actions	
2070-AJ28	Pesticides; Expansion of Crop Grouping Program	3	Update 2017	Long-Term Actions	
2070-AK10	Pesticide Data Requirements for Nontarget Insect Pollinators	3	Update 2017	Long-Term Actions	
2070-AJ56	Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings	2	Update 2017	Long-Term Actions	
2070-AJ94	Significant New Uses of Chemical Substances; Updates to the Hazard Communication Program and Regulatory Framework; Minor Amendments to Reporting Requirements for Premanufacture Notices	3	Update 2017	Long-Term Actions	
2070-AJ96	Certain Nonylphenols and Nonylphenol Ethoxylates; Significant New Use Rule	3	Update 2017	Long-Term Actions	
2070-AK03	Trichloroethylene (TCE); Regulation of Certain Uses Under TSCA Section 6(a)	1	Update 2017	Long-Term Actions	
2070-AK09	Significant New Use Rule; Alkylpyrrolidone Products	3	Update 2017	Long-Term Actions	
2070-AK18	Trichloroethylene (TCE); SNUR for Non-Aerosol Spray Degreasers	3	Update 2017	Long-Term Actions	
2070-AK21	Procedural Rule: Review of CBI Claims for the Identity of Chemicals on the TSCA Inventory--Amended TSCA Section 8(b)(4)(C)	3	Update 2017	Long-Term Actions	
2070-AK33	TSCA Chemical Data Reporting Revisions	3	Update 2017	Long-Term Actions	Y
2070-AK34	Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)	2	Update 2017	Long-Term Actions	Y
2070-AK37	Review of Pesticides; Certification of Pesticide Applicators	2	Update 2017	Long-Term Actions	Y
2008-AA02	Federal Implementation Plan for Oil and Natural Gas Sources; Uintah and Ouray Indian Reservation in Utah	3	Update 2017	Completed Actions	
2025-AA33	Toxics Release Inventory (TRI); Expansion of Industry Sectors Covered by the TRI, Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313	2	Update 2017	Completed Actions	
2025-AA42	Toxics Release Inventory Addition of Hexabromocyclododecane (HBCD)	3	Update 2017	Completed Actions	
2040-AD39	Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II	3	Update 2017	Completed Actions	

2040-AF05	Oil and Gas Construction Stormwater Rule	3	Update 2017	Completed Actions
2040-AF13	Stormwater Regulations Revision to Address Discharges from Developed Sites	1	Update 2017	Completed Actions
2040-AF26	Effluent Guidelines and Standards for the Dental Point Source Category	3	Update 2017	Completed Actions
2040-AF43	Forest Roads: Determination Under Clean Water Act Section 402(p)(6)	2	Update 2017	Completed Actions
2040-AF54	Alaskan Seafood Processing Effluent Limitations Guidelines	3	Update 2017	Completed Actions
2040-AF56	Revision of Certain Federal Water Quality Criteria Applicable to Washington	3	Update 2017	Completed Actions
2040-AF57	Municipal Separate Storm Sewer System General Permit Remand Rule	2	Update 2017	Completed Actions
2040-AF59	Certain Water Quality Standards Applicable to Maine	3	Update 2017	Completed Actions
2040-AF60	Aquatic Life Criteria for Cadmium in Oregon	3	Update 2017	Completed Actions
2040-AF63	Credit Assistance for Water Infrastructure Projects	3	Update 2017	Completed Actions
2040-AF64	Fees for Water Infrastructure Project Applications Under the Water Infrastructure Finance and Innovation Act	3	Update 2017	Completed Actions
2040-AF49	Unregulated Contaminant Monitoring Rule (UCMR 4) for Public Water Systems	3	Update 2017	Completed Actions
2050-AG91	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date	3	Update 2017	Completed Actions
2050-AG70	Hazardous Waste Generator Improvements Rule	3	Update 2017	Completed Actions
2050-AG77	Hazardous Waste Export-Import Revisions Rule	2	Update 2017	Completed Actions
2050-AG67	Addition of Subsurface Component to the Hazard Ranking System (HRS)	2	Update 2017	Completed Actions
2060-AP26	National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart W: Standards for Radon Emissions From Operating Uranium Mill Tailings: Review	3	Update 2017	Completed Actions
2060-AP79	Lead Emissions From Piston-Engine Aircraft Using Leaded Aviation Gasoline	2	Update 2017	Completed Actions
2060-AQ49	Supplemental Determination for Renewable Fuels Produced Under the Final RFS2 Program From Pulpwood	3	Update 2017	Completed Actions
2060-AR97	Clarification of Requirements for Method 303 Certification Training	3	Update 2017	Completed Actions

2060-AR98	General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Six Source Categories	3	Update 2017	Completed Actions
2060-AS02	Treatment of Data Influenced by Exceptional Events--Rule Revisions	3	Update 2017	Completed Actions
2060-AS47	Model Trading Rules for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014	2	Update 2017	Completed Actions
2060-AS51	Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under Section 608 of the Clean Air Act	3	Update 2017	Completed Actions
2060-AS54	Revision to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter	3	Update 2017	Completed Actions
2060-AS55	Protection of Visibility: Amendments to Requirements for State Plans	3	Update 2017	Completed Actions
2060-AS56	Rescission of Preconstruction Permits Issued Under the Clean Air Act	3	Update 2017	Completed Actions
2060-AS60	Greenhouse Gas Reporting Program--General Revisions	3	Update 2017	Completed Actions
2060-AS71	Revision to the Near-road NO2 Monitoring Requirements	3	Update 2017	Completed Actions
2060-AS72	Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018	1	Update 2017	Completed Actions
2060-AS73	Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems	3	Update 2017	Completed Actions
2060-AS75	Mercury Air Toxics Standards (MATS) Electronic Reporting Requirements	3	Update 2017	Completed Actions
2060-AS78	Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014	1	Update 2017	Completed Actions
2060-AS80	Protection of Stratospheric Ozone: Listings and Listing Modifications for Certain Substitutes Under the Significant New Alternatives Policy Program	3	Update 2017	Completed Actions
2060-AS84	Clean Energy Incentive Program Design Details	2	Update 2017	Completed Actions

2060-AS88	Section 610 Review of Control of Hazardous Air Pollutants From Mobile Sources	3	Update 2017	Completed Actions	
2060-AS89	Technical Correction to the National Ambient Air Quality Standards for Particulate Matter	3	Update 2017	Completed Actions	
2060-AS90	National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production Reconsideration	3	Update 2017	Completed Actions	
2060-AS97	Mid Term Evaluation of the Model Year 2022-2025 Light Duty Vehicle Greenhouse Gas Standards	2	Update 2017	Completed Actions	
2060-AT24	Determinations of Attainment by the Attainment Date, and Determinations of Failure to Attain and Reclassification of Certain Areas, for the 2006 24-hour PM2.5 NAAQS	3	Update 2017	Completed Actions	
2060-AT29	Emission Guidelines for the Existing Oil and Natural Gas Sector	1	Update 2017	Completed Actions	
2060-AT32	Relaxation of the Reid Vapor Pressure (RVP) Gasoline Standard in Five Counties of Middle Tennessee	3	Update 2017	Completed Actions	Y
2060-AT44	Air Quality Designations for the 2012 PM2.5 Standard for Deferred Areas in Tennessee	3	Update 2017	Completed Actions	Y
2060-AT46	Final Rule: Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards (NAAQS)	3	Update 2017	Completed Actions	Y
2060-AT62	Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	4	Update 2017	Completed Actions	Y
2060-AT63	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Partial Stay	3	Update 2017	Completed Actions	Y
2070-AJ27	Pesticides; Data Requirements for Plant-Incorporated Protectants (PIPs) and Certain Exemptions for PIPs	3	Update 2017	Completed Actions	
2070-AJ32	Regulations to Facilitate Compliance With the Federal Insecticide, Fungicide, and Rodenticide Act by Producers of Plant-Incorporated Protectants (PIPs)	2	Update 2017	Completed Actions	
2070-AK14	Restructuring of Pesticide Adverse Effects Reporting Regulations	3	Update 2017	Completed Actions	

2070-AD64	Lead-Based Paint; Amendments to the Requirements for Disclosure of Known Lead-Based Paint or Lead-Based Paint Hazards in Target Housing	3	Update 2017	Completed Actions				
2070-AJ04	TSCA Inventory Nomenclature for Enzymes and Proteins	3	Update 2017	Completed Actions				
2070-AJ46	Mercury; Regulation of Use in Certain Products	1	Update 2017	Completed Actions				
2070-AJ47	Nanoscale Materials; Test Rule for Certain Nanoscale Materials	3	Update 2017	Completed Actions				
2070-AJ63	TSCA Reporting Requirements; Revisions	3	Update 2017	Completed Actions				
2070-AJ72	Long-Chain Perfluorinated Chemicals (LCPFCs); Regulation(s) Under TSCA	2	Update 2017	Completed Actions				
2070-AJ83	Testing of Bisphenol A (BPA)	2	Update 2017	Completed Actions				
2070-AJ90	CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA	3	Update 2017	Completed Actions				
2070-AJ97	MDI and TDI; Health and Safety Data Reporting Under TSCA 8(d)	3	Update 2017	Completed Actions				
2070-AK28	Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Amendment	3	Update 2017	Completed Actions			Y	
2070-AK38	Pesticides; Certification of Pesticide Applicators Rule; Extension of Effective Date	2	Update 2017	Completed Actions			Y	
2070-AK39	Extension of Compliance Date for TSCA Reporting of Chemical Substances When Manufactured or Processed as Nanoscale Materials	2	Update 2017	Completed Actions			Y	
2090-AA39	Nondiscrimination in Programs or Activities Receiving Federal Assistance From the Environmental Protection Agency	3	Update 2017	Completed Actions				
2050-tbd	RMP Reconsideration	3			NPRM-01/00/18	Proposed Rule Stage	x	Reg Plan entry; Significant

	Oil and Gas		Court: Either determination is unnecessary or NPRM-03/15/2019; Final action-7/15/2021					Not appropriate to submit a Reg Agenda entry for oil and gas at this point for the following reasons: 1. We have not determined what our decision on this will be nor have we determined the means/method of communicating it. For example, if we determine based on our review of all the information that no rule is needed, we don't necessarily need to do a FR notice to communicate that. 2. How we respond has implications for the remainder of our 2002(b) obligations – in other words, we don't want to set a precedent for responding to "no rule" determinations with an FR notice. 3. We believe that putting this in the Reg Agenda will appear to many industry groups that we have in fact agreed or determined that rules are necessary and that we are proceeding with rulemaking. 4. In addition, there is still litigation involving the consent decree from the State of North Dakota and a public reg agenda could inadvertently also send the wrong message. 5. At best this is a long term action (March 2019) and so doesn't fit into the time frame that you all are generally looking at.
2050-AC71	RCRA Subtitle C Finanical Test Criteria Regulatory Determination	2		n/a: posted as "inactive"	Withdrawn-8/11/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.
2050-AG45	Standards for the Safe and Environmentally Protective Placement of Coal Combustion Residuals as Minefill in Coal Mines Not Regulated Under the Surface Mining Control and Reclamation Act	3		n/a: posted as "inactive"	Withdrawn-8/11/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.

2050-AG66	CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances From Animal Waste at Farms	2	Court vacated rule; issuance of mandate extended until 11/14/2017			Withdrawn 8/24/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.
2050-AG34	Revisions to Land Disposal Restrictions Treatment Standards and Amendments to Recycling Requirements for Spent Petroleum Refining Hydrotreating and Hydrorefining	3			n/a: posted as "inactive"	Withdrawn-8/23/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 1	1	Court: NPRM-7/02/2019 signature; Final Action-12/02/2020 signature		n/a: posted as "inactive"	NPRM-7/00/2019; Final-12/00/2020	Long-term Actions	x	NAICS codes will be identified after the specific class of industry is identified for this entry.
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 2	1	Court: NPRM-12/04/2019 signature; Final Action-12/01/2021 signature		n/a: posted as "inactive"	NPRM-12/00/2019; Final-12/00/2021	Long-term Actions	x	NAICS codes will be identified after the specific class of industry is identified for this entry.
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 3	1	Court: NPRM-12/01/2022 signature; Final Action-12/04/2024 signature		n/a: posted as "inactive"	NPRM-12/00/2022; Final-12/00/2024	Long-term Actions	x	NAICS codes will be identified after the specific class of industry is identified for this entry.

EO 13771: Regulatory, Deregulatory, Exempt, Waived, or Other

Y

Deregulatory

Deregulatory

Deregulatory

Regulatory

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Deregulatory

Deregulatory

Deregulatory

Y

Y

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Y

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Regulatory

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n/a

n/a

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Deregulatory

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Exempt

Exempt

Exempt

Exempt

Regulatory

Regulatory

Regulatory

RIN	Title	Posted as Inactive on RegInfo.gov with Spring 2017 Reg Agenda	To be Posted as Inactive with Fall 2017 Reg Agenda (not included within Reg Agenda)	Comments	EO 13771: Regulatory, Deregulatory, Exempt, Waived, or Other
2012-AA02	Revisions to Federal Implementation Plans Under the Clean Air Act for Indian Country in Idaho, Oregon and Washington	2000 - EPA	2012 - ROSEATTLE	Revisions to Federal Implementation Plans Under the Clean Air Act for Indian Country in Idaho, Oregon and Washington	
2015-AA01	Supplemental Standards of Ethical Conduct for Employees of the Environmental Protection Agency	2000 - EPA	2015 - OGC	Supplemental Standards of Ethical Conduct for Employees of the Environmental Protection Agency	
2025-AA17	TRI; Response to Petition To Add Diisononyl Phthalate to the Toxics Release Inventory List of Toxic Chemicals	2000 - EPA	2025 - OEI	TRI; Response to Petition To Add Diisononyl Phthalate to the Toxics Release Inventory List of Toxic Chemicals	
2025-AA24	Toxics Release Inventory (TRI) Articles Exemption Clarification Rule	2000 - EPA	2025 - OEI	Toxics Release Inventory (TRI) Articles Exemption Clarification Rule	
2040-AD87	Statement of Policy--NPDES Permit Requirements for Peak Wet Weather Discharges From Publicly Owned Treatment Work Treatment Plants Serving Sanitary Sewer Collection Systems	2000 - EPA	2040 - OW	Statement of Policy--NPDES Permit Requirements for Peak Wet Weather Discharges From Publicly Owned Treatment Work Treatment Plants Serving Sanitary Sewer Collection Systems	
2050-AC71	RCRA Subtitle C Financial Test Criteria Regulatory Determination	Y	N	Withdrawing; Placed in the Completed Actions section of the Reg Agenda and identified as Withdrawn. Reason for withdrawal: The EPA is withdrawing this entry as the information underpinning the original effort is several years old. The EPA may initiate a similar action with updated information at a later date. The EPA would expect to gather more recent information prior to moving forward with such an action.	Exempt

2050-AE34	Management of Cement Kiln Dust (CKD)	Y	Y	Keep as Pending with TBD FR date. Justification from OGC: While ORCR does not have the resources to advance this action at this time, the action should nonetheless remain in the "pending" category of stage of rulemaking. This is because EPA is in receipt of a rulemaking petition (submitted in 2010 pursuant to the Administrative Procedures Act) to which the Agency has not responded. The petitioner specifically requests that EPA finalize the regulations issued in 1999. Before the Agency can respond to the rulemaking petition, EPA's regulations require EPA to first publish a tentative decision in the Federal Register for public comment. Withdrawal of the CKD entry from the Regulatory Agenda could be interpreted as the Agency's response to the rulemaking petition, which because we had not first published a tentative decision to do so, would be a violation of these regulations.	Regulatory
2050-AE87	Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	Y	Y	Keep as Pending; Changed FR date from 10/00/2018 to 1/00/2021. The EPA put this in Pending during Spring 2017 Reg Agenda effort. The new date keeps it in consideration for Pending, that is, no regulatory activity planned on it for over 12-14 months. Background on delay in finalizing rule: The program has requirements for folks to test spill mitigation products that can be placed onto the Subpart J Products schedule, and that can be authorized for use in responding to oil spills (e.g., dispersant used in the DWH response). The requirements include testing against reference oils that the Agency provides. We are running low on our reference oil stockpiles, and will need to replace them with new oils (the ones we use now are no longer available for us to acquire). We may need to finalize some of the testing requirements first.	Regulatory

2050-AG34	Revisions to Land Disposal Restrictions Treatment Standards and Amendments to Recycling Requirements for Spent Petroleum Refining Hydrotreating and Hydrorefining	Y	N	Withdrawing; Placed in the Completed Actions section of the Reg Agenda and identified as Withdrawn. Reason for withdrawal: On January 13, 2015, the EPA finalized new safeguards that promote responsible hazardous secondary materials recycling, which eliminates the need for a specific rulemaking on spent petroleum refining catalyst recycling. As a result of this significant change to the scope of the proposed rule, the EPA is withdrawing this entry and will revisit the specific issues associated with spent petroleum refining catalyst disposal under RCRA.	Exempt
2050-AG40	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	Y	Y	Keep as Pending; Changed FR date from 12/00/2018 to 1/00/2021. The new date puts it into consideration for Pending, that is, no regulatory activity planned on it for over 12-14 months. Staff will be working on other priority actions.	Deregulatory
2050-AG45	Standards for the Safe and Environmentally Protective Placement of Coal Combustion Residuals as Minefill in Coal Mines Not Regulated Under the Surface Mining Control and Reclamation Act	Y	N	Withdrawing; Placed in the Completed Actions section of the Reg Agenda and identified as Withdrawn. Reason for withdrawal: The related rulemaking to be conducted by DOI has been removed from the Regulatory Agenda. When DOI starts work on their action, the EPA will follow suit.	Exempt
2050-AG56	Financial Responsibility Requirements Under CERCLA Section 108(b) for Facilities in the Chemical, Petroleum and Electric Power Industries	Y	N	3 separate entries (based on classes to be considered per rule) in the Reg Agenda as Long-term actions.	Regulatory
2050-AG66	CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances From Animal Waste at Farms	Y	N	Withdrawing: Placed in the Completed Actions section of the Reg Agenda and identified as Withdrawn. Court has extended the issuance of its mandate to vacate the parent rule until November 14, 2017. If a decision is made to do any related rulemaking, we will tier the new action.	Exempt
2050-AG78	National Contingency Plan Revisions to Align With the National Response Framework	Y	Y	Keep as Pending with TBD FR date. Have no final decision on the future of this action. We are working with OGC and OP on possible rationale for withdrawing later (possibly Spring 2018). Regarding NAICS Codes: Industries affected by the rule are all those who would be required to contact the National Response Center thus no list. A statement to the effect is in the Additional Information section of the entry.	Exempt

2060-AI62	National Volatile Organic Compounds (VOC) Emission Standards for Consumer Products; Amendments	2000 - EPA	2060 - OAR	National Volatile Organic Compounds (VOC) Emission Standards for Consumer Products; Amendments
2060-AK26	Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances: N-Propyl Bromide	2000 - EPA	2060 - OAR	Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances: N-Propyl Bromide
2060-AK54	National Emissions Standards for Hazardous Air Pollutants (NESHAP): General Provisions; Amendments for Pollution Prevention Alternative Compliance Requirements	2000 - EPA	2060 - OAR	National Emissions Standards for Hazardous Air Pollutants (NESHAP): General Provisions; Amendments for Pollution Prevention Alternative Compliance Requirements
2060-AK73	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines-Petition to Delist	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines-Petition to Delist
2060-AK84	Petition to Delist Hazardous Air Pollutant: 4,4'-Methylene Diphenyl Diisocyanate	2000 - EPA	2060 - OAR	Petition to Delist Hazardous Air Pollutant: 4,4'-Methylene Diphenyl Diisocyanate
2060-AM20	Petition to Delist a Hazardous Air Pollutant From Section 112 of the Clean Air Act: Methyl Isobutyl Ketone (MIBK)	2000 - EPA	2060 - OAR	Petition to Delist a Hazardous Air Pollutant From Section 112 of the Clean Air Act: Methyl Isobutyl Ketone (MIBK)
2060-AM75	NESHAP: General Provisions (Once In Always In)--Amendments	2000 - EPA	2060 - OAR	NESHAP: General Provisions (Once In Always In)--Amendments
2060-AM84	National Emissions Standards for Hazardous Air Pollutants (NESHAP): Defense Land Systems and Miscellaneous Equipment	2000 - EPA	2060 - OAR	National Emissions Standards for Hazardous Air Pollutants (NESHAP): Defense Land Systems and Miscellaneous Equipment
2060-AN17	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Small Municipal Waste Combustors: Remand Response and Amendments	2000 - EPA	2060 - OAR	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Small Municipal Waste Combustors: Remand Response and Amendments
2060-AN36	National Emission Standards for Hazardous Air Pollutants: Site Remediation	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants: Site Remediation
2060-AN43	Federal Plan Requirements for Other Solid Waste Incineration Units Constructed on or Before December 9, 2004	2000 - EPA	2060 - OAR	Federal Plan Requirements for Other Solid Waste Incineration Units Constructed on or Before December 9, 2004
2060-AN93	Improving Implementation of the Operating Permit Rules in Response to the Clean Air Act Advisory Committee Recommendations	2000 - EPA	2060 - OAR	Improving Implementation of the Operating Permit Rules in Response to the Clean Air Act Advisory Committee Recommendations
2060-AN99	National Emission Standards for Hazardous Air Pollutants (NESHAP): Mercury Cell Chlor-Alkali Plants--Amendments	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants (NESHAP): Mercury Cell Chlor-Alkali Plants--Amendments

2060-AO18	New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Large Municipal Waste Combustors (MWCs) -- Risk and Technology Review	2000 - EPA	2060 - OAR	New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Large Municipal Waste Combustors (MWCs) -- Risk and Technology Review
2060-AO25	Revision of Hearing-Protector Regulations	2000 - EPA	2060 - OAR	Revision of Hearing-Protector Regulations
2060-AO31	Amendment of Definitions for National Emissions Standards for Hazardous Pollutants for Radionuclides	2000 - EPA	2060 - OAR	Amendment of Definitions for National Emissions Standards for Hazardous Pollutants for Radionuclides
2060-AO60	New Source Performance Standards (NSPS) Review Under CAA Section111(b)(1)(B)	2000 - EPA	2060 - OAR	New Source Performance Standards (NSPS) Review Under CAA Section111(b)(1)(B)
2060-AP06	Standards of Performance for Grain Elevators	2000 - EPA	2060 - OAR	Standards of Performance for Grain Elevators
2060-AP07	Remand of Halogenated Solvent Cleaning Final Residual Risk Rule	2000 - EPA	2060 - OAR	Remand of Halogenated Solvent Cleaning Final Residual Risk Rule
2060-AP08	Revisions to Test Method for Determining Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Walls	2000 - EPA	2060 - OAR	Revisions to Test Method for Determining Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Walls
2060-AP21	Response to Section 126 Petition From Warrick County, Indiana and the Town of Newburgh, Indiana	2000 - EPA	2060 - OAR	Response to Section 126 Petition From Warrick County, Indiana and the Town of Newburgh, Indiana
2060-AP22	Revision to Definition of Volatile Organic Compounds--Exclusion of Methyl Iodide (And Possibly Methyl Bromide)	2000 - EPA	2060 - OAR	Revision to Definition of Volatile Organic Compounds--Exclusion of Methyl Iodide (And Possibly Methyl Bromide)
2060-AP34	NSPS Equipment Leaks (Subpart VV SOCMI and GGG Petroleum Refineries); Amendments	2000 - EPA	2060 - OAR	NSPS Equipment Leaks (Subpart VV SOCMI and GGG Petroleum Refineries); Amendments
2060-AP41	In-Use Emissions Testing for Nonroad Diesel Engines and Amendments to General Compliance Provisions for Nonroad Engines	2000 - EPA	2060 - OAR	In-Use Emissions Testing for Nonroad Diesel Engines and Amendments to General Compliance Provisions for Nonroad Engines
2060-AP51	Response to Section 126 Petition From North Carolina	2000 - EPA	2060 - OAR	Response to Section 126 Petition From North Carolina
2060-AP60	Response to Section 126 Petition From Delaware	2000 - EPA	2060 - OAR	Response to Section 126 Petition From Delaware
2060-AP63	Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards	2000 - EPA	2060 - OAR	Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards
2060-AP66	Alternative Work Practices for Leak Detection and Repair, Amendments	2000 - EPA	2060 - OAR	Alternative Work Practices for Leak Detection and Repair, Amendments
2060-AP71	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reasonable Possibility in Recordkeeping; Reconsideration	2000 - EPA	2060 - OAR	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reasonable Possibility in Recordkeeping; Reconsideration

2060-AP80	Reconsideration of the Prevention of Significant Deterioration and Nonattainment New Source Review (NSR) Project Aggregation	2000 - EPA	2060 - OAR	Reconsideration of the Prevention of Significant Deterioration and Nonattainment New Source Review (NSR) Project Aggregation
2060-AP94	National VOC Emission Standards for Architectural Coatings; Amendments	2000 - EPA	2060 - OAR	National VOC Emission Standards for Architectural Coatings; Amendments
2060-AP96	National Emission Standards for Hazardous Air Pollutants: Startup, Shutdown, and Malfunction Amendments to Part 63 Standards	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants: Startup, Shutdown, and Malfunction Amendments to Part 63 Standards
2060-AQ07	Withdrawal of the Prior Determination or Presumption That Compliance With the CAIR or the NOx SIP Call Constitutes RACT or RACM for the 1997 8-Hour Ozone and 1997 Fine Particle NAAQS	2000 - EPA	2060 - OAR	Withdrawal of the Prior Determination or Presumption That Compliance With the CAIR or the NOx SIP Call Constitutes RACT or RACM for the 1997 8-Hour Ozone and 1997 Fine Particle NAAQS
2060-AQ29	Stationary Combustion Turbine New Source Performance Standard (NSPS) Amendments to Address UARG Reconsideration Petition	2000 - EPA	2060 - OAR	Stationary Combustion Turbine New Source Performance Standard (NSPS) Amendments to Address UARG Reconsideration Petition
2060-AQ36	Supplemental Determinations for Renewable Fuels Produced Under the Final RFS2 Program From Palm Oil	2000 - EPA	2060 - OAR	Supplemental Determinations for Renewable Fuels Produced Under the Final RFS2 Program From Palm Oil
2060-AQ47	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Reconsideration	2000 - EPA	2060 - OAR	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Reconsideration
2060-AQ72	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units	2000 - EPA	2060 - OAR	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units
2060-AR00	National Uniform Standards for Storage Vessel and Transfer Operations, Equipment Leaks, Closed Vent Systems and Control Devices; Revisions to the National Uniform Emission Standards General Provisions	2000 - EPA	2060 - OAR	National Uniform Standards for Storage Vessel and Transfer Operations, Equipment Leaks, Closed Vent Systems and Control Devices; Revisions to the National Uniform Emission Standards General Provisions
2060-AR12	Revised Regulation for Environmental Radiation Protection Standard for Nuclear Power Operations	2000 - EPA	2060 - OAR	Revised Regulation for Environmental Radiation Protection Standard for Nuclear Power Operations
2060-AR27	Amendments to Part 63 Subpart YYYYY Electric Arc Furnace Area Source Standard	2000 - EPA	2060 - OAR	Amendments to Part 63 Subpart YYYYY Electric Arc Furnace Area Source Standard
2060-AR28	Ozone and Fine Particulate Matter (PM2.5) Significant Impact Levels (SILs) for Prevention of Significant Deterioration (PSD) Program	2000 - EPA	2060 - OAR	Ozone and Fine Particulate Matter (PM2.5) Significant Impact Levels (SILs) for Prevention of Significant Deterioration (PSD) Program

2060-AR93	Air Quality: Revision to Definition of Volatile Organic Compounds -- Exclusion of Benzotrifluoride	2000 - EPA	2060 - OAR	Air Quality: Revision to Definition of Volatile Organic Compounds -- Exclusion of Benzotrifluoride
2060-AS13	National Emission Standards for Hazardous Air Pollutants Risk and Technology Review	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants Risk and Technology Review
2060-AS61	Reconsideration: Oil and Natural Gas Sector Revisions to the Petition Provisions of the Title V Permitting Program	2000 - EPA	2060 - OAR	Reconsideration: Oil and Natural Gas Sector Revisions to the Petition Provisions of the Title V Permitting Program
2060-AS62	Revisions to the Prevention of Significant Deterioration and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a GHG SER for GHG Emissions Under the PSD Program	2000 - EPA	2060 - OAR	Revisions to the Prevention of Significant Deterioration and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a GHG SER for GHG Emissions Under the PSD Program
2060-AS66	Renewables Enhancement and Growth Support Rule	2000 - EPA	2060 - OAR	Renewables Enhancement and Growth Support Rule
2060-AS67	Electronic Reporting and Recordkeeping Requirements for National Emission Standards for Hazardous Air Pollutants, Phase I	2000 - EPA	2060 - OAR	Electronic Reporting and Recordkeeping Requirements for National Emission Standards for Hazardous Air Pollutants, Phase I
2060-AS77	Stationary Engine NESHAP/NSPS Amendments	2000 - EPA	2060 - OAR	Stationary Engine NESHAP/NSPS Amendments
2060-AS81	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
2060-AS96	Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program	2000 - EPA	2060 - OAR	Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program
2060-AT06	Noise Emission Standards for Transportation Equipment: High Speed Rail	2000 - EPA	2060 - OAR	Noise Emission Standards for Transportation Equipment: High Speed Rail
2060-AT21	Vehicle Test Procedure Adjustments for Tier 3 Test Fuel	2000 - EPA	2060 - OAR	Vehicle Test Procedure Adjustments for Tier 3 Test Fuel
2060-AT23	Amendments to Implementing Regulations for Acting on State Plans	2000 - EPA	2060 - OAR	Amendments to Implementing Regulations for Acting on State Plans
2060-AT26	Control of Air Pollution From Aircraft and Aircraft Engines: Proposed GHG Emissions Standards and Test Procedures	2000 - EPA	2060 - OAR	Control of Air Pollution From Aircraft and Aircraft Engines: Proposed GHG Emissions Standards and Test Procedures
2060-AT27	Oil & Natural Gas Sector Technical Corrections	2000 - EPA	2060 - OAR	Oil & Natural Gas Sector Technical Corrections
2060-AT28	Commercial, Industrial Solid Waste Incineration Federal Plan	2000 - EPA	2060 - OAR	Commercial, Industrial Solid Waste Incineration Federal Plan
2070-AA58	Follow-Up Rules on Existing Chemicals	2000 - EPA	2070 - OCSPP	Follow-Up Rules on Existing Chemicals

2070-AA59	Significant New Use Rules (SNURs); Follow-Up Rules on Non-5(e) New Chemical Substances	2000 - EPA	2070 - OCSPP	Significant New Use Rules (SNURs); Follow-Up Rules on Non-5(e) New Chemical Substances
2070-AB27	Significant New Use Rule (SNUR); Chemical-Specific SNURs To Extend Provisions of Section 5(e) Orders	2000 - EPA	2070 - OCSPP	Significant New Use Rule (SNUR); Chemical-Specific SNURs To Extend Provisions of Section 5(e) Orders
2070-AC21	Lead Fishing Sinkers; Manufacturing, Processing, and Distribution in Commerce	2000 - EPA	2070 - OCSPP	Lead Fishing Sinkers; Manufacturing, Processing, and Distribution in Commerce
2070-AC37	Significant New Use Rule (SNUR); Refractory Ceramic Fibers (RCFs)	2000 - EPA	2070 - OCSPP	Significant New Use Rule (SNUR); Refractory Ceramic Fibers (RCFs)
2070-AC46	Groundwater and Pesticide Management Plan Rule	2000 - EPA	2070 - OCSPP	Groundwater and Pesticide Management Plan Rule
2070-AC64	Lead-Based Paint Activities; Bridges and Structures; Training, Accreditation, and Certification Rule and Model State Plan Rule	2000 - EPA	2070 - OCSPP	Lead-Based Paint Activities; Bridges and Structures; Training, Accreditation, and Certification Rule and Model State Plan Rule
2070-AD14	Pesticides; Registration Requirements for Antimicrobial Pesticide Products	2000 - EPA	2070 - OCSPP	Pesticides; Registration Requirements for Antimicrobial Pesticide Products
2070-AD44	Test Rule; Multiple Substance Rule for the Testing of Developmental and Reproductive Toxicity	2000 - EPA	2070 - OCSPP	Test Rule; Multiple Substance Rule for the Testing of Developmental and Reproductive Toxicity
2070-AD49	Plant Incorporated Protectants (PIPs); Exemption for those Based on Viral Coat Protein Genes	2000 - EPA	2070 - OCSPP	Plant Incorporated Protectants (PIPs); Exemption for those Based on Viral Coat Protein Genes
2070-AD55	Plant Incorporated Protectants (PIPs); Exemption for Those Derived Through Genetic Engineering From Sexually Compatible Plants	2000 - EPA	2070 - OCSPP	Plant Incorporated Protectants (PIPs); Exemption for Those Derived Through Genetic Engineering From Sexually Compatible Plants
2070-AD56	Plant Incorporated Protectants (PIPs); Exemption for PIPs That Act by Primarily Affecting the Plant	2000 - EPA	2070 - OCSPP	Plant Incorporated Protectants (PIPs); Exemption for PIPs That Act by Primarily Affecting the Plant
2070-AJ07	Testing Agreement for Aryl Phosphates (ITC List 2)	2000 - EPA	2070 - OCSPP	Testing Agreement for Aryl Phosphates (ITC List 2)
2070-AJ08	Certain Polybrominated Diphenylethers; Significant New Use Rule (SNUR) and Test Rule	2000 - EPA	2070 - OCSPP	Certain Polybrominated Diphenylethers; Significant New Use Rule (SNUR) and Test Rule
2070-AJ31	Significant New Use Rule for Chloranil	2000 - EPA	2070 - OCSPP	Significant New Use Rule for Chloranil
2070-AJ34	Nonylphenol (NP) and its Ethoxylates (NPE); Significant New Use Rule & Test Rule	2000 - EPA	2070 - OCSPP	Nonylphenol (NP) and its Ethoxylates (NPE); Significant New Use Rule & Test Rule
2070-AJ38	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations	2000 - EPA	2070 - OCSPP	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations
2070-AJ45	Pesticides; Reconsideration of Exemptions for Insect Repellents	2000 - EPA	2070 - OCSPP	Pesticides; Reconsideration of Exemptions for Insect Repellents

2070-AJ49	Pesticides; Data Requirements for Product Performance	2000 - EPA	2070 - OCSPP	Pesticides; Data Requirements for Product Performance
2070-AJ61	Pesticides; Clarifying Changes to Labeling	2000 - EPA	2070 - OCSPP	Pesticides; Clarifying Changes to Labeling
2070-AJ64	Lead Wheel Weights; Regulatory Investigation	2000 - EPA	2070 - OCSPP	Lead Wheel Weights; Regulatory Investigation
2070-AJ66	High Production Volume (HPV) Chemicals; Fourth Group of Chemicals	2000 - EPA	2070 - OCSPP	High Production Volume (HPV) Chemicals; Fourth Group of Chemicals
2070-AJ68	TSCA; Clarification for Chemical Identification Describing Statutory Mixtures, Including Ceramic Materials, Cements, and Frits for TSCA Inventory Purposes	2000 - EPA	2070 - OCSPP	TSCA; Clarification for Chemical Identification Describing Statutory Mixtures, Including Ceramic Materials, Cements, and Frits for TSCA Inventory Purposes
2070-AJ82	Residential Lead Dust Hazard Standards	2000 - EPA	2070 - OCSPP	Residential Lead Dust Hazard Standards
2070-AJ89	Cadmium; Health and Safety Data Reporting Under the Toxic Substances Control Act (TSCA) Section 8(d)	2000 - EPA	2070 - OCSPP	Cadmium; Health and Safety Data Reporting Under the Toxic Substances Control Act (TSCA) Section 8(d)
2070-AJ93	Hydraulic Fracturing Chemicals and Mixtures	2000 - EPA	2070 - OCSPP	Hydraulic Fracturing Chemicals and Mixtures
2070-AK12	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares	2000 - EPA	2070 - OCSPP	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares
2070-AK16	Toxics Release Inventory (TRI); Addition of Natural Gas Processing Facilities	2000 - EPA	2070 - OCSPP	Toxics Release Inventory (TRI); Addition of Natural Gas Processing Facilities
2070-AK25	Restoration of Inadvertently-Removed Exemption From the Requirements of FIFRA	2000 - EPA	2070 - OCSPP	Restoration of Inadvertently-Removed Exemption From the Requirements of FIFRA

RIN	Title	EO 12866 Determinations	EO 13771: Regulatory, Deregulatory, Exempt, Waived, or Other	Justification for EO 13771 Classification
2015-AA00	Revision of Procedural Rules for Hearings on Cancellations, Suspensions, Changes in Classifications, and Denials of Pesticide Registrations			
2025-AA38	Environmental Protection Agency Freedom of Information Act Regulations Update			
2025-AA39	Revisions to 40 CFR Part 2, Subpart b (Confidentiality of Business Information)			
2025-AA40	E-Discovery Privacy Act and Privacy Act Exemptions			
2040-AF65	Federal Mercury Aquatic-Dependent Wildlife Criteria Applicable to California			
2040-AF69	Federal Numeric Nutrient Criteria Applicable to Missouri Lakes			
2040-AF70	Federal Aluminum Aquatic Life Criteria Applicable to Oregon			
2040-AF71	Rule to Withdraw of Certain Federal Water Quality Criteria for Lead Applicable to California			
2040-AF72	Rule to Withdraw Certain Federal Water Quality Criteria for Chlorodibromomethane Applicable to California			
2040-AF73	Rule to Withdraw Certain Federal Water Quality Criteria for Dichlorobromomethane Applicable to California			
2040-AF74	Definition of "Waters of the United States" – Recodification of Preexisting Rules			
2040-AF75	Second Action: Definition of "Waters of the U.S."			
2040-AF76	Postponement of Certain Compliance Dates for Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category			
2040-AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions		Y	

2040-AF48	Clean Water Act Methods Update Rule for the Analysis of Effluent			
2040-AF67	Public Notice Requirements for Combined Sewer Overflow Discharges to the Great Lakes			
2050-AG86	Bioreactor/Wet Landfill Regulations Under RCRA Subtitle D	Significant (confirmed)	Deregulatory	This action is an ANPRM that will ask for data and information. No regulatory costs are will be imposed.
2050-AG88	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues From Electric Utilities: Remand Rule	Significant (confirmed)	Deregulatory	This action addresses several items that were remanded to the Agency by the court and will allow for greater flexibilities in the management of CCR.
2050-AG92	Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations	Significant (expected)	Deregulatory	Will allow aerosol cans to be managed in a more streamlined manner thus saving industry money.
2050-AG61	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry	Significant (confirmed)	Regulatory	
2050-AG94	Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA	Non-significant (expected)	Deregulatory	
2050-AG80	User Fee Schedule for Electronic Hazardous Waste Manifest	Significant (confirmed)	Deregulatory	Economic analyses for the e-Manifest system show the rule is cost-saving, compared with the traditional paper manifest system.
2050-AG83	Non-Hazardous Secondary Materials--Additions to List of Categorical Non-Waste Fuels; Other Treated Railroad Ties	Significant (confirmed)	Deregulatory	If the exemption is granted, cost savings are expected because the material will be able to be burned. If the exemption is not granted, the cost will be zero because the status quo will be maintained.
2050-AG90	Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents	Non-significant (confirmed)	Deregulatory	Cost savings expected from streamlining the import/export reporting process.
2060-AT22	Response to December 9, 2013 CAA Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont			
2060-AO75	Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing			
2060-AR57	Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide			
2060-AS32	National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting			

2060-AS74	General Revisions to Emissions Monitoring and Reporting Requirements for Fossil Fuel-Fired Electric Generating Units	
2060-AS79	National Emission Standards for Hazardous Air Pollutants: Manufacture of Amino/Phenolic Resins	
2060-AS91	Revisions to Method 202: Dry Impinger Method for Determining Condensable Particulate Emissions From Stationary Sources	
2060-AS92	Portland Cement Risk and Technology Review	
2060-AS95	Revisions to Testing Regulations for Air Emission Sources	
2060-AT04	Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019	Y
2060-AT09	Revision to Method 23--Determination of Polychlorinated Dibenzo-P-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources	
2060-AT13	Wool Fiberglass Manufacturing Rotary Spin Bonded Lines Technology Review	
2060-AT25	NESHAP for Brick and Structural Clay Manufacturing; and NESHAP for Ceramics Manufacturing Reconsideration	
2060-AT43	Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Air Conditioning Refrigerant	
2060-AT45	Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard--Round 3	
2060-AT47	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production	
2060-AT48	National Emission Standards for Hazardous Air Pollutants for Off-Site Waste and Recovery Operations Reconsideration	
2060-AT49	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks Residual Risk and Technology Review	

2060-AT50	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector	
2060-AT51	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans Residual Risk and Technology Review	
2060-AT52	Air Quality: Revision to Definition of Volatile Organic Compounds--Exclusion of (Z)-1,1,1,4,4,4-Hexafluoro-2-Butene (HFO-1336mzz-Z)	
2060-AT53	Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition Certain Industry, Consensus-Based Standards	
2060-AT64	Stay of Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	
2060-AT57	National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry Alternative Monitoring Method	
2060-AT58	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing: Flame Attenuation Line Compliance Date Extension	
2060-AT59	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Extension of Stay for Certain Requirements	Y
2060-AT60	Extension of Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	
2060-AT61	Relaxation of the RVP Gasoline Standard for Louisiana	
2060-AT65	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Limited Stay of Certain Requirements	

2060-AS46	Risk and Technology Review for the National Emission Standards for Hazardous Air Pollutants for Pulp and Paper Combustion Sources
2060-AS82	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements
2060-AS85	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
2060-AS86	Technical Amendments to Performance Specification 18 and Procedure 6
2060-AS93	Risk and Technology Review of the National Emission Standards for Hazardous Air Pollutants From Manufacturing of Nutritional Yeast
2060-AT14	Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Risk and Technology Review Reconsideration
2060-AT15	Revisions to Procedure 2--Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources
2060-AT16	Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas
2060-AT17	Revisions to Method 301: Field Validation of Pollutant Measurement Methods From Various Waste Media
2060-AT18	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector
2060-AT42	Remaining Requirements for Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements
2070-AK17	Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
2070-AK29	TSCA Reporting and Recordkeeping Requirements; Standards for Small Manufacturers and Processors

2070-AK00	Pesticides; Technical Amendments to Data Requirements	
2070-AK06	Pesticides; Procedural Rule Amendment; Requirement for Certain Pesticide Actions to Publish Notices in the Federal Register	
2070-AJ65	Microorganisms: General Exemptions From Reporting Requirements; Revisions of Recipient Organisms Eligible for Tier I and Tier II Exemptions	
2070-AJ99	Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule	
2070-AK07	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a)	Y
2070-AK11	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing	Y
2070-AK22	Mercury; Reporting Requirements for the TSCA Mercury Inventory	
2070-AK27	Service Fees for the Administration of the Toxic Substances Control Act	
2070-AK30	Labeling Relief; Formaldehyde Emission Standards for Composite Wood Products	
2070-AK31	TSCA Chemical Data Reporting; Requirements for Inorganic Byproducts	
2070-AK35	Compliance Date Extension; Formaldehyde Emission Standards for Composite Wood Products	
2070-AK36	Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products	
2070-AK26	Toxic Release Inventory (TRI); Response to Petition From the Toxics Use Reduction Institute (TURI) to Add 25 Chemicals	
2070-AK32	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting	
2070-AK40	Extension of Compliance Date(s); Agricultural Worker Protection Standard (40 CFR Part 170)	
2070-AJ20	Pesticides; Certification of Pesticide Applicators	

2070-AK13	Procedural Rule to Remove Obsolete Information	
2070-AJ44	Formaldehyde Emission Standards for Composite Wood Products	Y
2070-AJ54	Nanoscale Materials; Chemical Substances When Manufactured, Imported, or Processed as Nanoscale Materials; Reporting and Recordkeeping Requirements	
2070-AJ91	Significant New Use Rule for Toluene Diisocyanates (TDI) and Related Compounds	
2070-AK20	Procedures for Evaluating Existing Chemical Risks Under the Toxic Substances Control Act	
2070-AK23	Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act	
2070-AK24	TSCA Inventory Notification Active-Inactive Reporting Requirements	
2070-AK15	Toxics Release Inventory; Addition of Nonylphenol Ethoxylates	
2080-AA13	Update 40 CFR 26 Subpart K To Reflect Recent Changes To 40 CFR 26 Subpart A (The Common Rule)	
2090-AA40	Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency Financial Assistance Agreements	
2040-AF03	Development of Best Management Practices for Recreational Boats under Section 312(o) of the Clean Water Act	
2040-AF25	National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule	
2040-AF53	Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II--Batch Two (UNDS)	
2040-AF61	Water Quality Standards for Selenium in the San Francisco Bay and Delta	
2040-AF62	Federal Baseline Water Quality Standards for Indian Reservations	

2040-AF66	Federal Human Health Criteria Applicable to Idaho			
2040-AA94	National Primary Drinking Water Regulations: Radon			Y
2040-AC13	National Primary Drinking Water Regulations: Aldicarb			
2040-AD40	Underground Injection Control: Update of State Programs			
2040-AF28	National Primary Drinking Water Regulations: Regulation of Perchlorate			
2040-AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs)			
2040-AF37	National Primary Drinking Water Regulations: Finished Water Storage Facility Inspection Requirements Addendum to the Revised Total Coliform Rule			
2040-AF55	Use of Lead Free Pipes, Fittings, Fixtures, Solder and Flux for Drinking Water			
2040-AB85	Shore Protection Act, Section 4103(b) Regulations			
2040-AF77	Reconsideration of the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category			
2050-AF01	RCRA Smarter Waste Reporting	Significant (expected)	Deregulatory	Cost savings are expected because the rule will make it easier for people to report waste data to the Agency.
2050-AG39	Management Standards for Hazardous Waste Pharmaceuticals	Significant (confirmed)	Deregulatory	Cost savings are expected because of streamlining the way some pharmaceutical wastes are handled.
2050-AG93	Modernizing Ignitable Liquids Determinations	Non-significant (expected)	Deregulatory	Cost savings or 0 costs are expected because this rule is updating the testing methodologies that use obsolete testing equipment to methodologies that use modern test equipment.
2050-AG84	Water Resources Reform Development Act Farm Amendments to the Spill Prevention Control and Countermeasures Rule	Significant (expected)	Regulatory	
2050-AG87	Clean Water Act Hazardous Substances Spill Prevention	Significant (expected)	Regulatory	

2060-AL94	Protection of Stratospheric Ozone: Process for Exempting Emergency Uses of Methyl Bromide
2060-AO66	Plywood and Composite Wood Products (PCWP) Residual Risk and Technology Review and Amendments
2060-AR73	Reconsideration of the Polyvinyl Chloride and Copolymers National Emission Standards for Hazardous Air Pollutants
2060-AS26	Petition to Add n-Propyl Bromide to the List of Hazardous Air Pollutants
2060-AS50	Review of the National Ambient Air Quality Standards for Particulate Matter
2060-AS87	Air Quality: Revision to Definition of Volatile Organic Compounds - Exclusion of Dimethyl Succinate (DMS)
2060-AT00	Stationary Combustion Turbine RTR
2060-AT01	Engine Test Cells NESHAP RTR
2060-AT02	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards--Ethylene Production (Subparts XX and YY)
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2060-AT20	National Emission Standards for Hazardous Air Pollutant Emissions: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	
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2060-AT33	Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards	
2060-AT34	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing Residual Risk and Technology Review	
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2060-AT55	Review of the Clean Power Plan	Y
2060-AT56	Review of the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units	
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2070-AJ56	Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings	Y
2070-AJ94	Significant New Uses of Chemical Substances; Updates to the Hazard Communication Program and Regulatory Framework; Minor Amendments to Reporting Requirements for Premanufacture Notices	
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2060-AS72	Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018
2060-AS73	Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems
2060-AS75	Mercury Air Toxics Standards (MATS) Electronic Reporting Requirements
2060-AS78	Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014
2060-AS80	Protection of Stratospheric Ozone: Listings and Listing Modifications for Certain Substitutes Under the Significant New Alternatives Policy Program
2060-AS84	Clean Energy Incentive Program Design Details
2060-AS88	Section 610 Review of Control of Hazardous Air Pollutants From Mobile Sources
2060-AS89	Technical Correction to the National Ambient Air Quality Standards for Particulate Matter
2060-AS90	National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production Reconsideration
2060-AS97	Mid Term Evaluation of the Model Year 2022-2025 Light Duty Vehicle Greenhouse Gas Standards

2060-AT24	Determinations of Attainment by the Attainment Date, and Determinations of Failure to Attain and Reclassification of Certain Areas, for the 2006 24-hour PM2.5 NAAQS
2060-AT29	Emission Guidelines for the Existing Oil and Natural Gas Sector
2060-AT32	Relaxation of the Reid Vapor Pressure (RVP) Gasoline Standard in Five Counties of Middle Tennessee
2060-AT44	Air Quality Designations for the 2012 PM2.5 Standard for Deferred Areas in Tennessee
2060-AT46	Final Rule: Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards (NAAQS)
2060-AT62	Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
2060-AT63	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Partial Stay
2070-AJ27	Pesticides; Data Requirements for Plant-Incorporated Protectants (PIPs) and Certain Exemptions for PIPs
2070-AJ32	Regulations to Facilitate Compliance With the Federal Insecticide, Fungicide, and Rodenticide Act by Producers of Plant-Incorporated Protectants (PIPs)
2070-AK14	Restructuring of Pesticide Adverse Effects Reporting Regulations
2070-AD64	Lead-Based Paint; Amendments to the Requirements for Disclosure of Known Lead-Based Paint or Lead-Based Paint Hazards in Target Housing
2070-AJ04	TSCA Inventory Nomenclature for Enzymes and Proteins
2070-AJ46	Mercury; Regulation of Use in Certain Products
2070-AJ47	Nanoscale Materials; Test Rule for Certain Nanoscale Materials
2070-AJ63	TSCA Reporting Requirements; Revisions

2070-AJ72	Long-Chain Perfluorinated Chemicals (LCPFCs); Regulation(s) Under TSCA			
2070-AJ83	Testing of Bisphenol A (BPA)			
2070-AJ90	CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA			
2070-AJ97	MDI and TDI; Health and Safety Data Reporting Under TSCA 8(d)			
2070-AK28	Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Amendment			
2070-AK38	Pesticides; Certification of Pesticide Applicators Rule; Extension of Effective Date			
2070-AK39	Extension of Compliance Date for TSCA Reporting of Chemical Substances When Manufactured or Processed as Nanoscale Materials			
2090-AA39	Nondiscrimination in Programs or Activities Receiving Federal Assistance From the Environmental Protection Agency			
2050-tbd	RMP Reconsideration	Significant (expected)	Deregulatory	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 1	Significant (expected)	Regulatory	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 2	Significant (expected)	Regulatory	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 3	Significant (expected)	Regulatory	
2050-AE34	Management of Cement Kiln Dust	Significant (expected)	Regulatory	Inactive List
2050-AE87	Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	Significant (expected)	Regulatory	Inactive List
2050-AG78	National Contingency Plan Revisions to Align with the National Response Framework	Non-significant (expected)	Exempt	Inactive List
2050-AG40	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	Significant (expected)	Regulatory	Inactive List

RIN	Title	EO 12866 Determinations	EO 13771: Regulatory, Deregulatory, Exempt, Waived, or Other
2015-AA00	Revision of Procedural Rules for Hearings on Cancellations, Suspensions, Changes in Classifications, and Denials of Pesticide Registrations		
2025-AA38	Environmental Protection Agency Freedom of Information Act Regulations Update		
2025-AA39	Revisions to 40 CFR Part 2, Subpart b (Confidentiality of Business Information)		
2025-AA40	E-Discovery Privacy Act and Privacy Act Exemptions		
2040-AF65	Federal Mercury Aquatic-Dependent Wildlife Criteria Applicable to California		
2040-AF69	Federal Numeric Nutrient Criteria Applicable to Missouri Lakes		
2040-AF70	Federal Aluminum Aquatic Life Criteria Applicable to Oregon		
2040-AF71	Rule to Withdraw of Certain Federal Water Quality Criteria for Lead Applicable to California		
2040-AF72	Rule to Withdraw Certain Federal Water Quality Criteria for Chlorodibromomethane Applicable to California		
2040-AF73	Rule to Withdraw Certain Federal Water Quality Criteria for Dichlorobromomethane Applicable to California		
2040-AF74	Definition of "Waters of the United States" – Recodification of Preexisting Rules		
2040-AF75	Second Action: Definition of "Waters of the U.S."		
2040-AF76	Postponement of Certain Compliance Dates for Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category		
2040-AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions		Y

2040-AF48	Clean Water Act Methods Update Rule for the Analysis of Effluent		
2040-AF67	Public Notice Requirements for Combined Sewer Overflow Discharges to the Great Lakes		
2050-AG86	Bioreactor/Wet Landfill Regulations Under RCRA Subtitle D	Significant (confirmed)	Deregulatory
2050-AG88	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues From Electric Utilities: Remand Rule	Significant (confirmed)	Deregulatory
2050-AG92	Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations	Significant (expected)	Deregulatory
2050-AG61	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry	Significant (confirmed)	Regulatory
2050-AG94	Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA	Non-significant (expected)	Deregulatory
2050-AG80	User Fee Schedule for Electronic Hazardous Waste Manifest	Significant (confirmed)	Deregulatory
2050-AG83	Non-Hazardous Secondary Materials--Additions to List of Categorical Non-Waste Fuels; Other Treated Railroad Ties	Significant (confirmed)	Deregulatory
2050-AG90	Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents	Non-significant (confirmed)	Deregulatory
2060-AT22	Response to December 9, 2013 CAA Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont		
2060-AO75	Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing		
2060-AR57	Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide		
2060-AS32	National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting		
2060-AS74	General Revisions to Emissions Monitoring and Reporting Requirements for Fossil Fuel-Fired Electric Generating Units		

2060-AS79	National Emission Standards for Hazardous Air Pollutants: Manufacture of Amino/Phenolic Resins	
2060-AS91	Revisions to Method 202: Dry Impinger Method for Determining Condensable Particulate Emissions From Stationary Sources	
2060-AS92	Portland Cement Risk and Technology Review	
2060-AS95	Revisions to Testing Regulations for Air Emission Sources	
2060-AT04	Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019	Y
2060-AT09	Revision to Method 23--Determination of Polychlorinated Dibenzo-P-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources	
2060-AT13	Wool Fiberglass Manufacturing Rotary Spin Bonded Lines Technology Review	
2060-AT25	NESHAP for Brick and Structural Clay Manufacturing; and NESHAP for Ceramics Manufacturing Reconsideration	
2060-AT43	Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Air Conditioning Refrigerant	
2060-AT45	Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard--Round 3	
2060-AT47	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production	
2060-AT48	National Emission Standards for Hazardous Air Pollutants for Off-Site Waste and Recovery Operations Reconsideration	
2060-AT49	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks Residual Risk and Technology Review	
2060-AT50	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector	

2060-AT51	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans Residual Risk and Technology Review	
2060-AT52	Air Quality: Revision to Definition of Volatile Organic Compounds--Exclusion of (Z)-1,1,1,4,4,4-Hexafluoro-2-Butene (HFO-1336mzz-Z)	
2060-AT53	Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition Certain Industry, Consensus-Based Standards	
2060-AT64	Stay of Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	
2060-AT57	National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry Alternative Monitoring Method	
2060-AT58	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing: Flame Attenuation Line Compliance Date Extension	
2060-AT59	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Extension of Stay for Certain Requirements	Y
2060-AT60	Extension of Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	
2060-AT61	Relaxation of the RVP Gasoline Standard for Louisiana	
2060-AT65	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Limited Stay of Certain Requirements	
2060-AS46	Risk and Technology Review for the National Emission Standards for Hazardous Air Pollutants for Pulp and Paper Combustion Sources	

2060-AS82	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements
2060-AS85	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works
2060-AS86	Technical Amendments to Performance Specification 18 and Procedure 6
2060-AS93	Risk and Technology Review of the National Emission Standards for Hazardous Air Pollutants From Manufacturing of Nutritional Yeast
2060-AT14	Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Risk and Technology Review Reconsideration
2060-AT15	Revisions to Procedure 2--Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources
2060-AT16	Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas
2060-AT17	Revisions to Method 301: Field Validation of Pollutant Measurement Methods From Various Waste Media
2060-AT18	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector
2060-AT42	Remaining Requirements for Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements
2070-AK17	Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)
2070-AK29	TSCA Reporting and Recordkeeping Requirements; Standards for Small Manufacturers and Processors
2070-AK00	Pesticides; Technical Amendments to Data Requirements
2070-AK06	Pesticides; Procedural Rule Amendment; Requirement for Certain Pesticide Actions to Publish Notices in the Federal Register

2070-AJ65	Microorganisms: General Exemptions From Reporting Requirements; Revisions of Recipient Organisms Eligible for Tier I and Tier II Exemptions	
2070-AJ99	Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule	
2070-AK07	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a)	Y
2070-AK11	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing	Y
2070-AK22	Mercury; Reporting Requirements for the TSCA Mercury Inventory	
2070-AK27	Service Fees for the Administration of the Toxic Substances Control Act	
2070-AK30	Labeling Relief; Formaldehyde Emission Standards for Composite Wood Products	
2070-AK31	TSCA Chemical Data Reporting; Requirements for Inorganic Byproducts	
2070-AK35	Compliance Date Extension; Formaldehyde Emission Standards for Composite Wood Products	
2070-AK36	Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products	
2070-AK26	Toxic Release Inventory (TRI); Response to Petition From the Toxics Use Reduction Institute (TURI) to Add 25 Chemicals	
2070-AK32	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting	
2070-AK40	Extension of Compliance Date(s); Agricultural Worker Protection Standard (40 CFR Part 170)	
2070-AJ20	Pesticides; Certification of Pesticide Applicators	
2070-AK13	Procedural Rule to Remove Obsolete Information	
2070-AJ44	Formaldehyde Emission Standards for Composite Wood Products	Y

2070-AJ54	Nanoscale Materials; Chemical Substances When Manufactured, Imported, or Processed as Nanoscale Materials; Reporting and Recordkeeping Requirements	
2070-AJ91	Significant New Use Rule for Toluene Diisocyanates (TDI) and Related Compounds	
2070-AK20	Procedures for Evaluating Existing Chemical Risks Under the Toxic Substances Control Act	
2070-AK23	Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act	
2070-AK24	TSCA Inventory Notification Active-Inactive Reporting Requirements	
2070-AK15	Toxics Release Inventory; Addition of Nonylphenol Ethoxylates	
2080-AA13	Update 40 CFR 26 Subpart K To Reflect Recent Changes To 40 CFR 26 Subpart A (The Common Rule)	
2090-AA40	Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency Financial Assistance Agreements	
2040-AF03	Development of Best Management Practices for Recreational Boats under Section 312(o) of the Clean Water Act	
2040-AF25	National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule	
2040-AF53	Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II--Batch Two (UNDS)	
2040-AF61	Water Quality Standards for Selenium in the San Francisco Bay and Delta	
2040-AF62	Federal Baseline Water Quality Standards for Indian Reservations	
2040-AF66	Federal Human Health Criteria Applicable to Idaho	
2040-AA94	National Primary Drinking Water Regulations: Radon	Y

2040-AC13	National Primary Drinking Water Regulations: Aldicarb		
2040-AD40	Underground Injection Control: Update of State Programs		
2040-AF28	National Primary Drinking Water Regulations: Regulation of Perchlorate		
2040-AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs)		
2040-AF37	National Primary Drinking Water Regulations: Finished Water Storage Facility Inspection Requirements Addendum to the Revised Total Coliform Rule		
2040-AF55	Use of Lead Free Pipes, Fittings, Fixtures, Solder and Flux for Drinking Water		
2040-AB85	Shore Protection Act, Section 4103(b) Regulations		
2040-AF77	Reconsideration of the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category		
2050-AF01	RCRA Smarter Waste Reporting	Significant (expected)	Deregulatory
2050-AG39	Management Standards for Hazardous Waste Pharmaceuticals	Significant (confirmed)	Deregulatory
2050-AG93	Modernizing Ignitable Liquids Determinations	Significant (expected)	Deregulatory
2050-AG84	Water Resources Reform Development Act Farm Amendments to the Spill Prevention Control and Countermeasures Rule	Significant (expected)	Regulatory
2050-AG87	Clean Water Act Hazardous Substances Spill Prevention	Significant (expected)	Regulatory
2060-AL94	Protection of Stratospheric Ozone: Process for Exempting Emergency Uses of Methyl Bromide		
2060-AO66	Plywood and Composite Wood Products (PCWP) Residual Risk and Technology Review and Amendments		
2060-AR73	Reconsideration of the Polyvinyl Chloride and Copolymers National Emission Standards for Hazardous Air Pollutants		

2060-AS26	Petition to Add n-Propyl Bromide to the List of Hazardous Air Pollutants
2060-AS50	Review of the National Ambient Air Quality Standards for Particulate Matter
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2060-AT00	Stationary Combustion Turbine RTR
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2060-AS56	Rescission of Preconstruction Permits Issued Under the Clean Air Act
2060-AS60	Greenhouse Gas Reporting Program--General Revisions

2060-AS71	Revision to the Near-road NO2 Monitoring Requirements
2060-AS72	Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018
2060-AS73	Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems
2060-AS75	Mercury Air Toxics Standards (MATS) Electronic Reporting Requirements
2060-AS78	Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014
2060-AS80	Protection of Stratospheric Ozone: Listings and Listing Modifications for Certain Substitutes Under the Significant New Alternatives Policy Program
2060-AS84	Clean Energy Incentive Program Design Details
2060-AS88	Section 610 Review of Control of Hazardous Air Pollutants From Mobile Sources
2060-AS89	Technical Correction to the National Ambient Air Quality Standards for Particulate Matter
2060-AS90	National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production Reconsideration
2060-AS97	Mid Term Evaluation of the Model Year 2022-2025 Light Duty Vehicle Greenhouse Gas Standards
2060-AT24	Determinations of Attainment by the Attainment Date, and Determinations of Failure to Attain and Reclassification of Certain Areas, for the 2006 24-hour PM2.5 NAAQS
2060-AT29	Emission Guidelines for the Existing Oil and Natural Gas Sector
2060-AT32	Relaxation of the Reid Vapor Pressure (RVP) Gasoline Standard in Five Counties of Middle Tennessee

2060-AT44	Air Quality Designations for the 2012 PM2.5 Standard for Deferred Areas in Tennessee
2060-AT46	Final Rule: Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards (NAAQS)
2060-AT62	Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills
2060-AT63	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Partial Stay
2070-AJ27	Pesticides; Data Requirements for Plant-Incorporated Protectants (PIPs) and Certain Exemptions for PIPs
2070-AJ32	Regulations to Facilitate Compliance With the Federal Insecticide, Fungicide, and Rodenticide Act by Producers of Plant-Incorporated Protectants (PIPs)
2070-AK14	Restructuring of Pesticide Adverse Effects Reporting Regulations
2070-AD64	Lead-Based Paint; Amendments to the Requirements for Disclosure of Known Lead-Based Paint or Lead-Based Paint Hazards in Target Housing
2070-AJ04	TSCA Inventory Nomenclature for Enzymes and Proteins
2070-AJ46	Mercury; Regulation of Use in Certain Products
2070-AJ47	Nanoscale Materials; Test Rule for Certain Nanoscale Materials
2070-AJ63	TSCA Reporting Requirements; Revisions
2070-AJ72	Long-Chain Perfluorinated Chemicals (LCPFCs); Regulation(s) Under TSCA
2070-AJ83	Testing of Bisphenol A (BPA)
2070-AJ90	CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA
2070-AJ97	MDI and TDI; Health and Safety Data Reporting Under TSCA 8(d)

2070-AK28	Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Amendment			
2070-AK38	Pesticides; Certification of Pesticide Applicators Rule; Extension of Effective Date			
2070-AK39	Extension of Compliance Date for TSCA Reporting of Chemical Substances When Manufactured or Processed as Nanoscale Materials			
2090-AA39	Nondiscrimination in Programs or Activities Receiving Federal Assistance From the Environmental Protection Agency			
2050-tbd	RMP Reconsideration	Significant (expected)	Deregulatory	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 1	Significant (expected)	Regulatory	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 2	Significant (expected)	Regulatory	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 3	Significant (expected)	Regulatory	
2050-AE34	Management of Cement Kiln Dust	Significant (expected)	Regulatory	Inactive List
2050-AE87	Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	Significant (expected)	Regulatory	Inactive List
2050-AG78	National Contingency Plan Revisions to Align with the National Response Framework	Non-significant (expected)	Exempt	Inactive List
2050-AG40	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	Significant (expected)	Regulatory	Inactive List

RIN	Title	Tier	Deadline Rules (Court or Statutory)	Spring 2017 Reg Agenda FR Date	Agenda Stage of Rulemaking	Fall 2017 Reg Agenda FR Date	Agenda Stage of Rulemaking	New Action Fall 2017	Comments
2015-AA00	Revision of Procedural Rules for Hearings on Cancellations, Suspensions, Changes in Classifications, and Denials of Pesticide Registrations	3		Update 2017	Proposed Rule Stage				
2025-AA38	Environmental Protection Agency Freedom of Information Act Regulations Update	3		Update 2017	Proposed Rule Stage				
2025-AA39	Revisions to 40 CFR Part 2, Subpart b (Confidentiality of Business Information)	2		Update 2017	Proposed Rule Stage				
2025-AA40	E-Discovery Privacy Act and Privacy Act Exemptions	3		Update 2017	Proposed Rule Stage				
2040-AF65	Federal Mercury Aquatic-Dependent Wildlife Criteria Applicable to California	3		Update 2017	Proposed Rule Stage				
2040-AF69	Federal Numeric Nutrient Criteria Applicable to Missouri Lakes	3		Update 2017	Proposed Rule Stage			Y	
2040-AF70	Federal Aluminum Aquatic Life Criteria Applicable to Oregon	3		Update 2017	Proposed Rule Stage			Y	
2040-AF71	Rule to Withdraw of Certain Federal Water Quality Criteria for Lead Applicable to California	3		Update 2017	Proposed Rule Stage			Y	
2040-AF72	Rule to Withdraw Certain Federal Water Quality Criteria for Chlorodibromomethane Applicable to California	3		Update 2017	Proposed Rule Stage			Y	
2040-AF73	Rule to Withdraw Certain Federal Water Quality Criteria for Dichlorobromomethane Applicable to California	3		Update 2017	Proposed Rule Stage			Y	
2040-AF74	Definition of "Waters of the United States" – Recodification of Preexisting Rules	1		Update 2017	Proposed Rule Stage			Y	
2040-AF75	Second Action: Definition of "Waters of the U.S."	1		Update 2017	Proposed Rule Stage			Y	
2040-AF76	Postponement of Certain Compliance Dates for Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category	3		Update 2017	Proposed Rule Stage			Y	

2040-AF15	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions	1		Update 2017	Proposed Rule Stage				
2040-AF48	Clean Water Act Methods Update Rule for the Analysis of Effluent	3		Update 2017	Final Rule Stage				
2040-AF67	Public Notice Requirements for Combined Sewer Overflow Discharges to the Great Lakes	3		Update 2017	Final Rule Stage				
2050-AG86	Bioreactor/Wet Landfill Regulations Under RCRA Subtitle D	3		ANPRM-9/00/2017	Prerule Stage	ANPRM-03/00/2018	Prerule Stage		
2050-AG88	Hazardous and Solid Waste Management System: Disposal of Coal Combustion Residues From Electric Utilities: Remand Rule	3	Court: NPRM-as soon as practicable; Final-6/14/2019	NPRM-12/00/2017; Final-6/00/2019	Proposed Rule Stage	NPRM-12/00/2017; Final-6/00/2019	Proposed Rule Stage		potential Reg Plan entry
2050-AG92	Increasing Recycling: Adding Aerosol Cans to the Universal Waste Regulations	3		NPRM-4/00/18; Final-9/00/2019	Proposed Rule Stage	NPRM-4/00/18; Final-9/00/2019	Proposed Rule Stage		
2050-AG61	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry	1	Court: Final Action-12/1/2017	Final-12/00/2017	Proposed Rule Stage	Final-12/00/2017	Final Rule Stage		potential Reg Plan entry
2050-AG94	Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA	3		Direct Final-6/20/17; NPRM-6/20/17;NPRM comment period ends-7/20/17; Direct Final effective-9/18/17	Proposed Rule Stage	Direct Final-6/20/17; NPRM-6/20/17; Withdrawal of Direct Final: 9/00/17; Final-9/00/17	Completed		Will be able to put actual FR date of Withdrawal and Final Rule before Fall Reg Agenda is issued.
2050-AG80	User Fee Schedule for Electronic Hazardous Waste Manifest	2		Final-12/00/2017	Final Rule Stage	Final-12/00/2017	Final Rule Stage		
2050-AG83	Non-Hazardous Secondary Materials--Additions to List of Categorical Non-Waste Fuels; Other Treated Railroad Ties	3		Final-10/00/2017	Final Rule Stage	Final-02/00/2018	Final Rule Stage		
2050-AG90	Internet Posting of and Confidentiality Determinations for Hazardous Waste Export and Import Documents	3		Final-2/00/2018	Final Rule Stage	Final-12/00/2017	Final Rule Stage		
2060-AT22	Response to December 9, 2013 CAA Section 176A Petition From Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, Rhode Island and Vermont	3		Update 2017	Prerule Stage			Y	
2060-AO75	Protection of the Stratospheric Ozone: Motor Vehicle Air Conditioning System Servicing	3		Update 2017	Proposed Rule Stage				

2060-AR57	Review of the Primary National Ambient Air Quality Standards for Nitrogen Dioxide	2	Update 2017	Proposed Rule Stage	Y
2060-AS32	National Emissions Standards for Hazardous Air Pollutants From Secondary Lead Smelting	3	Update 2017	Proposed Rule Stage	
2060-AS74	General Revisions to Emissions Monitoring and Reporting Requirements for Fossil Fuel-Fired Electric Generating Units	3	Update 2017	Proposed Rule Stage	
2060-AS79	National Emission Standards for Hazardous Air Pollutants: Manufacture of Amino/Phenolic Resins	3	Update 2017	Proposed Rule Stage	
2060-AS91	Revisions to Method 202: Dry Impinger Method for Determining Condensable Particulate Emissions From Stationary Sources	3	Update 2017	Proposed Rule Stage	
2060-AS92	Portland Cement Risk and Technology Review	2	Update 2017	Proposed Rule Stage	
2060-AS95	Revisions to Testing Regulations for Air Emission Sources	3	Update 2017	Proposed Rule Stage	Y
2060-AT04	Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019	1	Update 2017	Proposed Rule Stage	
2060-AT09	Revision to Method 23--Determination of Polychlorinated Dibenzo-P-Dioxins and Polychlorinated Dibenzofurans From Stationary Sources	3	Update 2017	Proposed Rule Stage	
2060-AT13	Wool Fiberglass Manufacturing Rotary Spin Bonded Lines Technology Review	3	Update 2017	Proposed Rule Stage	
2060-AT25	NESHAP for Brick and Structural Clay Manufacturing; and NESHAP for Ceramics Manufacturing Reconsideration	3	Update 2017	Proposed Rule Stage	
2060-AT43	Protection of Stratospheric Ozone: Refrigerant Management Regulations for Small Cans of Motor Vehicle Air Conditioning Refrigerant	3	Update 2017	Proposed Rule Stage	Y
2060-AT45	Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard--Round 3	3	Update 2017	Proposed Rule Stage	Y
2060-AT47	National Emission Standards for Hazardous Air Pollutants for Wet-Formed Fiberglass Mat Production	2	Update 2017	Proposed Rule Stage	Y

2060-AT48	National Emission Standards for Hazardous Air Pollutants for Off-Site Waste and Recovery Operations Reconsideration	3	Update 2017	Proposed Rule Stage	Y
2060-AT49	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks Residual Risk and Technology Review	3	Update 2017	Proposed Rule Stage	Y
2060-AT50	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector	3	Update 2017	Proposed Rule Stage	Y
2060-AT51	National Emission Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans Residual Risk and Technology Review	3	Update 2017	Proposed Rule Stage	Y
2060-AT52	Air Quality: Revision to Definition of Volatile Organic Compounds--Exclusion of (Z)-1,1,1,4,4,4-Hexafluoro-2-Butene (HFO-1336mzz-Z)	3	Update 2017	Proposed Rule Stage	Y
2060-AT53	Protection of Stratospheric Ozone: Revision to References for Refrigeration and Air Conditioning Sector to Incorporate Latest Edition Certain Industry, Consensus-Based Standards	3	Update 2017	Proposed Rule Stage	Y
2060-AT64	Stay of Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	3	Update 2017	Proposed Rule Stage	Y
2060-AT57	National Emission Standards for Hazardous Air Pollutants for the Portland Cement Manufacturing Industry Alternative Monitoring Method	3	Update 2017	Proposed Rule Stage	Y
2060-AT58	National Emission Standards for Hazardous Air Pollutants for Wool Fiberglass Manufacturing: Flame Attenuation Line Compliance Date Extension	3	Update 2017	Proposed Rule Stage	Y
2060-AT59	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Extension of Stay for Certain Requirements	3	Update 2017	Proposed Rule Stage	Y
2060-AT60	Extension of Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	3	Update 2017	Proposed Rule Stage	Y

2060-AT61	Relaxation of the RVP Gasoline Standard for Louisiana	3	Update 2017	Proposed Rule Stage	Y
2060-AT65	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources: Limited Stay of Certain Requirements	3	Update 2017	Proposed Rule Stage	Y
2060-AS46	Risk and Technology Review for the National Emission Standards for Hazardous Air Pollutants for Pulp and Paper Combustion Sources	3	Update 2017	Final Rule Stage	
2060-AS82	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements	2	Update 2017	Final Rule Stage	
2060-AS85	National Emission Standards for Hazardous Air Pollutants: Publicly Owned Treatment Works	3	Update 2017	Final Rule Stage	
2060-AS86	Technical Amendments to Performance Specification 18 and Procedure 6	3	Update 2017	Final Rule Stage	
2060-AS93	Risk and Technology Review of the National Emission Standards for Hazardous Air Pollutants From Manufacturing of Nutritional Yeast	3	Update 2017	Final Rule Stage	
2060-AT14	Phosphoric Acid Manufacturing and Phosphate Fertilizer Production Risk and Technology Review Reconsideration	3	Update 2017	Final Rule Stage	
2060-AT15	Revisions to Procedure 2--Quality Assurance Requirements for Particulate Matter Continuous Emission Monitoring Systems at Stationary Sources	3	Update 2017	Final Rule Stage	
2060-AT16	Interstate Transport of Fine Particulate Matter: Revision of Federal Implementation Plan Requirements for Texas	3	Update 2017	Final Rule Stage	
2060-AT17	Revisions to Method 301: Field Validation of Pollutant Measurement Methods From Various Waste Media	3	Update 2017	Final Rule Stage	
2060-AT18	National Emission Standards for Hazardous Air Pollutant Emissions: Petroleum Refinery Sector	3	Update 2017	Final Rule Stage	
2060-AT42	Remaining Requirements for Mercury and Air Toxics Standards (MATS) Electronic Reporting Requirements	3	Update 2017	Final Rule Stage	Y

2070-AK17	Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3)	3	Update 2017	Prerule Stage	
2070-AK29	TSCA Reporting and Recordkeeping Requirements; Standards for Small Manufacturers and Processors	3	Update 2017	Prerule Stage	Y
2070-AK00	Pesticides; Technical Amendments to Data Requirements	3	Update 2017	Proposed Rule Stage	
2070-AK06	Pesticides; Procedural Rule Amendment; Requirement for Certain Pesticide Actions to Publish Notices in the Federal Register	3	Update 2017	Proposed Rule Stage	
2070-AJ65	Microorganisms: General Exemptions From Reporting Requirements; Revisions of Recipient Organisms Eligible for Tier I and Tier II Exemptions	3	Update 2017	Proposed Rule Stage	
2070-AJ99	Long-Chain Perfluoroalkyl Carboxylate and Perfluoroalkyl Sulfonate Chemical Substances; Significant New Use Rule	3	Update 2017	Proposed Rule Stage	
2070-AK07	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a)	1	Update 2017	Proposed Rule Stage	
2070-AK11	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing	1	Update 2017	Proposed Rule Stage	
2070-AK22	Mercury; Reporting Requirements for the TSCA Mercury Inventory	3	Update 2017	Proposed Rule Stage	
2070-AK27	Service Fees for the Administration of the Toxic Substances Control Act	3	Update 2017	Proposed Rule Stage	
2070-AK30	Labeling Relief; Formaldehyde Emission Standards for Composite Wood Products	3	Update 2017	Proposed Rule Stage	Y
2070-AK31	TSCA Chemical Data Reporting; Requirements for Inorganic Byproducts	3	Update 2017	Proposed Rule Stage	Y
2070-AK35	Compliance Date Extension; Formaldehyde Emission Standards for Composite Wood Products	3	Update 2017	Proposed Rule Stage	Y
2070-AK36	Voluntary Consensus Standards Update; Formaldehyde Emission Standards for Composite Wood Products	3	Update 2017	Proposed Rule Stage	Y
2070-AK26	Toxic Release Inventory (TRI); Response to Petition From the Toxics Use Reduction Institute (TURI) to Add 25 Chemicals	3	Update 2017	Proposed Rule Stage	

2070-AK32	Community Right-to-Know; Adopting 2017 North American Industry Classification System (NAICS) Codes for Toxics Release Inventory (TRI) Reporting	3	Update 2017	Proposed Rule Stage	Y
2070-AK40	Extension of Compliance Date(s); Agricultural Worker Protection Standard (40 CFR Part 170)	3	Update 2017	Proposed Rule Stage	Y
2070-AJ20	Pesticides; Certification of Pesticide Applicators	2	Update 2017	Final Rule Stage	
2070-AK13	Procedural Rule to Remove Obsolete Information	3	Update 2017	Final Rule Stage	
2070-AJ44	Formaldehyde Emission Standards for Composite Wood Products	2	Update 2017	Final Rule Stage	
2070-AJ54	Nanoscale Materials; Chemical Substances When Manufactured, Imported, or Processed as Nanoscale Materials; Reporting and Recordkeeping Requirements	2	Update 2017	Final Rule Stage	
2070-AJ91	Significant New Use Rule for Toluene Diisocyanates (TDI) and Related Compounds	3	Update 2017	Final Rule Stage	
2070-AK20	Procedures for Evaluating Existing Chemical Risks Under the Toxic Substances Control Act	2	Update 2017	Final Rule Stage	
2070-AK23	Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act	2	Update 2017	Final Rule Stage	
2070-AK24	TSCA Inventory Notification Active-Inactive Reporting Requirements	3	Update 2017	Final Rule Stage	
2070-AK15	Toxics Release Inventory; Addition of Nonylphenol Ethoxylates	3	Update 2017	Final Rule Stage	
2080-AA13	Update 40 CFR 26 Subpart K To Reflect Recent Changes To 40 CFR 26 Subpart A (The Common Rule)	3	Update 2017	Proposed Rule Stage	
2090-AA40	Participation by Disadvantaged Business Enterprises in Procurement Under Environmental Protection Agency Financial Assistance Agreements	3	Update 2017	Final Rule Stage	
2040-AF03	Development of Best Management Practices for Recreational Boats under Section 312(o) of the Clean Water Act	2	Update 2017	Long-Term Actions	

2040-AF25	National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule	3	Update 2017	Long-Term Actions				
2040-AF53	Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II--Batch Two (UNDS)	2	Update 2017	Long-Term Actions				
2040-AF61	Water Quality Standards for Selenium in the San Francisco Bay and Delta	3	Update 2017	Long-Term Actions				
2040-AF62	Federal Baseline Water Quality Standards for Indian Reservations	3	Update 2017	Long-Term Actions				
2040-AF66	Federal Human Health Criteria Applicable to Idaho	3	Update 2017	Long-Term Actions				
2040-AA94	National Primary Drinking Water Regulations: Radon	1	Update 2017	Long-Term Actions				
2040-AC13	National Primary Drinking Water Regulations: Aldicarb	3	Update 2017	Long-Term Actions				
2040-AD40	Underground Injection Control: Update of State Programs	3	Update 2017	Long-Term Actions				
2040-AF28	National Primary Drinking Water Regulations: Regulation of Perchlorate	1	Update 2017	Long-Term Actions				
2040-AF29	National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs)	1	Update 2017	Long-Term Actions				
2040-AF37	National Primary Drinking Water Regulations: Finished Water Storage Facility Inspection Requirements Addendum to the Revised Total Coliform Rule	2	Update 2017	Long-Term Actions				
2040-AF55	Use of Lead Free Pipes, Fittings, Fixtures, Solder and Flux for Drinking Water	3	Update 2017	Long-Term Actions				
2040-AB85	Shore Protection Act, Section 4103(b) Regulations	3	Update 2017	Long-Term Actions				
2040-AF77	Reconsideration of the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category	3	Update 2017	Long-Term Actions			Y	
2050-AG82	Accidental Release Prevention Requirements: Risk Management Programs under the Clean Air Act	2	Effective Date-TBD	Long-Term Actions	Effective Date-2/19/2019	Completed		Economically Significant

2050-AF01	RCRA Smarter Waste Reporting	3		NPRM-TBD	Long-Term Actions	NPRM-06/00/2020	Long-Term Actions	This action can not begin until after the e-Manifest sytem is implemented. With the "Smarter Waste" rule, EPA will consider eliminating the current biennial reporting (BR) on hazardous waste shipments, but only when the eManifest system is in operation, and is working well enough, that States have confidence that it can replace the BR data. After eManifest is launched next spring, we will begin working with our State partners before we draft our proposal.
2050-AG39	Management Standards for Hazardous Waste Pharmaceuticals	3		Final Rule-5/00/2018	Long-Term Actions	Final Rule-7/00/2018	Final Rule Stage	
2050-AG93	Modernizing Ignitable Liquids Determinations	3		NPRM-8/00/2018	Long-Term Actions	NPRM-8/00/2018	Proposed Rule Stage	
2050-AG84	Water Resources Reform Development Act Farm Amendments to the Spill Prevention Control and Countermeasures Rule	3	Statutory: Final-12/10/2016	NPRM-TBD	Long-Term Actions	NPRM-01/00/2020	Long-Term Actions	Economically Significant
2050-AG87	Clean Water Act Hazardous Substances Spill Prevention	2	Court: NPRM-6/16/2018; Final-nlt 14 months after FR pub of NPRM (8/26/2019)	NPRM-6/00/2018; Final-9/00/2019	Long-Term Actions	NPRM-6/00/2018; Final-9/00/2019	Proposed Rule Stage	potential Reg Plan entry
2060-AL94	Protection of Stratospheric Ozone: Process for Exempting Emergency Uses of Methyl Bromide	3		Update 2017	Long-Term Actions			
2060-AO66	Plywood and Composite Wood Products (PCWP) Residual Risk and Technology Review and Amendments	3		Update 2017	Long-Term Actions			
2060-AR73	Reconsideration of the Polyvinyl Chloride and Copolymers National Emission Standards for Hazardous Air Pollutants	3		Update 2017	Long-Term Actions			
2060-AS26	Petition to Add n-Propyl Bromide to the List of Hazardous Air Pollutants	3		Update 2017	Long-Term Actions			
2060-AS50	Review of the National Ambient Air Quality Standards for Particulate Matter	1		Update 2017	Long-Term Actions			

2060-AS87	Air Quality: Revision to Definition of Volatile Organic Compounds - Exclusion of Dimethyl Succinate (DMS)	3	Update 2017	Long-Term Actions	
2060-AT00	Stationary Combustion Turbine RTR	2	Update 2017	Long-Term Actions	
2060-AT01	Engine Test Cells NESHAP RTR	2	Update 2017	Long-Term Actions	
2060-AT02	National Emission Standards for Hazardous Air Pollutants for Source Categories: Generic Maximum Achievable Control Technology Standards--Ethylene Production (Subparts XX and YY)	2	Update 2017	Long-Term Actions	
2060-AT03	National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing Facilities	2	Update 2017	Long-Term Actions	
2060-AT05	National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Risk and Technology Review	2	Update 2017	Long-Term Actions	
2060-AT07	Rubber Tire Manufacturing Risk and Technology Review	2	Update 2017	Long-Term Actions	
2060-AT08	Lime Manufacturing Risk and Technology Review	2	Update 2017	Long-Term Actions	
2060-AT10	Endangerment Finding for Lead Emissions From Piston-Engine Aircraft Using Leaded Aviation Gasoline	2	Update 2017	Long-Term Actions	
2060-AT12	National Emission Standard for Hazardous Air Pollutants (NESHAP) Risk and Technology Review: Reinforced Plastics Composites and Boat Manufacturing	2	Update 2017	Long-Term Actions	
2060-AT20	National Emission Standards for Hazardous Air Pollutant Emissions: Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks	3	Update 2017	Long-Term Actions	
2060-AT30	National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries	2	Update 2017	Long-Term Actions	Y
2060-AT33	Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards	3	Update 2017	Long-Term Actions	Y
2060-AT34	National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing Residual Risk and Technology Review	2	Update 2017	Long-Term Actions	Y
2060-AT35	Response to the June 2016 Section 126 Petition From Connecticut	3	Update 2017	Long-Term Actions	Y

2060-AT36	Response to the July 2016 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT37	Response to the August 2016 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT38	Response to the November 2016 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT39	Response to the August 2016 Section 126 Petition From Maryland	3	Update 2017	Long-Term Actions	Y
2060-AT40	Response to the 11/28/16 Section 126 Petition From Delaware	3	Update 2017	Long-Term Actions	Y
2060-AT41	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications	3	Update 2017	Long-Term Actions	Y
2060-AT54	Review of the 2016 Oil and Gas New Source Performance Standards for New, Reconstructed, and Modified Sources	1	Update 2017	Long-Term Actions	Y
2060-AT55	Review of the Clean Power Plan	1	Update 2017	Long-Term Actions	Y
2060-AT56	Review of the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units	1	Update 2017	Long-Term Actions	Y
2060-AP43	Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities	2	Update 2017	Long-Term Actions	
2070-AJ28	Pesticides; Expansion of Crop Grouping Program	3	Update 2017	Long-Term Actions	
2070-AK10	Pesticide Data Requirements for Nontarget Insect Pollinators	3	Update 2017	Long-Term Actions	
2070-AJ56	Lead; Renovation, Repair, and Painting Program for Public and Commercial Buildings	2	Update 2017	Long-Term Actions	
2070-AJ94	Significant New Uses of Chemical Substances; Updates to the Hazard Communication Program and Regulatory Framework; Minor Amendments to Reporting Requirements for Premanufacture Notices	3	Update 2017	Long-Term Actions	
2070-AJ96	Certain Nonylphenols and Nonylphenol Ethoxylates; Significant New Use Rule	3	Update 2017	Long-Term Actions	
2070-AK03	Trichloroethylene (TCE); Regulation of Certain Uses Under TSCA Section 6(a)	1	Update 2017	Long-Term Actions	

2070-AK09	Significant New Use Rule; Alkylpyrrolidone Products	3	Update 2017	Long-Term Actions	
2070-AK18	Trichloroethylene (TCE); SNUR for Non-Aerosol Spray Degreasers	3	Update 2017	Long-Term Actions	
2070-AK21	Procedural Rule: Review of CBI Claims for the Identity of Chemicals on the TSCA Inventory--Amended TSCA Section 8(b)(4)(C)	3	Update 2017	Long-Term Actions	
2070-AK33	TSCA Chemical Data Reporting Revisions	3	Update 2017	Long-Term Actions	Y
2070-AK34	Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h)	2	Update 2017	Long-Term Actions	Y
2070-AK37	Review of Pesticides; Certification of Pesticide Applicators	2	Update 2017	Long-Term Actions	Y
2008-AA02	Federal Implementation Plan for Oil and Natural Gas Sources; Uintah and Ouray Indian Reservation in Utah	3	Update 2017	Completed Actions	
2025-AA33	Toxics Release Inventory (TRI); Expansion of Industry Sectors Covered by the TRI, Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313	2	Update 2017	Completed Actions	
2025-AA42	Toxics Release Inventory Addition of Hexabromocyclododecane (HBCD)	3	Update 2017	Completed Actions	
2040-AD39	Uniform National Discharge Standards for Vessels of the Armed Forces--Phase II	3	Update 2017	Completed Actions	
2040-AF05	Oil and Gas Construction Stormwater Rule	3	Update 2017	Completed Actions	
2040-AF13	Stormwater Regulations Revision to Address Discharges from Developed Sites	1	Update 2017	Completed Actions	
2040-AF26	Effluent Guidelines and Standards for the Dental Point Source Category	3	Update 2017	Completed Actions	
2040-AF43	Forest Roads: Determination Under Clean Water Act Section 402(p)(6)	2	Update 2017	Completed Actions	
2040-AF54	Alaskan Seafood Processing Effluent Limitations Guidelines	3	Update 2017	Completed Actions	
2040-AF56	Revision of Certain Federal Water Quality Criteria Applicable to Washington	3	Update 2017	Completed Actions	
2040-AF57	Municipal Separate Storm Sewer System General Permit Remand Rule	2	Update 2017	Completed Actions	
2040-AF59	Certain Water Quality Standards Applicable to Maine	3	Update 2017	Completed Actions	
2040-AF60	Aquatic Life Criteria for Cadmium in Oregon	3	Update 2017	Completed Actions	

2040-AF63	Credit Assistance for Water Infrastructure Projects	3	Update 2017	Completed Actions
2040-AF64	Fees for Water Infrastructure Project Applications Under the Water Infrastructure Finance and Innovation Act	3	Update 2017	Completed Actions
2040-AF49	Unregulated Contaminant Monitoring Rule (UCMR 4) for Public Water Systems	3	Update 2017	Completed Actions
2050-AG91	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date	3	Update 2017	Completed Actions
2050-AG70	Hazardous Waste Generator Improvements Rule	3	Update 2017	Completed Actions
2050-AG77	Hazardous Waste Export-Import Revisions Rule	2	Update 2017	Completed Actions
2050-AG67	Addition of Subsurface Component to the Hazard Ranking System (HRS)	2	Update 2017	Completed Actions
2060-AP26	National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart W: Standards for Radon Emissions From Operating Uranium Mill Tailings: Review	3	Update 2017	Completed Actions
2060-AP79	Lead Emissions From Piston-Engine Aircraft Using Leaded Aviation Gasoline	2	Update 2017	Completed Actions
2060-AQ49	Supplemental Determination for Renewable Fuels Produced Under the Final RFS2 Program From Pulpwood	3	Update 2017	Completed Actions
2060-AR97	Clarification of Requirements for Method 303 Certification Training	3	Update 2017	Completed Actions
2060-AR98	General Permits and Permits by Rule for the Federal Minor New Source Review Program in Indian Country for Six Source Categories	3	Update 2017	Completed Actions
2060-AS02	Treatment of Data Influenced by Exceptional Events--Rule Revisions	3	Update 2017	Completed Actions
2060-AS47	Model Trading Rules for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014	2	Update 2017	Completed Actions
2060-AS51	Protection of Stratospheric Ozone: Update to the Refrigerant Management Requirements Under Section 608 of the Clean Air Act	3	Update 2017	Completed Actions

2060-AS54	Revision to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter	3	Update 2017	Completed Actions
2060-AS55	Protection of Visibility: Amendments to Requirements for State Plans	3	Update 2017	Completed Actions
2060-AS56	Rescission of Preconstruction Permits Issued Under the Clean Air Act	3	Update 2017	Completed Actions
2060-AS60	Greenhouse Gas Reporting Program--General Revisions	3	Update 2017	Completed Actions
2060-AS71	Revision to the Near-road NO2 Monitoring Requirements	3	Update 2017	Completed Actions
2060-AS72	Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018	1	Update 2017	Completed Actions
2060-AS73	Greenhouse Gas Reporting Rule: Leak Detection Methodology Revisions and Confidentiality Determinations for Petroleum and Natural Gas Systems	3	Update 2017	Completed Actions
2060-AS75	Mercury Air Toxics Standards (MATS) Electronic Reporting Requirements	3	Update 2017	Completed Actions
2060-AS78	Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014	1	Update 2017	Completed Actions
2060-AS80	Protection of Stratospheric Ozone: Listings and Listing Modifications for Certain Substitutes Under the Significant New Alternatives Policy Program	3	Update 2017	Completed Actions
2060-AS84	Clean Energy Incentive Program Design Details	2	Update 2017	Completed Actions
2060-AS88	Section 610 Review of Control of Hazardous Air Pollutants From Mobile Sources	3	Update 2017	Completed Actions
2060-AS89	Technical Correction to the National Ambient Air Quality Standards for Particulate Matter	3	Update 2017	Completed Actions
2060-AS90	National Emission Standards for Hazardous Air Pollutants: Ferroalloys Production Reconsideration	3	Update 2017	Completed Actions
2060-AS97	Mid Term Evaluation of the Model Year 2022-2025 Light Duty Vehicle Greenhouse Gas Standards	2	Update 2017	Completed Actions

2060-AT24	Determinations of Attainment by the Attainment Date, and Determinations of Failure to Attain and Reclassification of Certain Areas, for the 2006 24-hour PM2.5 NAAQS	3	Update 2017	Completed Actions	
2060-AT29	Emission Guidelines for the Existing Oil and Natural Gas Sector	1	Update 2017	Completed Actions	
2060-AT32	Relaxation of the Reid Vapor Pressure (RVP) Gasoline Standard in Five Counties of Middle Tennessee	3	Update 2017	Completed Actions	Y
2060-AT44	Air Quality Designations for the 2012 PM2.5 Standard for Deferred Areas in Tennessee	3	Update 2017	Completed Actions	Y
2060-AT46	Final Rule: Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards (NAAQS)	3	Update 2017	Completed Actions	Y
2060-AT62	Stay of Standards of Performance for Municipal Solid Waste Landfills and Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills	4	Update 2017	Completed Actions	Y
2060-AT63	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources; Partial Stay	3	Update 2017	Completed Actions	Y
2070-AJ27	Pesticides; Data Requirements for Plant-Incorporated Protectants (PIPs) and Certain Exemptions for PIPs	3	Update 2017	Completed Actions	
2070-AJ32	Regulations to Facilitate Compliance With the Federal Insecticide, Fungicide, and Rodenticide Act by Producers of Plant-Incorporated Protectants (PIPs)	2	Update 2017	Completed Actions	
2070-AK14	Restructuring of Pesticide Adverse Effects Reporting Regulations	3	Update 2017	Completed Actions	
2070-AD64	Lead-Based Paint; Amendments to the Requirements for Disclosure of Known Lead-Based Paint or Lead-Based Paint Hazards in Target Housing	3	Update 2017	Completed Actions	
2070-AJ04	TSCA Inventory Nomenclature for Enzymes and Proteins	3	Update 2017	Completed Actions	
2070-AJ46	Mercury; Regulation of Use in Certain Products	1	Update 2017	Completed Actions	
2070-AJ47	Nanoscale Materials; Test Rule for Certain Nanoscale Materials	3	Update 2017	Completed Actions	

2070-AJ63	TSCA Reporting Requirements; Revisions	3	Update 2017	Completed Actions				
2070-AJ72	Long-Chain Perfluorinated Chemicals (LCPFCs); Regulation(s) Under TSCA	2	Update 2017	Completed Actions				
2070-AJ83	Testing of Bisphenol A (BPA)	2	Update 2017	Completed Actions				
2070-AJ90	CBI; Reassertion and Resubstantiation of Confidentiality Claims Submitted Under TSCA	3	Update 2017	Completed Actions				
2070-AJ97	MDI and TDI; Health and Safety Data Reporting Under TSCA 8(d)	3	Update 2017	Completed Actions				
2070-AK28	Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Amendment	3	Update 2017	Completed Actions			Y	
2070-AK38	Pesticides; Certification of Pesticide Applicators Rule; Extension of Effective Date	2	Update 2017	Completed Actions			Y	
2070-AK39	Extension of Compliance Date for TSCA Reporting of Chemical Substances When Manufactured or Processed as Nanoscale Materials	2	Update 2017	Completed Actions			Y	
2090-AA39	Nondiscrimination in Programs or Activities Receiving Federal Assistance From the Environmental Protection Agency	3	Update 2017	Completed Actions				
2050-tbd	RMP Reconsideration	3			NPRM-01/00/18	Proposed Rule Stage	x	potential Reg Plan entry; Economically Significant

2050-tbd	Oil and Gas	tbd	Court: Either determination is unnecessary or NPRM-03/15/2019; Final action-7/15/2021						Not appropriate to submit a Reg Agenda entry for oil and gas at this point for the following reasons: 1. We have not determined what our decision on this will be nor have we determined the means/method of communicating it. For example, if we determine based on our review of all the information that no rule is needed, we don't necessarily need to do a FR notice to communicate that. 2. How we respond has implications for the remainder of our 2002(b) obligations – in other words, we don't want to set a precedent for responding to "no rule" determinations with an FR notice. 3. We believe that putting this in the Reg Agenda will appear to many industry groups that we have in fact agreed or determined that rules are necessary and that we are proceeding with rulemaking. 4. In addition, there is still litigation involving the consent decree from the State of North Dakota and a public reg agenda could inadvertently also send the wrong message. 5. At best this is a long term action (March 2019) and so doesn't fit into the time frame that you all are generally looking at.
2050-AC71	RCRA Subtitle C Finanical Test Criteria Regulatory Determination	2			n/a: posted as "inactive"	Withdrawn-8/11/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.
2050-AG45	Standards for the Safe and Environmentally Protective Placement of Coal Combustion Residuals as Minefill in Coal Mines Not Regulated Under the Surface Mining Control and Reclamation Act	3			n/a: posted as "inactive"	Withdrawn-8/11/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.

2050-AG66	CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances From Animal Waste at Farms	2	Court vacated rule; issuance of mandate extended until 11/14/2017		Withdrawn (date to be provided)? Rule?	Completed Actions? Pre-rule?	x	Seeking input from OGC on how best to present in Reg Agenda
2050-AG34	Revisions to Land Disposal Restrictions Treatment Standards and Amendments to Recycling Requirements for Spent Petroleum Refining Hydrotreating and Hydrorefining	3		n/a: posted as "inactive"	Withdrawn-8/23/2017	Completed Actions	x	Date of withdrawal reflects date of management decision to withdraw.
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 1	1	Court: NPRM-7/02/2019 signature; Final Action-12/02/2020 signature	n/a: posted as "inactive"	NPRM-7/00/2019; Final-12/00/2020	Long-term Actions	x	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 2	1	Court: NPRM-12/04/2019 signature; Final Action-12/01/2021 signature	n/a: posted as "inactive"	NPRM-12/00/2019; Final-12/00/2021	Long-term Actions	x	
2050-TBD	Financial Responsibility Requirements under CERCLA Section 108(b) for Industry 3	1	Court: NPRM-12/01/2022 signature; Final Action-12/04/2024 signature	n/a: posted as "inactive"	NPRM-12/00/2022; Final-12/00/2024	Long-term Actions	x	

EO 13771: Regulatory, Deregulatory, Exempt, Waived, or Other

Y

Regulatory

Regulatory

Regulatory

Regulatory

Y

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RIN	Title	Posted as Inactive on RegInfo.gov with Spring 2017 Reg Agenda	To be Posted as Inactive with Fall 2017 Reg Agenda (not included within Reg Agenda)	Comments	EO 13771: Regulatory, Deregulatory, Exempt, Waived, or Other
2012-AA02	Revisions to Federal Implementation Plans Under the Clean Air Act for Indian Country in Idaho, Oregon and Washington	2000 - EPA	2012 - ROSEATTLE	Revisions to Federal Implementation Plans Under the Clean Air Act for Indian Country in Idaho, Oregon and Washington	
2015-AA01	Supplemental Standards of Ethical Conduct for Employees of the Environmental Protection Agency	2000 - EPA	2015 - OGC	Supplemental Standards of Ethical Conduct for Employees of the Environmental Protection Agency	
2025-AA17	TRI; Response to Petition To Add Diisononyl Phthalate to the Toxics Release Inventory List of Toxic Chemicals	2000 - EPA	2025 - OEI	TRI; Response to Petition To Add Diisononyl Phthalate to the Toxics Release Inventory List of Toxic Chemicals	
2025-AA24	Toxics Release Inventory (TRI) Articles Exemption Clarification Rule	2000 - EPA	2025 - OEI	Toxics Release Inventory (TRI) Articles Exemption Clarification Rule	
2040-AD87	Statement of Policy--NPDES Permit Requirements for Peak Wet Weather Discharges From Publicly Owned Treatment Work Treatment Plants Serving Sanitary Sewer Collection Systems	2000 - EPA	2040 - OW	Statement of Policy--NPDES Permit Requirements for Peak Wet Weather Discharges From Publicly Owned Treatment Work Treatment Plants Serving Sanitary Sewer Collection Systems	
2050-AC71	RCRA Subtitle C Financial Test Criteria Regulatory Determination	Y	N	Withdrawing; Will be part of the Completed Actions section of the Reg Agenda and identified as Withdrawn. Reason for withdrawal: The EPA is withdrawing this entry as the information underpinning the original effort is several years old. The EPA may initiate a similar action with updated information at a later date. The EPA would expect to gather more recent information prior to moving forward with such an action.	Exempt

2050-AE34	Management of Cement Kiln Dust (CKD)	Y	Y	Keeping in Pending with TBD FR date. Justification from Laurel Celeste: While ORCR does not have the resources to advance this action at this time, the action should nonetheless remain in the "pending" category of stage of rulemaking. This is because EPA is in receipt of a rulemaking petition (submitted in 2010 pursuant to the Administrative Procedures Act) to which the Agency has not responded. The petitioner specifically requests that EPA finalize the regulations issued in 1999. Before the Agency can respond to the rulemaking petition, EPA's regulations require EPA to first publish a tentative decision in the Federal Register for public comment. Withdrawal of the CKD entry from the Regulatory Agenda could be interpreted as the Agency's response to the rulemaking petition, which because we had not first published a tentative decision to do so, would be a violation of these regulations.	Regulatory
2050-AE87	Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	Y	Y	Changed FR date from 10/00/2018 to 1/00/2021. OP put this in Pending during Spring 2017 Reg Agenda effort. The new date keeps it in consideration for Pending, that is, no regulatory activity planned on it for over 12-14 months. Background on delay in finalizing rule: The program has requirements for folks to test spill mitigation products that can be placed onto the Subpart J Products schedule, and that can be authorized for use in responding to oil spills (e.g., dispersant used in the DWH response). The requirements include testing against reference oils that the Agency provides. We are running low on our reference oil stockpiles, and will need to replace them with new oils (the ones we use now are no longer available for us to acquire). We may need to finalize some of the testing requirements first.	Regulatory

2050-AG34	Revisions to Land Disposal Restrictions Treatment Standards and Amendments to Recycling Requirements for Spent Petroleum Refining Hydrotreating and Hydrorefining	Y	N	Withdrawing; Will be part of the Completed Actions section of the Reg Agenda and identified as Withdrawn. Reason for withdrawal: On January 13, 2015, the EPA finalized new safeguards that promote responsible hazardous secondary materials recycling, which eliminates the need for a specific rulemaking on spent petroleum refining catalyst recycling. As a result of this significant change to the scope of the proposed rule, the EPA is withdrawing this entry and will revisit the specific issues associated with spent petroleum refining catalyst disposal under RCRA.	Exempt
2050-AG40	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	Y	Y	Changed FR date from 12/00/2018 to 1/00/2021. The new date puts it into consideration for Pending, that is, no regulatory activity planned on it for over 12-14 months. Staff will be working on other priority actions.	Regulatory
2050-AG45	Standards for the Safe and Environmentally Protective Placement of Coal Combustion Residuals as Minefill in Coal Mines Not Regulated Under the Surface Mining Control and Reclamation Act	Y	N	Withdrawing; Will be part of the Completed Actions section of the Reg Agenda and identified as Withdrawn. Reason for withdrawal: The related rulemaking to be conducted by DOI has been removed from the Regulatory Agenda. When DOI starts work on their action, the EPA will follow suit.	Exempt
2050-AG56	Financial Responsibility Requirements Under CERCLA Section 108(b) for Facilities in the Chemical, Petroleum and Electric Power Industries	Y	N	Will be 3 separate entries based on classes in the Reg Agenda as Long-term actions.	Regulatory
2050-AG66	CERCLA/EPCRA Reporting Requirements for Air Releases of Hazardous Substances From Animal Waste at Farms	Y	N	Court has extended the issuance of its mandate until November 14, 2017. Moved to Active section or Completed section of Reg Agenda.	Exempt or Deregulatory
2050-AG78	National Contingency Plan Revisions to Align With the National Response Framework	Y	Y	Retaining as Pending with TBD FR date. Have no final decision on the future of this action. We are working with OGC and OP on possible rationale for withdrawing later (possibly Spring 2018).	Regulatory
2060-AI62	National Volatile Organic Compounds (VOC) Emission Standards for Consumer Products; Amendments	2000 - EPA	2060 - OAR	National Volatile Organic Compounds (VOC) Emission Standards for Consumer Products; Amendments	

2060-AK26	Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances: N-Propyl Bromide	2000 - EPA	2060 - OAR	Protection of Stratospheric Ozone: Listing of Substitutes for Ozone-Depleting Substances: N-Propyl Bromide
2060-AK54	National Emissions Standards for Hazardous Air Pollutants (NESHAP): General Provisions; Amendments for Pollution Prevention Alternative Compliance Requirements	2000 - EPA	2060 - OAR	National Emissions Standards for Hazardous Air Pollutants (NESHAP): General Provisions; Amendments for Pollution Prevention Alternative Compliance Requirements
2060-AK73	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines-Petition to Delist	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants for Stationary Combustion Turbines-Petition to Delist
2060-AK84	Petition to Delist Hazardous Air Pollutant: 4,4'-Methylene Diphenyl Diisocyanate	2000 - EPA	2060 - OAR	Petition to Delist Hazardous Air Pollutant: 4,4'-Methylene Diphenyl Diisocyanate
2060-AM20	Petition to Delist a Hazardous Air Pollutant From Section 112 of the Clean Air Act: Methyl Isobutyl Ketone (MIBK)	2000 - EPA	2060 - OAR	Petition to Delist a Hazardous Air Pollutant From Section 112 of the Clean Air Act: Methyl Isobutyl Ketone (MIBK)
2060-AM75	NESHAP: General Provisions (Once In Always In)--Amendments	2000 - EPA	2060 - OAR	NESHAP: General Provisions (Once In Always In)--Amendments
2060-AM84	National Emissions Standards for Hazardous Air Pollutants (NESHAP): Defense Land Systems and Miscellaneous Equipment	2000 - EPA	2060 - OAR	National Emissions Standards for Hazardous Air Pollutants (NESHAP): Defense Land Systems and Miscellaneous Equipment
2060-AN17	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Small Municipal Waste Combustors: Remand Response and Amendments	2000 - EPA	2060 - OAR	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Small Municipal Waste Combustors: Remand Response and Amendments
2060-AN36	National Emission Standards for Hazardous Air Pollutants: Site Remediation	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants: Site Remediation
2060-AN43	Federal Plan Requirements for Other Solid Waste Incineration Units Constructed on or Before December 9, 2004	2000 - EPA	2060 - OAR	Federal Plan Requirements for Other Solid Waste Incineration Units Constructed on or Before December 9, 2004
2060-AN93	Improving Implementation of the Operating Permit Rules in Response to the Clean Air Act Advisory Committee Recommendations	2000 - EPA	2060 - OAR	Improving Implementation of the Operating Permit Rules in Response to the Clean Air Act Advisory Committee Recommendations
2060-AN99	National Emission Standards for Hazardous Air Pollutants (NESHAP): Mercury Cell Chlor-Alkali Plants--Amendments	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants (NESHAP): Mercury Cell Chlor-Alkali Plants--Amendments
2060-AO18	New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Large Municipal Waste Combustors (MWCs) -- Risk and Technology Review	2000 - EPA	2060 - OAR	New Source Performance Standards (NSPS) and Emission Guidelines (EG) for Large Municipal Waste Combustors (MWCs) -- Risk and Technology Review
2060-AO25	Revision of Hearing-Protector Regulations	2000 - EPA	2060 - OAR	Revision of Hearing-Protector Regulations

2060-AO31	Amendment of Definitions for National Emissions Standards for Hazardous Pollutants for Radionuclides	2000 - EPA	2060 - OAR	Amendment of Definitions for National Emissions Standards for Hazardous Pollutants for Radionuclides
2060-AO60	New Source Performance Standards (NSPS) Review Under CAA Section111(b)(1)(B)	2000 - EPA	2060 - OAR	New Source Performance Standards (NSPS) Review Under CAA Section111(b)(1)(B)
2060-AP06	Standards of Performance for Grain Elevators	2000 - EPA	2060 - OAR	Standards of Performance for Grain Elevators
2060-AP07	Remand of Halogenated Solvent Cleaning Final Residual Risk Rule	2000 - EPA	2060 - OAR	Remand of Halogenated Solvent Cleaning Final Residual Risk Rule
2060-AP08	Revisions to Test Method for Determining Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Walls	2000 - EPA	2060 - OAR	Revisions to Test Method for Determining Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Walls
2060-AP21	Response to Section 126 Petition From Warrick County, Indiana and the Town of Newburgh, Indiana	2000 - EPA	2060 - OAR	Response to Section 126 Petition From Warrick County, Indiana and the Town of Newburgh, Indiana
2060-AP22	Revision to Definition of Volatile Organic Compounds--Exclusion of Methyl Iodide (And Possibly Methyl Bromide)	2000 - EPA	2060 - OAR	Revision to Definition of Volatile Organic Compounds--Exclusion of Methyl Iodide (And Possibly Methyl Bromide)
2060-AP34	NSPS Equipment Leaks (Subpart VV SOCMI and GGG Petroleum Refineries); Amendments	2000 - EPA	2060 - OAR	NSPS Equipment Leaks (Subpart VV SOCMI and GGG Petroleum Refineries); Amendments
2060-AP41	In-Use Emissions Testing for Nonroad Diesel Engines and Amendments to General Compliance Provisions for Nonroad Engines	2000 - EPA	2060 - OAR	In-Use Emissions Testing for Nonroad Diesel Engines and Amendments to General Compliance Provisions for Nonroad Engines
2060-AP51	Response to Section 126 Petition From North Carolina	2000 - EPA	2060 - OAR	Response to Section 126 Petition From North Carolina
2060-AP60	Response to Section 126 Petition From Delaware	2000 - EPA	2060 - OAR	Response to Section 126 Petition From Delaware
2060-AP63	Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards	2000 - EPA	2060 - OAR	Electronic Reporting and Recordkeeping Requirements for New Source Performance Standards
2060-AP66	Alternative Work Practices for Leak Detection and Repair, Amendments	2000 - EPA	2060 - OAR	Alternative Work Practices for Leak Detection and Repair, Amendments
2060-AP71	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reasonable Possibility in Recordkeeping; Reconsideration	2000 - EPA	2060 - OAR	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reasonable Possibility in Recordkeeping; Reconsideration
2060-AP80	Reconsideration of the Prevention of Significant Deterioration and Nonattainment New Source Review (NSR) Project Aggregation	2000 - EPA	2060 - OAR	Reconsideration of the Prevention of Significant Deterioration and Nonattainment New Source Review (NSR) Project Aggregation
2060-AP94	National VOC Emission Standards for Architectural Coatings; Amendments	2000 - EPA	2060 - OAR	National VOC Emission Standards for Architectural Coatings; Amendments

2060-AP96	National Emission Standards for Hazardous Air Pollutants: Startup, Shutdown, and Malfunction Amendments to Part 63 Standards	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants: Startup, Shutdown, and Malfunction Amendments to Part 63 Standards
2060-AQ07	Withdrawal of the Prior Determination or Presumption That Compliance With the CAIR or the NOx SIP Call Constitutes RACT or RACM for the 1997 8-Hour Ozone and 1997 Fine Particle NAAQS	2000 - EPA	2060 - OAR	Withdrawal of the Prior Determination or Presumption That Compliance With the CAIR or the NOx SIP Call Constitutes RACT or RACM for the 1997 8-Hour Ozone and 1997 Fine Particle NAAQS
2060-AQ29	Stationary Combustion Turbine New Source Performance Standard (NSPS) Amendments to Address UARG Reconsideration Petition	2000 - EPA	2060 - OAR	Stationary Combustion Turbine New Source Performance Standard (NSPS) Amendments to Address UARG Reconsideration Petition
2060-AQ36	Supplemental Determinations for Renewable Fuels Produced Under the Final RFS2 Program From Palm Oil	2000 - EPA	2060 - OAR	Supplemental Determinations for Renewable Fuels Produced Under the Final RFS2 Program From Palm Oil
2060-AQ47	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Reconsideration	2000 - EPA	2060 - OAR	Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR): Reconsideration of Inclusion of Fugitive Emissions; Reconsideration
2060-AQ72	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units	2000 - EPA	2060 - OAR	Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Other Solid Waste Incineration Units
2060-AR00	National Uniform Standards for Storage Vessel and Transfer Operations, Equipment Leaks, Closed Vent Systems and Control Devices; Revisions to the National Uniform Emission Standards General Provisions	2000 - EPA	2060 - OAR	National Uniform Standards for Storage Vessel and Transfer Operations, Equipment Leaks, Closed Vent Systems and Control Devices; Revisions to the National Uniform Emission Standards General Provisions
2060-AR12	Revised Regulation for Environmental Radiation Protection Standard for Nuclear Power Operations	2000 - EPA	2060 - OAR	Revised Regulation for Environmental Radiation Protection Standard for Nuclear Power Operations
2060-AR27	Amendments to Part 63 Subpart YYYYY Electric Arc Furnace Area Source Standard	2000 - EPA	2060 - OAR	Amendments to Part 63 Subpart YYYYY Electric Arc Furnace Area Source Standard
2060-AR28	Ozone and Fine Particulate Matter (PM2.5) Significant Impact Levels (SILs) for Prevention of Significant Deterioration (PSD) Program	2000 - EPA	2060 - OAR	Ozone and Fine Particulate Matter (PM2.5) Significant Impact Levels (SILs) for Prevention of Significant Deterioration (PSD) Program
2060-AR93	Air Quality: Revision to Definition of Volatile Organic Compounds -- Exclusion of Benzotrifluoride	2000 - EPA	2060 - OAR	Air Quality: Revision to Definition of Volatile Organic Compounds -- Exclusion of Benzotrifluoride
2060-AS13	National Emission Standards for Hazardous Air Pollutants Risk and Technology Review Reconsideration: Oil and Natural Gas Sector	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants Risk and Technology Review Reconsideration: Oil and Natural Gas Sector

2060-AS61	Revisions to the Petition Provisions of the Title V Permitting Program	2000 - EPA	2060 - OAR	Revisions to the Petition Provisions of the Title V Permitting Program
2060-AS62	Revisions to the Prevention of Significant Deterioration and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a GHG SER for GHG Emissions Under the PSD Program	2000 - EPA	2060 - OAR	Revisions to the Prevention of Significant Deterioration and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a GHG SER for GHG Emissions Under the PSD Program
2060-AS66	Renewables Enhancement and Growth Support Rule	2000 - EPA	2060 - OAR	Renewables Enhancement and Growth Support Rule
2060-AS67	Electronic Reporting and Recordkeeping Requirements for National Emission Standards for Hazardous Air Pollutants, Phase I	2000 - EPA	2060 - OAR	Electronic Reporting and Recordkeeping Requirements for National Emission Standards for Hazardous Air Pollutants, Phase I
2060-AS77	Stationary Engine NESHAP/NSPS Amendments	2000 - EPA	2060 - OAR	Stationary Engine NESHAP/NSPS Amendments
2060-AS81	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks	2000 - EPA	2060 - OAR	National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks
2060-AS96	Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program	2000 - EPA	2060 - OAR	Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program
2060-AT06	Noise Emission Standards for Transportation Equipment: High Speed Rail	2000 - EPA	2060 - OAR	Noise Emission Standards for Transportation Equipment: High Speed Rail
2060-AT21	Vehicle Test Procedure Adjustments for Tier 3 Test Fuel	2000 - EPA	2060 - OAR	Vehicle Test Procedure Adjustments for Tier 3 Test Fuel
2060-AT23	Amendments to Implementing Regulations for Acting on State Plans	2000 - EPA	2060 - OAR	Amendments to Implementing Regulations for Acting on State Plans
2060-AT26	Control of Air Pollution From Aircraft and Aircraft Engines: Proposed GHG Emissions Standards and Test Procedures	2000 - EPA	2060 - OAR	Control of Air Pollution From Aircraft and Aircraft Engines: Proposed GHG Emissions Standards and Test Procedures
2060-AT27	Oil & Natural Gas Sector Technical Corrections	2000 - EPA	2060 - OAR	Oil & Natural Gas Sector Technical Corrections
2060-AT28	Commercial, Industrial Solid Waste Incineration Federal Plan	2000 - EPA	2060 - OAR	Commercial, Industrial Solid Waste Incineration Federal Plan
2070-AA58	Follow-Up Rules on Existing Chemicals	2000 - EPA	2070 - OCSPP	Follow-Up Rules on Existing Chemicals
2070-AA59	Significant New Use Rules (SNURs); Follow-Up Rules on Non-5(e) New Chemical Substances	2000 - EPA	2070 - OCSPP	Significant New Use Rules (SNURs); Follow-Up Rules on Non-5(e) New Chemical Substances
2070-AB27	Significant New Use Rule (SNUR); Chemical-Specific SNURs To Extend Provisions of Section 5(e) Orders	2000 - EPA	2070 - OCSPP	Significant New Use Rule (SNUR); Chemical-Specific SNURs To Extend Provisions of Section 5(e) Orders

2070-AC21	Lead Fishing Sinkers; Manufacturing, Processing, and Distribution in Commerce	2000 - EPA	2070 - OCSPP	Lead Fishing Sinkers; Manufacturing, Processing, and Distribution in Commerce
2070-AC37	Significant New Use Rule (SNUR); Refractory Ceramic Fibers (RCFs)	2000 - EPA	2070 - OCSPP	Significant New Use Rule (SNUR); Refractory Ceramic Fibers (RCFs)
2070-AC46	Groundwater and Pesticide Management Plan Rule	2000 - EPA	2070 - OCSPP	Groundwater and Pesticide Management Plan Rule
2070-AC64	Lead-Based Paint Activities; Bridges and Structures; Training, Accreditation, and Certification Rule and Model State Plan Rule	2000 - EPA	2070 - OCSPP	Lead-Based Paint Activities; Bridges and Structures; Training, Accreditation, and Certification Rule and Model State Plan Rule
2070-AD14	Pesticides; Registration Requirements for Antimicrobial Pesticide Products	2000 - EPA	2070 - OCSPP	Pesticides; Registration Requirements for Antimicrobial Pesticide Products
2070-AD44	Test Rule; Multiple Substance Rule for the Testing of Developmental and Reproductive Toxicity	2000 - EPA	2070 - OCSPP	Test Rule; Multiple Substance Rule for the Testing of Developmental and Reproductive Toxicity
2070-AD49	Plant Incorporated Protectants (PIPs); Exemption for those Based on Viral Coat Protein Genes	2000 - EPA	2070 - OCSPP	Plant Incorporated Protectants (PIPs); Exemption for those Based on Viral Coat Protein Genes
2070-AD55	Plant Incorporated Protectants (PIPs); Exemption for Those Derived Through Genetic Engineering From Sexually Compatible Plants	2000 - EPA	2070 - OCSPP	Plant Incorporated Protectants (PIPs); Exemption for Those Derived Through Genetic Engineering From Sexually Compatible Plants
2070-AD56	Plant Incorporated Protectants (PIPs); Exemption for PIPs That Act by Primarily Affecting the Plant	2000 - EPA	2070 - OCSPP	Plant Incorporated Protectants (PIPs); Exemption for PIPs That Act by Primarily Affecting the Plant
2070-AJ07	Testing Agreement for Aryl Phosphates (ITC List 2)	2000 - EPA	2070 - OCSPP	Testing Agreement for Aryl Phosphates (ITC List 2)
2070-AJ08	Certain Polybrominated Diphenylethers; Significant New Use Rule (SNUR) and Test Rule	2000 - EPA	2070 - OCSPP	Certain Polybrominated Diphenylethers; Significant New Use Rule (SNUR) and Test Rule
2070-AJ31	Significant New Use Rule for Chloranil	2000 - EPA	2070 - OCSPP	Significant New Use Rule for Chloranil
2070-AJ34	Nonylphenol (NP) and its Ethoxylates (NPE); Significant New Use Rule & Test Rule	2000 - EPA	2070 - OCSPP	Nonylphenol (NP) and its Ethoxylates (NPE); Significant New Use Rule & Test Rule
2070-AJ38	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations	2000 - EPA	2070 - OCSPP	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations
2070-AJ45	Pesticides; Reconsideration of Exemptions for Insect Repellents	2000 - EPA	2070 - OCSPP	Pesticides; Reconsideration of Exemptions for Insect Repellents
2070-AJ49	Pesticides; Data Requirements for Product Performance	2000 - EPA	2070 - OCSPP	Pesticides; Data Requirements for Product Performance
2070-AJ61	Pesticides; Clarifying Changes to Labeling	2000 - EPA	2070 - OCSPP	Pesticides; Clarifying Changes to Labeling
2070-AJ64	Lead Wheel Weights; Regulatory Investigation	2000 - EPA	2070 - OCSPP	Lead Wheel Weights; Regulatory Investigation

2070-AJ66	High Production Volume (HPV) Chemicals; Fourth Group of Chemicals	2000 - EPA	2070 - OCSPP	High Production Volume (HPV) Chemicals; Fourth Group of Chemicals
2070-AJ68	TSCA; Clarification for Chemical Identification Describing Statutory Mixtures, Including Ceramic Materials, Cements, and Frits for TSCA Inventory Purposes	2000 - EPA	2070 - OCSPP	TSCA; Clarification for Chemical Identification Describing Statutory Mixtures, Including Ceramic Materials, Cements, and Frits for TSCA Inventory Purposes
2070-AJ82	Residential Lead Dust Hazard Standards	2000 - EPA	2070 - OCSPP	Residential Lead Dust Hazard Standards
2070-AJ89	Cadmium; Health and Safety Data Reporting Under the Toxic Substances Control Act (TSCA) Section 8(d)	2000 - EPA	2070 - OCSPP	Cadmium; Health and Safety Data Reporting Under the Toxic Substances Control Act (TSCA) Section 8(d)
2070-AJ93	Hydraulic Fracturing Chemicals and Mixtures	2000 - EPA	2070 - OCSPP	Hydraulic Fracturing Chemicals and Mixtures
2070-AK12	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares	2000 - EPA	2070 - OCSPP	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares
2070-AK16	Toxics Release Inventory (TRI); Addition of Natural Gas Processing Facilities	2000 - EPA	2070 - OCSPP	Toxics Release Inventory (TRI); Addition of Natural Gas Processing Facilities
2070-AK25	Restoration of Inadvertently-Removed Exemption From the Requirements of FIFRA	2000 - EPA	2070 - OCSPP	Restoration of Inadvertently-Removed Exemption From the Requirements of FIFRA

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 8/23/2017 10:36:15 AM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: FW: For Barry's Review Today - Congressional Qs on Waterkeeper vs. EPA
Attachments: Sen. JCornyn . CERCLA AND EPCRA.PDF

Importance: High

From: Harwood, Jackie
Sent: Tuesday, August 22, 2017 3:55 PM
To: Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: FW: For Barry's Review Today - Congressional Qs on Waterkeeper vs. EPA
Importance: High

Hi Barbara –

Barry asked me to contact you about the highlighted language below. He would like PARMS to confer with Kim Jennings to make sure we're all ok with the statements on timing for the guidance.

Can you get back to me today on this? I apologize for the tight deadline!

Let me know if you have any questions.

Jackie

From: Harwood, Jackie
Sent: Tuesday, August 22, 2017 12:57 PM
To: Breen, Barry <Breen.Barry@epa.gov>
Cc: Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Benjamin, Kent <Benjamin.Kent@epa.gov>; Klinger, Adam <Klinger.Adam@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
Subject: For Barry's Review Today - Congressional Qs on Waterkeeper vs. EPA
Importance: High

Hi Barry,

As I mentioned in our Monday 10:30 Comms Meeting, OCIR has asked us for language responding to questions that came in from Congressman Harris' (R-MD) staff and MD Secretary of the Environment Ben Grumbles office about the D.C. Circuit Court decision in *Waterkeeper vs. EPA*.

Below is draft language responding to the Waterkeeper questions – for your review. OEM's Kim Jennings and OGC's Earl Salo have reviewed and approved the language. I will be providing this language to OCIR and it will be used in the following ways:

- Responding to Congressman Harris' staff questions
- Responding to Ben Grumbles questions
- In the R3 State Environmental Secretaries Meeting this week
- In a R3 State Agricultural Secretaries Meeting in September
- When other similar requests come in to OCIR from Congressmen/Senators

Attached is your letter to multiple Senators on the Court's decision - FYI. Please let me know if you have any questions or need anything else on this.

Jackie

Deliberative Process / Ex. 5

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 9/22/2017 6:11:51 PM
To: Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: NEEDED MONDAY - CERCLA/EPCRA Ag Guidance

Thank you.

From: Cogliano, Gerain
Sent: Friday, September 22, 2017 2:10 PM
To: Hostage, Barbara <Hostage.Barbara@epa.gov>
Subject: Fw: NEEDED MONDAY - CERCLA/EPCRA Ag Guidance

From: Jacob, Sicy
Sent: Friday, September 22, 2017 1:59 PM
To: Gioffre, Patricia; Noggle, William; Beaman, Joe
Cc: Cogliano, Gerain; Jennings, Kim
Subject: RE: NEEDED MONDAY - CERCLA/EPCRA Ag Guidance

Hmmm….I don't think we had any burden/cost analysis done separately for EPCRA compliance/exempted farms in the economic analysis.
Let me check.

Bill: The information that Joe gave you last week was burden that would be incurred due to the vacatur. Right? I was just looking at the chart and the title of each column has "cost(savings)".

Anyway, let me see what we can come up with for Section 304 exemption – savings. thanks

---

Sicy Jacob
Chemical Engineer
Regulations Implementation Division
Office of Emergency Management
U.S. EPA, MailCode 5104A
1200 Pennsylvania Avenue, NW
Washington DC 20004
(202) 564-8019

From: Gioffre, Patricia
Sent: Friday, September 22, 2017 1:39 PM
To: Noggle, William <Noggle.William@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>
Subject: RE: NEEDED MONDAY - CERCLA/EPCRA Ag Guidance

OK Bill. We should be able to pull something together by Monday.

Sicy- Can you start working on the narrative for this and then we can discuss on Monday with Kim/Joe to determine how to characterize cost savings. I don't expect any cost/benefits for the CERCLA part of the effort, but our interpretation for EPCRA 304 reporting would result in a cost savings.

Patty Gioffre
US EPA/OLEM/OEM
202-564-1972
202-748-7139 (cell)

Follow OLEM on Twitter @EPALand

From: Noggle, William
Sent: Friday, September 22, 2017 1:13 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: NEEDED MONDAY - CERCLA/EPCRA Ag Guidance

Patty,
OP would like to include the CERCLA/EPCRA guidance (or Qs&As) in with the Agency's deregulatory efforts for FY 2018. They want the following information: title, 3-4 sentences of abstract, and FY 2018 cost savings data (same fields that Joe pulled together for the vacatur – see below). They need by Monday at the latest.

The website itself won't be significant under EO 12866 but likely the Q&A (or policy memo / guidance) that you're preparing, OMB will want to see. We will need to provide draft doc to OP for them to review and discuss with OMB. No rush; whenever a version is ready (We know it needs to go through a variety of reviews internally first.)

Cost Savings data fields requested by OP:

Primary Annualized Cost (Savings) Estimate at 7 percent, 2016$	Primary Annualized Cost (Savings) Estimate at 3 percent, 2016$	Low Range Annualized Cost (Savings) Estimate at 7 percent, 2016$	Low Range Annualized Cost (Savings) Estimate at 3 percent, 2016$	High Range Annualized Cost (Savings) Estimate at 7 percent, 2016$	High Range Annualized Cost (Savings) Estimate at 3 percent, 2016$	Length of Time that Costs or Cost Savings Occur (in years)

Thanks,
Bill
202-566-1306

Message

From: Boyle, Kathryn [Boyle.Kathryn@epa.gov]
Sent: 11/9/2017 3:51:45 PM
To: Noggle, William [Noggle.William@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]
Subject: RE: OMB exempt - SAN 5484

Got it – let me run it by Nicole

Kathryn Boyle
Office of Regulatory Policy and Management
Office of Policy
Environmental Protection Agency
202.564.8194
boyle.kathryn@epa.gov

From: Noggle, William
Sent: Thursday, November 09, 2017 10:15 AM
To: Boyle, Kathryn <Boyle.Kathryn@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: RE: OMB exempt - SAN 5484

Kathryn,
Below is the draft justification. Please let me know if this will suffice:

EOP / Ex. 6

Thanks,
Bill
202-566-1306

From: Boyle, Kathryn
Sent: Thursday, November 09, 2017 9:33 AM
To: Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Noggle, William <Noggle.William@epa.gov>
Subject: RE: OMB exempt - SAN 5484

Yes, please send me a justification for this to be exempt.

I just read through the abstract, and I am not sure exactly what this rule would be.

Thanks

Kathryn

Kathryn Boyle
Office of Regulatory Policy and Management
Office of Policy
Environmental Protection Agency
202.564.8194
boyle.kathryn@epa.gov

From: Cogliano, Gerain
Sent: Wednesday, November 08, 2017 3:46 PM
To: Noggle, William <Noggle.William@epa.gov>; Boyle, Kathryn <Boyle.Kathryn@epa.gov>
Subject: RE: OMB exempt - SAN 5484

Fyi---the dates in 5484 were moved out last week after OEM and OGC chatted about timing BUT the action likely will occur sooner as Bill has indicated. We are hopeful to know more soon (next week?). This could in fact move rather quickly depending on the court.

From: Noggle, William
Sent: Wednesday, November 08, 2017 3:30 PM
To: Boyle, Kathryn <Boyle.Kathryn@epa.gov>
Cc: Cogliano, Gerain <Cogliano.Gerain@epa.gov>
Subject: OMB exempt - SAN 5484

Kathryn,
SAN 5484 is for a good cause final rule (without a proposal) to implement reg changes reflecting a court-ordered vacatur. The action in ADP Tracker has some old milestones that show OMB significance back in 2011. Could you please let us know if this action could be OMB exempt? Also, regarding the timing for signature and publication of the final rule, we may need to move relatively quickly (next few weeks) depending on the court's decisions to either retain the Nov 15 compliance date or extend.

Let me know if you need an exempt justification.

Thanks,
Bill
202-566-1306

Message

From: Hostage, Barbara [Hostage.Barbara@epa.gov]
Sent: 6/29/2017 3:16:00 PM
To: OLEM OPM PARMS [OLEMOPMPARMS@epa.gov]
Subject: FW: OEM AA Weekly Report - June 29, 2017
Attachments: OEM Weekly Report - June 29 2017.docx

Regulations Implementation Division (RID)

CERCLA/EPCRA Administrative Reporting Exemption

- On June 26, RID staff participated in a briefing for OGC and OLEM Senior Leadership on the DC Circuit Court's April 2017 vacatur of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act (EPCRA) Administrative Reporting Exemption rule, in preparation for an Administrator briefing. A December 2008 Final Rule relieved all farms from release reporting under CERCLA Section 103 and provided an exemption to EPCRA Section 304 limited by size threshold. On January 2009, the Waterkeeper Alliance filed a Petition for Review of the Final Rule, challenging the exemptions under both CERCLA and EPCRA; the case was consolidated with a similar Petition from the National Pork Producers Council. Mediation resulted in a 2010 voluntary remand, without vacatur of the Final Rule for EPA to reevaluate issues raised that warranted reconsideration. The Court's decision to now vacate the Final Rule argued the Final Rule was not a reasonable interpretation of statutory ambiguity and was not an appropriate use of an implied authority to create exceptions to statutory mandates. All farms will now be subject to reporting releases of CERCLA hazardous substances and extremely hazardous substances to the air from animal waste; the briefing discussion centered on available options to provide burden relief. Given the exemption has been in effect since 2008, the Agency intends to request a 90-day stay of the ruling to allow for time to take appropriate action to assist farmers. Timing is unclear as the DC Circuit Court has yet to make a determination on a request for rehearing from the National Pork Producers Council.

From: Indermark, Michele
Sent: Thursday, June 29, 2017 11:13 AM
To: OLEM IO Materials <OLEMIOMaterials@epa.gov>; OLEM OD Deputies <OLEMODDeputies@epa.gov>; OLEM Schedulers-SAs <OLEMSchedulers-SAs@epa.gov>; OLEM OEM Everyone <OLEMOEMEveryone@epa.gov>
Subject: OEM AA Weekly Report - June 29, 2017

Good Afternoon All

Attached is the OEM Weekly Report.

D. Michele Indermark
OLEM/OEM
Special Assistant
WJC-N 1448C
(w) 202-564-0794

Message

From: Jennings, Kim [Jennings.Kim@epa.gov]
Sent: 4/13/2018 11:04:47 AM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Jacob, Sicy [Jacob.Sicy@epa.gov]; Swenson, Erik [Swenson.Erik@epa.gov]; ODea, Elise [odea.elise@epa.gov]; Lewis, Jen [Lewis.Jen@epa.gov]; Franklin, Kathy [Franklin.Kathy@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Cooperstein, Sharon [Cooperstein.Sharon@epa.gov]; Cogliano, Gerain [Cogliano.Gerain@epa.gov]; Taylor, Trish [Taylor.Trish@epa.gov]; Harwood, Jackie [Harwood.Jackie@epa.gov]
Subject: RE: Follow-up on EPCRA Revised Q&As

Thanks Hema.

I was able to get in and edit these document in Sharepoint this morning and added your comments to the FARM Act Q&A and Routine Ag Ops Q&A. Comments are due on those two documents today at 10 am and I will combine all the comments this afternoon and send it to the entire group which meet on Wednesday.

I will also work on adding your comments on the revised animal waste website today. I will let you know when that has been completed.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Subramanian, Hema
Sent: Thursday, April 12, 2018 7:45 PM
To: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: Follow-up on EPCRA Revised Q&As

Sharepoint would neither let me edit the documents directly nor save new re-named versions to the folders (either I wasn't given permission to edit or it's acting glitchy).

So I'm attaching versions with my suggested edits here (I kept track changes on). Hope I captured the nuances right. Sorry, I know this might result in inconvenient integrating…

I'm out of office tomorrow and traveling, but you can call me on my cell with any questions (202-815-0472).

Thanks for all the collaborating and hard work!
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency

Washington, DC
office: (202) 564-5041

From: Gioffre, Patricia
Sent: Thursday, April 12, 2018 3:47 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Thomas, Latosha <Thomas.Latosha@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Swenson, Erik <Swenson.Erik@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Subject: RE: Follow-up on EPCRA Revised Q&As

Following up on today's meeting with Next Steps.

- Any last comments on the FARM Act Q&A and Routine Ag Ops Q&A (available at the following link: https://usepa.sharepoint.com/:f:/r/sites/OLEM_Work/cercla_epcra/Animal%20Waste%20Website/4-11-18%20EPCRA%20Q%26As?csf=1&e=AO2bbw) by 10:00 am on Friday the 13th.

- Revisions to website: OGC will review after all others.
  Link to current version of the revised animal waste website:
  https://usepa.sharepoint.com/:w:/r/sites/OLEM_Work/cercla_epcra/Animal%20Waste%20Website/Animal%20Waste%20Website%204-4-18_revisions.docx?d=wc16e091029e64021a332231ef9e2317e&csf=1&e=mMcUaj

- OGC will reach out to DOJ on review/comments. Once we hear back, Sharon will talk to Bill Nickerson on next steps for reaching out to OMB

- Latosha is drafting a communication planning tool.

Please chime in if there is something that I missed.

Patty Gioffre
USEPA/OLEM/OEM/RID
202-564-1972
202-748-7139 (cell)

-----Original Appointment-----
From: Gioffre, Patricia
Sent: Wednesday, April 11, 2018 1:03 PM
To: Gioffre, Patricia; Subramanian, Hema; Thomas, Latosha; Jacob, Sicy; Swenson, Erik; ODea, Elise; Lewis, Jen; Jennings, Kim; Franklin, Kathy (Franklin.Kathy@epa.gov); Principe, Vanessa; Cooperstein, Sharon; Gerain Cogliano; Taylor, Trish; Harwood, Jackie
Subject: Follow-up on EPCRA Revised Q&As
When: Thursday, April 12, 2018 1:30 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: WJC North 6528 / Conference line 866-299-3188 / 202 564 1972#

This meeting is to follow-up on the next steps on the EPCRA Q&A.

Agenda:

- Discuss edits to the Q&As as currently drafted
- Website revisions
- Follow-up on OMB review

- Communications

EPCRA Q&As are available at:
https://usepa.sharepoint.com/:f:/r/sites/OLEM_Work/cercla_epcra/Animal%20Waste%20Website/4-11-18%20EPCRA%20Q%26As?csf=1&e=AO2bbw

Adobe Connect for those working remotely:

Conference Number / Ex. 6

Patty Gioffre
Deputy Director
Regulation Implementation Division
USEPA Office of Emergency Management
202-564-1972
202-748-7139 (cell)

Appointment

From: Cogliano, Gerain [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4BA589A367194EFD92030BFBE891A298-COGLIANO, GERAIN]
Sent: 1/25/2018 3:30:30 AM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]

Subject: Accepted: EPA/USDA Discussion on CERCLA/EPCRA Reporting re: Animal Waste
Location: Conference Number / Ex. 6

Start: 1/25/2018 7:00:00 PM
End: 1/25/2018 7:30:00 PM

Recurrence: (none)

Message

From: Lewis, Jen [Lewis.Jen@epa.gov]
Sent: 4/16/2018 4:39:22 PM
To: Janifer, Pamela [Janifer.Pamela@epa.gov]
Subject: FW: Sen. Moran Inquiry RE: EPCRA reporting requirements

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Lewis, Jen
Sent: Wednesday, February 21, 2018 3:10 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>
Subject: RE: Sen. Moran Inquiry RE: EPCRA reporting requirements

Attorney Client / Ex. 5

1. Can you provide more details on what EPA is doing to exempt livestock producers from EPCRA requirements?

Attorney Work Product / Ex. 5

2. Does EPA believe that congressional action is not required in regards to providing an exemption from EPCRA?

Attorney Work Product / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

From: Jennings, Kim
Sent: Tuesday, February 20, 2018 12:08 PM
To: Lewis, Jen <Lewis.Jen@epa.gov>; Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema

<Subramanian.Hema@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Michaud, John <Michaud.John@epa.gov>
Subject: RE: Sen. Moran Inquiry RE: EPCRA reporting requirements

Attorney Client / Ex. 5

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Lewis, Jen
Sent: Tuesday, February 20, 2018 12:02 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Jennings, Kim <Jennings.Kim@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Michaud, John <Michaud.John@epa.gov>
Subject: Re: Sen. Moran Inquiry RE: EPCRA reporting requirements

Attorney Client / Ex. 5

Jen Lewis
Deputy Associate General Counsel
Solid Waste and Emergency Response Law Office
(202) 564-2097

On Feb 20, 2018, at 11:10 AM, Harwood, Jackie <Harwood.Jackie@epa.gov> wrote:

> FYI – Passing on an updated version of the legislation with a bill number and all 21 co-sponsors listed:
>
> https://www.congress.gov/115/bills/s2421/BILLS-115s2421is.pdf
>
> ---
>
> Jackie Harwood
> OLEM Congressional, State, and Local Liaison
> OCPA/Office of Land and Emergency Management (OLEM)
> U.S. Environmental Protection Agency
> (202) 564-7578
> *Follow OLEM on Twitter: @EPALand*
>
> ---
>
> **From:** Jennings, Kim
> **Sent:** Friday, February 16, 2018 1:53 PM
> **To:** Harwood, Jackie <Harwood.Jackie@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; ODea, Elise <odea.elise@epa.gov>; Michaud, John <Michaud.John@epa.gov>
> **Subject:** RE: Sen. Moran Inquiry RE: EPCRA reporting requirements
>
> Jen Lewis is out until next week. Looping in John and Elise.

Thanks,
Kim

Kim Jennings
Division Director || Regulations Implementation Division
U.S. Environmental Protection Agency || Office of Emergency Management
E-mail: jennings.kim@epa.gov || **Desk:** (202) 564-7998 ||

From: Harwood, Jackie
Sent: Friday, February 16, 2018 1:34 PM
To: Jennings, Kim <Jennings.Kim@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: FW: Sen. Moran Inquiry RE: EPCRA reporting requirements
Importance: High

Hi All,

Attorney Client / Ex. 5

FYI: I've attached a copy of the bill, and here is a press release from Senator Fischer, who introduced the bill: https://www.fischer.senate.gov/public/index.cfm/news?ID=7CEEE237-2600-4AF4-BE01-DD6D2FAD814D

Thanks.
Jackie

Jackie Harwood
OLEM Congressional, State, and Local Liaison
OCPA/Office of Land and Emergency Management (OLEM)
U.S. Environmental Protection Agency
(202) 564-7578
Follow OLEM on Twitter: @EPALand

From: Janifer, Pamela
Sent: Friday, February 16, 2018 12:37 PM
To: Harwood, Jackie <Harwood.Jackie@epa.gov>
Cc: Sands, Jeffrey <sands.jeffrey@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: Sen. Moran Inquiry RE: EPCRA reporting requirements

Sen. Moran staffer has a couple questions on EPCRA reporting for livestock producers. Sen. Moran is a cosponsor of the Fischer bill exempting animal waste from CERCLA that was introduced on Tuesday. Please see staffer comments and questions below. Can we get a response early next week? Thanks.

I believe EPA may have more authority to administratively address the issue under EPCRA as compared to CERCLA, which is part of the reason the Fischer bill does not extend to EPCRA.

1. Can you provide more details on what EPA is doing to exempt livestock producers from EPCRA requirements?

2. Does EPA believe that congressional action is not required in regards to providing an exemption from EPCRA?

<image002.png>

Pamela Janifer
U.S. Environmental Protection Agency
Office of Congressional Affairs
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
202.564.6969
Janifer.pamela@epa.gov

Message

From: Ziegel, Dean [Ziegel.Dean@epa.gov]
Sent: 10/26/2017 12:51:42 PM
To: Miles, James [miles.james@epa.gov]
CC: Haas, Craig [Haas.Craig@epa.gov]
Subject: FW: EPCRA CERCLA Ag Guidance is now available

Importance: High

From: Gioffre, Patricia
Sent: Wednesday, October 25, 2017 9:30 PM
To: Swenson, Erik <Swenson.Erik@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Salo, Earl <Salo.Earl@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Jacob, Sicy <Jacob.Sicy@epa.gov>; Franklin, Kathy <Franklin.Kathy@epa.gov>; Bosecker, Elizabeth <Bosecker.Elizabeth@epa.gov>; Principe, Vanessa <Principe.Vanessa@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Ziegel, Dean <Ziegel.Dean@epa.gov>; Beasley, Lynn <Beasley.Lynn@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Noggle, William <Noggle.William@epa.gov>; Hull, George <Hull.George@epa.gov>; Beaman, Joe <Beaman.Joe@epa.gov>; Cooperstein, Sharon <Cooperstein.Sharon@epa.gov>; Dunkins, Robin <Dunkins.Robin@epa.gov>; Costa, Allison <Costa.Allison@epa.gov>; Schrock, Bill <Schrock.Bill@epa.gov>
Cc: Clark, Becki <Clark.Becki@epa.gov>; Cheatham, Reggie <cheatham.reggie@epa.gov>; Jennings, Kim <Jennings.Kim@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Simon, Nigel <Simon.Nigel@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Gerardin, Margaret <Gerardin.Margaret@epa.gov>; Mayer, Eileen <Mayer.Eileen@epa.gov>; Indermark, Michele <Indermark.Michele@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>
Subject: EPCRA CERCLA Ag Guidance is now available
Importance: High

I am pleased to announce that the EPCRA/CERCLA ag guidance is live on the EPA website. To view EPA's guidance and Frequently Asked Questions on reporting air emissions from animal waste, see: https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

Thank you all for your assistance developing this guidance and for your support through the interagency review process. It was a lot of work and we couldn't have done it without your expertise!

Best wishes!

Patty Gioffre
Acting Deputy Division Director
USEPA (OLEM/OEM/RID)
1200 Pennsylvania Ave. NW (5104A)
Washington, DC 20460
202-564-1972
202-748-7139 (cell)

Message

From: Zito, Kelly [ZITO.KELLY@EPA.GOV]
Sent: 1/16/2018 10:46:40 PM
To: Miller, Amy [Miller.Amy@epa.gov]; Meer, Daniel [Meer.Daniel@epa.gov]; Lawrence, Kathryn [Lawrence.Kathryn@epa.gov]
Subject: FW: Animal Waste Links -- helpful in distributing fact sheets thanks ng

From: Grantham, Nancy
Sent: Tuesday, January 16, 2018 1:53 PM
To: Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>
Cc: Richardson, RobinH <Richardson.RobinH@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>; Levine, Carolyn <Levine.Carolyn@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>
Subject: Animal Waste Links -- helpful in distributing fact sheets thanks ng

All,

The EPA ag page below now has a box re: the animal waste issue – that links to the animal waste site on epa.gov – and that page has the fact sheets in English and in Spanish.

You and your regional ag advisors may want to use the links to get the fact sheets out to your state ag agencies.

Thanks ng

https://www.epa.gov/agriculture

https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

Message

From: schafer, joan [schafer.joan@epa.gov]
Sent: 3/28/2018 6:30:31 PM
To: Shenk, Kelly [shenk.kelly@epa.gov]; Armstrong, Joan [Armstrong.Joan@epa.gov]; Dunn, Michael [dunn.michael@epa.gov]; Gilley, Anne [Gilley.anne@epa.gov]; McManus, Catharine [mcmanus.catharine@epa.gov]
CC: White, Terri-A [White.Terri-A@epa.gov]
Subject: FW: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

fYI!

From: Grantham, Nancy
Sent: Wednesday, March 28, 2018 2:19 PM
To: Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>
Cc: Thomas, Latosha <Thomas.Latosha@epa.gov>; Taylor, Trish <Taylor.Trish@epa.gov>
Subject: TALKING POINTS: CERCLA/EPCRA Animal Waste Reporting

Please share with your regional Ag Advisors.

Thanks ng

CERCLA/EPCRA REPORTING REQUIRMENTS FOR FARMS

TALKING POINTS:

- On March 23, 2018, the Consolidated Appropriations Act, 2018 (Omnibus Bill), was signed into law. Title XI of the Omnibus Bill, called the "Fair Agricultural Reporting Method Act" or "FARM Act", exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.
    - When the D.C. Circuit Court of Appeals issues its mandate vacating the 2008 final rule (expected as soon as May 1, 2018), farms will remain exempt from the CERCLA reporting requirements as a result of the Omnibus Bill.
        - EPA interprets the EPCRA 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.

BACKGROUND:

- In 2008, EPA published a final rule that exempted farms from reporting air releases of hazardous substances from animal waste. This final rule applied to reporting under section 103 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and section 304 of the Emergency Planning and Community Right-to-Know Act (EPCRA). For EPCRA reporting, the rule exempted farms that contained fewer than a certain number of animals from reporting.

- Citizen groups challenged the 2008 final rule, and on April 11, 2017, the rule was vacated by the D.C. Circuit Court of Appeals.

- The D.C. Circuit has stayed issuance of a mandate vacating the 2008 final rule until May 1, 2018. Once the court issues the mandate, the reporting requirements will go back into effect for air releases of hazardous substances from animal waste at farms.

- The "FARM Act", passed by Congress as part of the Omnibus Bill on March 23, 2018, exempts the reporting of "air emissions from animal waste at a farm" under CERCLA.

- EPA is revising the CERCLA/EPCRA guidance for reporting air releases from animal waste at farms and the frequently asked questions (FAQs) at www.epa.gov/animalwaste to reflect the recent passage of the "FARM Act".

Latosha Thomas
U.S. Environmental Protection Agency
OLEM/OEM/RMD
(202) 564-2621 (desk)
(202) 568-0851 (cell)
thomas.latosha@epa.gov

Appointment

From: Michael Formica [formicam@nppc.org]
Sent: 1/17/2018 11:41:16 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]

Subject: Accepted: EPA Animal Waste Reporting Outreach Call with Stakeholders
Location: Conference Number / Ex. 6

Start: 1/18/2018 4:00:00 PM
End: 1/18/2018 5:00:00 PM
Show Time As: Busy

Recurrence: (none)

Appointment

From: Timothy Gablehouse [tgablehouse@gcgllc.com]
Sent: 1/17/2018 6:55:13 PM
To: Thomas, Latosha [Thomas.Latosha@epa.gov]

Subject: Accepted: EPA Animal Waste Reporting Outreach Call with Stakeholders
Location: **Conference Number / Ex. 6**

Start: 1/18/2018 4:00:00 PM
End: 1/18/2018 5:00:00 PM
Show Time As: Busy

Recurrence: (none)

Message

From: Gutro, Doug [Gutro.Doug@epa.gov]
Sent: 1/16/2018 9:38:36 PM
To: Winnett, Steven [winnett.steven@epa.gov]; Melanson, Kate [Melanson.Kate@epa.gov]
Subject: FW: CERCLA/EPCRA Fact Sheet -- animal waste
Attachments: CERCLA EPCRA Factsheet FINAL.PDF; CERCLA EPCRA Factsheet FINAL (SPANISH).pdf; Canned Language for FAQs.docx

From: Grantham, Nancy
Sent: Tuesday, January 16, 2018 3:42 PM
To: Regional Public Affairs Directors <Regional_Public_Affairs_Directors@epa.gov>
Cc: Richardson, RobinH <Richardson.RobinH@epa.gov>; Janifer, Pamela <Janifer.Pamela@epa.gov>
Subject: FW: CERCLA/EPCRA Fact Sheet -- animal waste

Please make sure your regional ag advisors know that this went to USDA today.

We will be sending the link to the fact sheets on the web shortly, so regions can begin outreach to state ag agencies.

Other tools coming shortly as well.

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
202-253-7056 (mobile)

Team USDA,

Very much appreciate all of your efforts in helping to refine and ultimately get this message out to producers through the USDA network. Attached please find:

- Messaging (English/Spanish) to direct producers to EPA resources on CERCLA/EPCRA Reporting
- CERCLA/EPCRA fact sheets (English/Spanish)

There will be an accompanying PSA that will air soon as well as stakeholder outreach calls that EPA will host beginning on Thursday.

Again, greatly appreciate all of your assistance here.

Best,

Jeffrey Sands
Senior Advisor to the Administrator for Agriculture Policy
1200 Pennsylvania Ave, NW
2415 WJC North
Washington, DC 20460
(202) 564-2263

Canned Language for FAQs (English)

Due to a recent court decision, farms (including ranches, livestock operations and/or animal operations) will soon be required to report hazardous substance air releases from animal waste under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) when they release hazardous substances from animal waste in amounts greater than/equal to their reportable quantity within a 24-hour period. The purpose of these FAQs is to provide an overview and basic information for those who are impacted by this new requirement. If you have any questions, please contact the Environmental Protection Agency via the information provided below:

- Visit www.epa.gov/animalwaste for guidance and access to the continuous release reporting forms
- Email comments or suggestions on guidance materials to: CERCLA103.guidance@epa.gov
- Regional Contacts: www.epa.gov/epcra/cr-erns-regional-contacts
- Call with questions: 1-800-424-9346

Canned Language for FAQs (Spanish)

Debido a una decisión judicial reciente, pronto se exigirá a las granjas (incluidos ranchos, operaciones ganaderas y/u operaciones animales) reportar emisiones al aire de sustancias peligrosas provenientes de desechos animales conforme a la Ley Integral de Respuesta Ambiental, Compensación y Responsabilidad (CERCLA) cuando emitan sustancias peligrosas provenientes de desechos animales en cantidades mayores o iguales a su cantidad reportable dentro de un periodo de 24 horas. El propósito de estas preguntas frecuentes es ofrecer una reseña e información básica para quienes se ven afectados por este nuevo requisito. Si tiene alguna pregunta, póngase en contacto con la Agencia de Protección Ambiental a través de la información provista a continuación:

- Visite www.epa.gov/animalwaste para obtener orientación y acceso a los formularios de reportes de emisiones continuas
- Envíe por correo electrónico comentarios o sugerencias sobre materiales de orientación a: CERCLA103.guidance@epa.gov
- Contactos regionales: www.epa.gov/epcra/cr-erns-regional-contacts
- Llame si tiene preguntas: 1-800-424-9346

Requisitos de reportes para emisiones al aire de sustancias peligrosas provenientes de desechos animales en las granjas conforme a CERCLA y EPCRA

Generalidades

Hay dos leyes ambientales, la Ley de Responsabilidad, Compensación y Respuesta Ambiental Comprensiva (CERCLA, por sus siglas en inglés) y la Ley de Planificación para Emergencias y Derecho a Saber de la Comunidad (EPCRA, por sus siglas en inglés) que exigen reportar emisiones de una sustancia peligrosa que exceda una cantidad reportable en un periodo de 24 horas. El propósito de la notificación es para que los funcionarios federales, estatales y locales evalúen la necesidad de una respuesta de emergencia a fin de mitigar los efectos de la emisión a la comunidad.

Debido a una decisión judicial reciente, pronto se les exigirá a algunas granjas (incluidos ranchos, operaciones ganaderas y/u operaciones animales) reportar las emisiones al aire de sustancias peligrosas provenientes de desechos animales según CERCLA.

¿Por qué debo reportar?

Anteriormente, la EPA eximía a las granjas de reportar emisiones al aire de sustancias peligrosas provenientes de desechos animales según CERCLA, y solo las operaciones concentradas de gran envergadura para alimentar animales (CAFO, por sus siglas en inglés) estaban sujetas a reportes conforme a EPCRA, que es una ley separada pero relacionada.

Hubo grupos de ciudadanos que objetaron la validez de la regla de la EPA, y la Corte de Apelaciones de los EE. UU. correspondiente al Circuito DC anuló dicha regla de la EPA el 11 de abril de 2017. Por lo tanto, ya no es aplicable la exención reglamentaria de la EPA.

A causa de la decisión judicial, se exigirá a las granjas con operaciones animales que emiten ciertas cantidades de sustancias peligrosas que reporten estas emisiones al aire incluso a partir del 22 de enero de 2018.

¿Cuándo tengo que reportar?

Se espera que se emita la orden judicial el 22 de enero de 2018. Las granjas no deben reportar hasta que se emita la orden judicial.

¿Debo presentar un informe de CERCLA?

Se exige reportar cuando las emisiones de sustancias peligrosas (como amoníaco o sulfuro de hidrógeno) provenientes de desechos animales alcancen o excedan sus cantidades reportables dentro de un periodo de 24 horas. Para ver una lista completa de sustancias peligrosas conforme a CERCLA, consulte el enlace de Recursos en inglés en: www.epa.gov/animalwaste.

¿Qué sustancias se deben reportar?

El amoníaco (NH_3) y el sulfuro de hidrógeno (H_2S) son sustancias peligrosas comunes emitidas por los desechos animales que se exige reportar si se emiten al aire en cantidades que superen o igualen la cantidad reportable de 100 lbs dentro de un periodo de 24 horas. Si una granja emite cualquier otra sustancia peligrosa sobre sus cantidades reportables designadas dentro de un periodo de 24 horas, deben reportarse aquellas también.

¿Cómo estimo las emisiones?

¿Por qué no puede la EPA decirme cuántos animales se requiere reportar?

La EPA reconoce que será difícil para los agricultores estimar las emisiones porque no hay una metodología generalmente aceptada para estimar estas emisiones en este momento.

Hay muchos factores que influyen en las emisiones:

- ubicación geográfica;
- condiciones ambientales;
- prácticas administrativas (por ej, forraje, guano);
- características de los animales (por ej. número, especie, etapa de vida);
- condiciones operativas; y
- prácticas generales de gestión.

Debido a las interacciones complejas de estos factores, no pueden estandarizarse las emisiones basándose exclusivamente en el número y tipo de animales que haya en cada operación animal. Por ejemplo, hay muchas situaciones donde las operaciones con menos animales tienen mayores emisiones que las operaciones con mayor número de la misma especie animal.

La EPA está trabajando para desarrollar metodologías destinadas a estimar las emisiones de una amplia variedad de operaciones para así informar mejor sobre estimar emisiones provenientes de desechos animales. Sin embargo, no se terminará dicha labor antes del mandato judicial para que los agricultores reporten.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00130198-00001

Para asistir a los agricultores con los requisitos de reportar, la EPA ha puesto recursos a disposición en su sitio web que pueden ser útiles para estimar las emisiones. También puede usar otros modelos para estimar emisiones o puede estimar cantidades de emisiones basándose en:

- Datos anteriores de emisiones;
- Estimados de ingeniería;
- Su conocimiento de las operaciones de la instalación y el historial de emisiones; o
- Su óptimo criterio profesional.

Se exige a los propietarios y operadores de instalaciones reportar solo un estimado; no se requieren datos de monitoreo. Además, no se exige a los agricultores reducir las emisiones. Los agricultores deben conservar una copia de los cálculos para referencia futura. Para obtener más información, vea el enlace de Recursos en: www.epa.gov/animalwaste.

¿Cómo reporto según CERCLA?

Para cumplir con los requisitos de reportes de CERCLA en cuanto a emisiones al aire de sustancias peligrosas provenientes de desechos animales, en vez de reportar todos los días, las granjas pueden seguir un proceso simplificado de reportes que se conoce como "reportes de emisiones continuas". Esto exige que el propietario u operador de la instalación siga los pasos descritos en la columna a la derecha.

¿Con qué frecuencia debo estimar las emisiones?

Si usted usa el proceso de reportes de emisiones continuas, debe revisar las emisiones de la grande una vez al año. También deberá estimar las emisiones después de que haya cambios considerables en las operaciones que puedan causar aumentos estadísticamente significativos en las emisiones.

¿Debo presentar un informe según EPCRA?

La EPA interpreta la ley como que excluye a las granjas que usan sustancias en "operaciones agrícolas de rutina" de los reportes según la sección 304 de la EPCRA. Esto abarca operaciones de rutina en las granjas, operaciones de alimentación de animales, criaderos de plantas, otras operaciones de horticultura y acuicultura. Para obtener más información, vea: www.epa.gov/epcra/question-and-answer-epcra-reporting-requirements-air-releases-hazardous-substances-animal.

Proceso de reportes de emisiones continuas según CERCLA

Paso 1: Proporcione al Centro Nacional de Respuesta (National Response Center, NRC, por sus siglas en inglés) una notificación inicial de emisiones continuas por correo electrónico (farms@uscg.mil) o por teléfono (1-800-424-8802). Un propietario u operador puede enviar una notificación por correo electrónico abarcando múltiples granjas.

Su mensaje de correo electrónico debe identificar que esta es una notificación inicial de emisiones continuas e incluir:

- Nombre de la granja
- Ubicación de la granja (por ej., nombre de la ciudad/pueblo y estado)
- Nombre(s) de la(s) sustancia(s) peligrosa(s) emitida (s) (amoníaco y/o sulfuro de hidrógeno)

Nota: El NRC no exige información personalmente identificable, como la dirección de una residencia privada. Una ubicación genérica (nombre de la ciudad/pueblo y estado) puede ser suficiente.

Recibirá un mensaje de correo electrónico del NRC con un solo número de identificación (CR-ERNS) para su(s) granja(s). Incluya el número de CR-ERNS en el informe de seguimiento mencionado en el Paso 2.

Paso 2: Dentro de un plazo de 30 días de la notificación al NRC, presente una notificación inicial por escrito a la Oficina Regional de la EPA correspondiente al área donde ocurre la emisión (vea www.epa.gov/epcra/cr-erns-regional-contacts). Use el Formulario de reportes de emisiones continuas.

Paso 3: Presente una sola vez un informe de seguimiento en el primer aniversario a la Oficina Regional de la EPA.

¿Deben cumplir las granjas que tienen animales mantenidos principalmente fuera de una estructura cerrada y pastando en pastizales, con reportar emisiones de sustancias peligrosas provenientes de desechos animales conforme a CERCLA?

Sí, en caso de que la instalación tenga emisiones sobre la cantidad reportable. La EPA considera toda propiedad contigua con propietario común como instalación única para fines de reportar. Con el objeto de determinar si tiene una emisión reportable, una persona debe identificar todas las fuentes de emisiones de sustancias peligrosas, identificar las cantidades

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00130198-00002

que se emiten de cada fuente y sumar las cantidades emitidas de la instalación. Al hacer esta determinación, las granjas deben incluir todas las emisiones de la instalación, incluso emisiones de desechos animales provenientes de animales que se mantienen principalmente fuera de una estructura cerrada.

Recursos adicionales

- Envíe por correo electrónico comentarios o sugerencias sobre materiales de orientación a: CERCLA103.guidance@epa.gov
- Contactos regionales: www.epa.gov/epcra/cr-erns-regional-contacts
- Formularios de reportes de emisiones continuas: www.epa.gov/animalwaste
- Centro Nacional de Respuesta: 800-424-8802 o farms@uscg.mil

¿Tiene alguna pregunta?

- Vea la orientación de CERCLA y EPCRA para obtener más información en inglés: www.epa.gov/animalwaste
- Llame al Centro de Información sobre EPCRA, RMP y Petróleo al: 1-800-424-9346

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00130198-00003

United States Environmental Protection Agency

Office of Land and Emergency Management

520-F-17-001
January 2018
www.epa.gov/animalwaste

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 January 22, 2018.

When do I need to report?

The Court is expected to issue its order on January 22, 2018. Farms do not have to report until the Court issues its mandate.

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 (NH_3) and hydrogen sulfide (H_2S) 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.

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00130199-00001

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'll also need to estimate emissions following any significant changes in operations that may result in 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

CERCLA Continuous Release Reporting Process

Step 1: Provide the National Response Center (NRC) with an initial continuous release notificationby 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.

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

Waterkeeper et al. v. EPA, No. 1:18-cv-02135 (D.D.C.); EPA-HQ-2018-007135 ED_002290B_00130199-00002

Appointment

From: Michaud, John [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1B492B9143FB48F2B4E1AD2B35D49DEF-MICHAUD, JOHN]
Sent: 2/22/2018 5:02:05 PM
To: Schwab, Justin [schwab.justin@epa.gov]

Subject: Accepted: Air Releases from Farms Conference Number / Ex. 6
Location: DCRoomARN4304/DC-Ariel-Rios-OGC

Start: 2/22/2018 5:30:00 PM
End: 2/22/2018 6:00:00 PM
Show Time As: Busy