The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Planning and Community Right-to-Know Act (EPCRA) are two environmental laws that require facilities to report releases of hazardous substances that exceed their reportable quantities (RQ) within any 24-hour period. These laws allow local, state and federal officials to determine the need for an emergency response in order to mitigate the impact of releases.

On December 18, 2008, EPA published a final rule that exempted livestock and poultry farms releasing hazardous substances from animal waste from reporting under CERCLA. Only large concentrated animal feeding operations (CAFOs) were subject to EPCRA reporting. However, a number of citizens 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. As a result of the Court’s decision, EPA’s regulatory exemption no longer applies. Farms with animal operations that release equal to or greater than 100 lbs per day of either ammonia or hydrogen sulfide will be required to report these air emissions. If a farm releases any other hazardous substances above their designated reportable quantities, those need to be reported too. The Court’s decision does not affect reporting under EPCRA, which is a related but separate law.

EPA does not tell how many animals an operation would need to have to require reporting. To assist farmers, U of I Extension created a simple threshold table of animal numbers that would be the inventory required to trigger a mandatory report of a continuous release of ammonia. This table uses ammonia as the basis, since hydrogen sulfide emission is generally substantially less.

Using the animal numbers in the table, a farmer can determine whether further action is taken. For example, a grow-finish swine farm that uses deep pits for manure storage and has less than 2,703 head, or a turkey grower with less than 12,970 tom turkeys raised from 36 to 140 days old, would not need to take any further action.

The threshold table and the calculators that will be mentioned later in this fact sheet were developed using the emission factors published on EPA’s website. However, they have not been reviewed and approved by EPA yet. They should not be considered as legal advice and are not a substitute for legal advice.
WHEN DO I NEED TO REPORT?

The initial deadline for CERCLA reporting was November 15, 2017. In October 2017, U.S. EPA filed a motion asking the court to delay the reporting requirement until January 22, 2018. A few days before the new deadline (on January 19, 2018), EPA filed another motion and on February 1, 2018, the Court granted EPA’s motion to further stay issuance of the mandate until May 1, 2018. Currently, the court is expected to issue its mandate on May 1, 2018. Once the mandate is issued, farms releasing hazardous substances to air from animal wastes must report their releases. **Farms do not need to report until the Court issues its mandate.** It should be noted that this issue is evolving daily and farmers should check [EPA’s website](#) regularly for the updates.

HOW DO I REPORT?

Once the Court issues its mandate, if a site may emit 100 lbs or more in a 24-hour period, then the owner/operator must notify the National Response Center by email ([farms@uscg.mil](mailto:farms@uscg.mil)) or phone (800 424-8802). Provide the name of the farm, a general location (county and/or town, state) and which hazardous compound may be emitted (hydrogen sulfide or ammonia or both). Be sure to indicate this is an **initial notification of continuous release**. Email is probably a better option for the initial report, since it provides you with documentation of your efforts. If you elect to call, please **do not hang up until you receive a CR-ERNS identification number** for your farm.

Within 30-days of the initial notification, owners/operators must submit an initial written notification to the Regional EPA office ([Region 5 for Illinois](#)). Everyone is urged to wait for the EPA to provide the new continuous release form, which has been promised by the EPA Office of Emergency Management before submitting the follow-up report.

Within 30 days of the first anniversary date of the initial written notification, you must submit a one-time anniversary report to the Regional EPA office.

If you followed the initial deadline, which was Nov 15, 2017, and have already made the initial report, you do not need to report again. Please wait until EPA’s new form is released to make the follow-up written.

HOW DO I ESTIMATE DAILY EMISSIONS?

EPA is still working on developing methodologies to estimate emissions from animal operations. However, EPA reports that methodology development will not be completed prior to the Court’s mandate. To assist producers, U of I Extension developed online calculators. They can be accessed through our [extension website](#) or by clicking the following links: **SWINE, DAIRY**,
**BEEF, POULTRY.** As mentioned above, these calculators were developed using the information published by EPA but they have not been reviewed by EPA and should not be considered as legal advice. An example of swine calculator use is shown below. A producer can enter the lowest and maximum head counts and choose the manure handling system from drop-down menu (yellow cells) and the calculator will automatically calculate the lower and upper bounds of ammonia and hydrogen sulfide emissions (blue cells). If a wrong head count is entered, simply enter zero to remove it from calculation.

An example use of CERCLA swine calculator developed by U of I Extension

![Swine CERCLA Calculator](image)

Farmers are advised to keep a record of their estimates and how they obtained them. For example, you can keep a printout of the calculator screen using appropriate animal numbers, or a copy of the threshold table with your situation highlighted.

**WHERE CAN I REACH MORE INFORMATION?**

EPA has recently published a fact sheet (English & Spanish) that provides an overview of the CERCLA reporting for farms with animal operations. We suggest reviewing this fact sheet and checking EPA’s website ([www.epa.gov/animalwaste](http://www.epa.gov/animalwaste)) for updates and additional information. We recognize that it will be challenging for farmers to estimate releases and that many factors may influence emissions. We will update our tools and/or develop new tools to assist farmers as EPA provides more guidance on CERCLA reporting. Please check our extension website ([http://web.extension.illinois.edu/lfmm](http://web.extension.illinois.edu/lfmm)) to make sure you have the most recent information.

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