



**U.S. Poultry & Egg
Association**

1530 Cooledge Road
Tucker, GA 30084-7303
770/493-9401
Fax: 770/493-9257
www.poultryegg.org

Re: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980/ Emergency Planning and Community Right-To-Know Act (EPCRA) Administrative Reporting Exemption for Emissions from Animal Manure

BACKGROUND: In 2004, U.S. Poultry and Egg (USPOULTRY), National Turkey Federation (NTF), and National Chicken Council (NCC) formally requested the Environmental Protection Agency to exempt poultry farms from reporting emissions under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Emergency Preparedness and Community Right to Know Act (EPCRA). The request emphasized that the CERCLA and EPCRA reporting requirements were never intended to apply to the release of naturally occurring substances into the air that originate from the breakdown of animal waste. The request also pointed out that many emergency responders, particularly those responders from poultry production states, questioned the reasoning and need for poultry farmers to submit emission reports given the demands of other emergency response priorities.

SUMMARY: EPA published a final rule on December 18, 2008 that will become effective on January 20, 2009. In the final rule, the Agency agreed, but only in part, with the rationale behind exempting the poultry industry from the reporting framework of the CERCLA and EPCRA. The final rule is summarized below:

- **Exemption from CERCLA reporting** – The final rule provides an administrative reporting exemption under the Comprehensive Environmental Response, Compensation and Liability Act. Specifically this reporting exemption applies to releases of hazardous substances into the air where the source of those hazardous substances is animal waste at farms. It would exempt farms from having to report air releases as an “emergency” to the National Response Center within the U.S. Coast Guard’s office, The exemption applies to all releases of hazardous substances to the air from animal waste at farms and applies to all farms regardless of the number of birds a farmer has on his/her farm.
- **Partial exemption from EPCRA reporting based on farm size** – The final rule provides an administrative reporting exemption for farms under the Emergency Planning and Community Right-To-Know Act if the number of birds housed on a farm is below the threshold that defines a Concentrated Animal Feeding Operation (CAFO). The threshold number that defines an operation as a CAFO is listed below:

Bird Type	CAFO
Dry litter broiler	125,000 Birds
Dry litter layer	82,000 Birds
Wet litter broiler or layer	30,000 Birds
Turkey	55,000 Birds

- If your farm houses less than the number of birds listed above you are exempt from EPCRA reporting.
- If your farm houses the number of birds listed or more, you will be required to contact your Local Emergency Preparedness Committee (LEPC) and your State Emergency Response Commission (SERC) and submit EPCRA reports. Rather than submitting reports daily, the rule published December 2008 will allow farms to submit continuous release reports.
- Continuous Release reporting consists of two initial steps:
 - Initial Telephone notification to your State Emergency Planning Commission and Local Emergency Planning Commission
 - Written notification to the SERC and LEPC within 30 days of the initial telephone notification.

RECENT ACTION: EPA stated in the final rule that it would issue guidance to streamline and reduce reporting burdens for farms, including clarification on how to notify emergency responders with a simple “continuous release reporting” option. However, at this time no guidance has been issued. We are working to develop appropriate guidance for farms to file a streamlined, low-burden “good faith” air emission written report that is acceptable to emergency response authorities and other regulatory agencies. In the meantime, we are discussing with EPA how affected farms can meet their reporting obligations in good faith and not burden emergency response offices with unnecessary information.

REPORTING GUIDANCE FOR FARMS: As our discussions with EPA and the larger emergency response community proceed, we are providing reporting guidance to farms in two steps:

- (1) **Initial telephone notification** – Farms must make an initial telephone, notification on January 20, 2009, to state and local emergency responders and indicate that you are releasing a hazardous substance into the air. While making this notification the individual must indicate that this is a notification of a continuous release.
- (2) **Initial written notification within 30 days of telephone notification** – This guidance will be provided to the industry by February 13, 2008 and will be developed as we continue our discussions with the key regulatory agencies and others on the best way to develop reporting documents that minimize burden and cost for growers nationwide.