Environmental Compliance Alert

Agricultural Sector

Alert #1 (1/20/2009) - Continuous Ammonia Releases from CAFOs

The Kentucky Division of Compliance Assistance is issuing this alert to inform the agricultural community of a recent U.S. Environmental Protection Agency (EPA) regulation change that became effective on January 20, 2009. This regulation revision changes the reporting requirements for continuous ammonia releases originating at Confined Animal Feeding Operations (CAFO).

What's an Environmental Compliance Alert?

The Environmental Compliance Alert is published by the Kentucky Division of Compliance Assistance. Its purpose is to proactively raise awareness about compliance issues affecting a specific sector. The alert is intended to stimulate action, encourage facilities to evaluate their environmental practices, and facilitate the identification and correction of compliance problems.

Who Should Read This Alert?

- CAFO Operators and Owners
- Local Emergency Response Staff
- State Emergency Response Staff
- Agriculture Extension Officers

Alert Details

In a new rule effective **January 20, 2009**, the U.S. EPA significantly reduced the reporting burden placed on agricultural facilities that have hazardous air releases originating from animal wastes. These reporting requirements were previously required by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This regulation change also exempts a number of farms from the Emergency Planning and Community Right-to-Know Act (EPCRA) reporting requirements.

Although these reporting reductions have occurred, **under Section 304 of EPCRA, CAFO operations, as defined in the National Pollutant Discharge Elimination System (NPDES) program, are still required to make emergency notifications if they release hazardous substances above the reporting thresholds.**

Farms that fall below the thresholds of 40 CFR 355.31(g) and do not stable or confine animals are exempted from the EPCRA Section 304 emergency notification requirements for air releases of hazardous substances originating from animal waste. For the purposes of this rule, the U.S. EPA considers not being stabled or confined to mean that the animals reside primarily outside of an enclosed structure and graze on pastures.

Farms that are required to report their releases under EPCRA Section 304 are encouraged to report continuous releases as described in 40 CFR 355.32. Additional details regarding the process for reporting a continuous release are on the following page.

CAFOs should be aware that emergency notifications filed under EPCRA Section 304 will be available to the public.

Additional information and the text of the regulatory change can be found on the U.S. EPA's EPRCA Web site at http://www.epa.gov/emergencies/content/epcra/index.htm

Action Steps for Continuous Release Reporting

To report a continuous release of a hazardous substance, the following steps should be followed:

1. Establish that the release is continuous and stable in quantity and rate.
2. Determine if it is a regulated extremely, hazardous substance (EHS), and confirm that the reportable quantity is exceeded on a 24-hour basis.
3. **The SERC and LEPC must be contacted by phone if the release is an** EHS. No other agencies need to be notified. During the phone call, you will need to provide the following information:
   - Identify the release as a Continuous Release under EPRCA Section 302(b)(1). Be clear that this is a continuous release and not an episodic report (i.e., spill).
   - Identify the name and location of the facility responsible for the release and provide the corporate affiliation and address.
   - Identify each hazardous substance released.
   - Provide the name and telephone number of the person in charge of the facility.
4. An **initial written report must be submitted to the SERC and LEPC within 30 days of the telephone contact.** The information that must be included in the written report is summarized in an EPA document entitled "Reporting Requirements for Continuous Releases of Hazardous Substances" (EPA 540-R-97-047). A copy of this guidance document can be obtained at the DCA web site located at http://www.dca.ky.gov/complianceassistance/resources/.

Note: Any releases not covered by this alert must still be reported as required by CERCLA and EPCRA.

Additional Contacts

SERC

Kentucky Disaster and Emergency Services
100 Minuteman Pkwy
Frankfort, KY
40601-6120
800-255-2587

LEPC

Contact information for your local emergency planning committee can be found at http://yosemite.epa.gov/oswer/lepcdb.nsf/HomePage?openForm

Cooperative Extension

Contact information for your agricultural extension agent can be found at http://ces.ca.uky.edu/ces/

Division of Compliance Assistance
Phone: 800-926-8111
E-mail: envhelp@ky.gov
Web site: www.dca.ky.gov