

AMERICAN PUBLIC HEALTH ASSOCIATION CALLS FOR NATIONAL MORATORIUM ON NEW AND EXPANDING CONCENTRATED ANIMAL FEEDING OPERATIONS

ACTION 2: REQUIRING END OF CAFO EXEMPTIONS UNDER CERCLA AND EPCRA

In light of the wide-ranging negative health and environmental impacts associated with Concentrated Animal Feeding Operations (CAFOs), as well as serious social and environmental justice concerns, the American Public Health Association adopted a new policy resolution. The [Precautionary Moratorium on New and Expanding CAFOs](#) calls for federal, state and local governments, including public health agencies, to impose a national moratorium on new and expanding CAFOs until additional scientific data on the attendant risks to public health have been collected, uncertainties resolved, and 12 action steps outlined in the resolution have been taken. This document is one of a series of briefs concerning the action steps that must be met before the APHA's call for a moratorium will be lifted. This document focuses on Action Step 2, and provides additional information pertinent to this action step.

Action Step 2 requires:

The federal government removes CAFO exemptions from the reporting of environmental emissions of hazardous materials under CERCLA and EPCRA reporting requirements.

Overview of CERCLA and EPCRA reporting requirements: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and Emergency Planning and Community Right-to-Know Act

(EPCRA) “require reporting of releases of hazardous substances that meet or exceed reportable quantities within a 24-hour period.”¹ As such, government officials and agencies can determine if there is a need to take action in order to respond to the public health threats of release into the community. Ammonia and hydrogen sulfide produced in CAFOs are classified as hazardous substances that require reporting, whether emitted into the air or discharged into water.

OVERVIEW OF THE CAFO EXEMPTIONS MENTIONED:

- ▶ **CERCLA:** In March of 2018, Title XI of Division S of the Omnibus Appropriations Bill signed into law contained the FARM Act (Fair Agricultural Reporting Method Act), which amended CERCLA section 103(e) to exempt air emissions from animal waste at a farm from reporting under CERCLA.² The EPA subsequently published a final rule to reflect these changes through EPA regulations.³
- ▶ **EPCRA:** In June of 2019, EPA Administrator Andrew R. Wheeler signed a final rule to amend the emergency release notification regulations under EPCRA that creates a reporting exemption for air emissions from farm animal waste.⁴ The rule is based on the FARM Act and EPA's interpretation of the interplay between CERCLA's and EPCRA's reporting requirements. Groups have challenged the rule in court, arguing EPCRA continues to require reporting despite the FARM Act.

RECOMMENDED POLICY CHANGES

- ▶ **CERCLA:** Repeal the FARM Act

- ▶ **EPCRA:** Repeal the 2019 EPA exemption rule for air emissions from animal waste at farms and enact a new rule strengthening reporting requirements (to include measures such as requiring more frequent reporting under EPCRA's 'continuous release' reporting provisions)

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REFERENCES

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2. 115th Congress. Fair Agricultural Reporting Method Act. Congress.gov. <https://www.congress.gov/bill/115th-congress/senate-bill/2421/text>. Accessed April 1, 2020.
3. Federal Register. FARM Act Amendments to CERCLA Release Notification Requirements. US EPA. <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>. Accessed April 1, 2020.
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