

# Decision Tree for CERCLA / EPCRA Reporting Responsibility for Animal Farms

Final Rule effective on January 20, 2009

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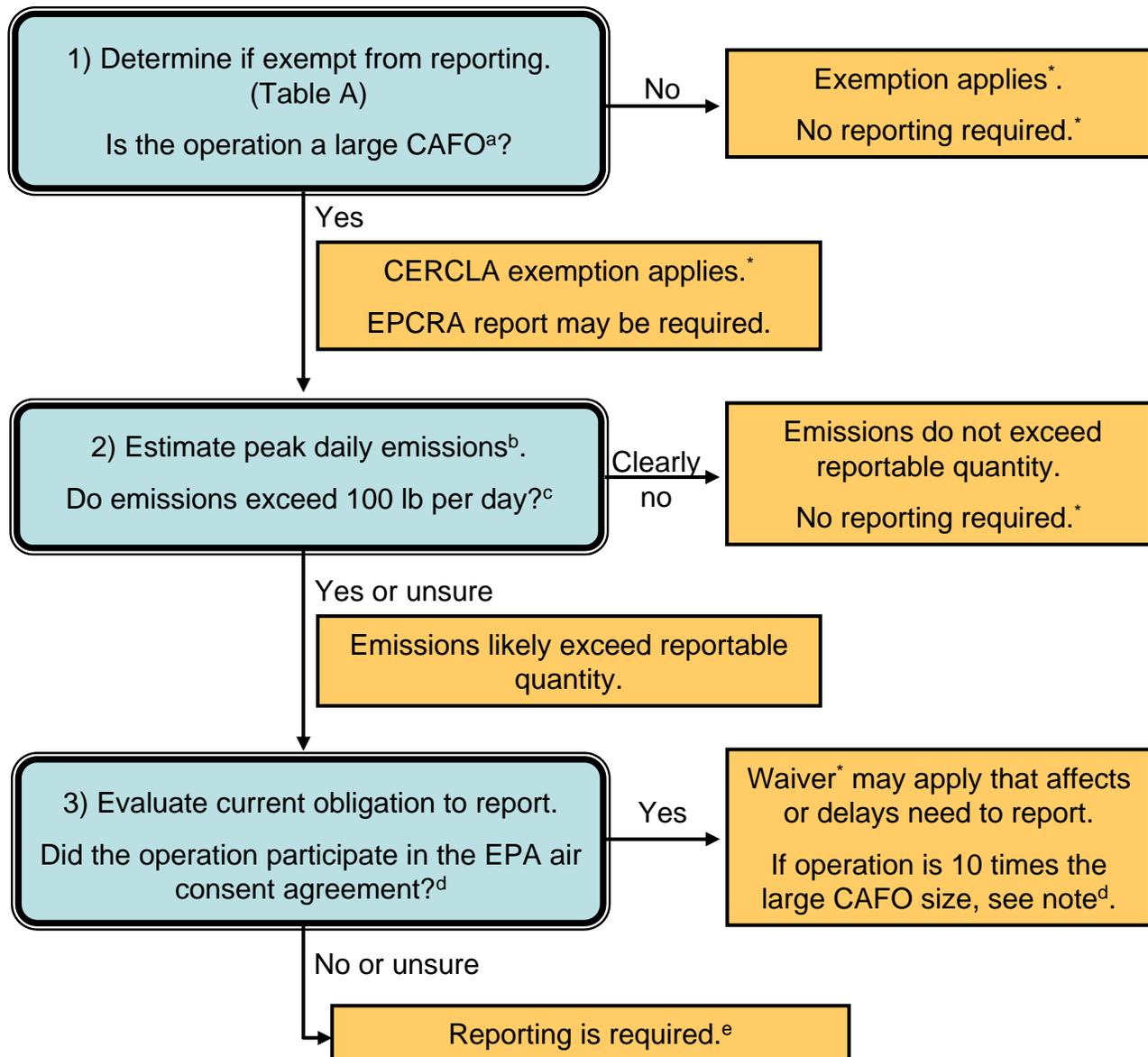


Table A. Thresholds for large CAFO designation

Dairy – mature animals	700 cows	Turkeys	55,000 birds
Dairy – youngstock / replacements	1,000 head	Laying hens – liquid manure	30,000 birds
Veal calves	1,000 head	Laying hens – non-liquid manure	82,000 birds
Beef cattle	1,000 head	Broilers – liquid manure system	30,000 birds
Swine – 55 pounds or more	2,500 pigs	Broilers – non-liquid manure	125,000 birds
Swine – less than 55 pounds	10,000 pigs	Ducks – liquid manure system	5,000 birds
Horses	500 head	Ducks – non-liquid manure	30,000 birds
Sheep or lambs	10,000 head		

## Notes and additional guidance.

\* Exemption or waiver applies only to reporting requirements for air emissions that originate from manure handling on farms. The exemption/waiver does not apply to other forms of pollutant releases (i.e. from burst anhydrous ammonia tank, breached lagoon or holding pond, manure spills, etc.), nor does it apply to compliance with other regulations (Clean Air Act, Clean Water Act, etc.).

- a. The 'large CAFO' designation is assigned according to NPDES regulations and depends on: extent of confinement, number and size of animals, and in some cases the type of manure handling system.
- b. U.S. EPA specifies many substances that are considered 'hazardous' and may be subject to reporting requirements. For most animal feeding operations, ammonia emissions are likely to trigger a reporting requirement first, with hydrogen sulfide, certain volatile organic compounds, and nitrogen oxides being secondary triggers.

Regulation of CAFOs is to be based upon emissions estimates. The UNL Ammonia Emissions Estimator provides a general approach for obtaining a rough estimate of ammonia emissions, in the absence of any ammonia control technologies being in place.

Other approaches for obtaining 'good faith' estimates are available and may be recommended for specific species / commodity groups or production systems. The purpose of the National Air Emissions Monitoring Study (NAEMS) is to improve estimation of emissions from the studied types of operations.

- c. U.S. EPA specifies reportable quantities, with the applicable single-gas reporting threshold typically being 100 lb/day.

Since the main legal liability for EPCRA stems from not reporting, under-estimating emissions carries significant potential risk. UNL recommends that estimates reflect maximum daily emissions (e.g. include upper end of scale when given a range of emission values).

- d. The EPA air consent agreement was offered to producers in collaborating animal commodities during 2005. Participation here implies possessing an executed copy of the agreement.

The agreement requires participating operations that are ten or more times the size of a large CAFO to submit a report within 120 days of receiving the executed copy of the agreement.

This report is to include an estimate of emissions.

UNL recommends that producers verify their participation in this agreement and consult with legal counsel to confirm that any past, current and future reporting obligations are met.

- e. Posting of the final rule has likely placed an immediate legal obligation on many large CAFOs to submit EPCRA reports.

EPCRA reports are filed with the community emergency coordinator for the local emergency planning committees (LEPC) of likely affected areas and to the state emergency response commission (SERC) for likely affected states. EPA-provided forms can be found at:

[http://www.epa.gov/emergencies/docs/chem/cont\\_rel/Continuous%20Release%20Form.pdf](http://www.epa.gov/emergencies/docs/chem/cont_rel/Continuous%20Release%20Form.pdf).

'Continuous release reporting' is available as a means of streamlining reporting. Guidance on how to fill out the forms is available at:

<http://www.epa.gov/superfund/policy/release/faciliti.htm>.

Contact information for community emergency coordinators can be found at:

<http://yosemite.epa.gov/oswer/lepcdb.nsf/HomePage?openForm>.

Large CAFO operators may want to seek legal counsel to discuss compliance with EPCRA reporting. Affected producers may want to evaluate the:

- Enforcement potential on their operation, especially as may occur as a response to complaints lodged against them
- Potential implications of a report acknowledging release of 'hazardous substances' from their farm becoming public information.