
Air Consent Agreement & Emissions Monitoring Study

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What's It All About?

- Lawsuits: OECA, states & citizens began suing for past violations of CERCLA, EPCRA and CAA
 - Surprised: Ag, Congress, USDA & EPA Air Office
 - NAS: Urged additional studies & new models
 - Vulnerability: Unknown past emissions, inadequate emissions factors and no guidance to producers on compliance thresholds
 - Consent Agreement: Mechanism to undertake a national air study without fear that new data will be used to sue producers for past emissions
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What Do Producers Agree to Do?

- Submit information on their farms, pay penalty, make farm available for study, possibly contribute funds to study
 - When EPA publishes “look up” charts, determine whether their farm is over CERCLA, EPCRA or CAA thresholds
 - Certify to EPA whether their farm is “above” or “below” compliance thresholds (see ¶64)
 - If “above” thresholds, do what’s required
 - Report continuous emissions under CERCLA, EPCRA
 - Apply for an air permit under CAA
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Benefits to Producers? (§ 26, 35)

- Regulatory assurance, compliance awareness
 - Release from possible past violations of:
 - CAA preconstruction requirements in Title 1
 - Part C -- Prevention of Significant Deterioration (PSD);
 - Part D -- New Source Review (NSR),
 - Past Operating Permit requirements in Title V
 - State Implementation Plans (SIPs)
 - Past CERCLA section 103 and EPCRA section 304 hazardous substance reporting requirements
 - Won't exempt criminal actions or imminent & substantial endangerment situations
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Penalty Fees to Sign Up

Single Farm Fees

- \$200 if one farm is below CAFO threshold
- \$500 if more than one farm and less than 10x CAFO threshold
- \$1000 per farm if >10x CAFO threshold

Payment isn't made until EPA signs agreements

Multiple Farm Fees

- \$10k for 1-10 farms
- \$30k for 11-50 farms
- \$60k for 50-100 farms
- \$80k for 101-150 farms
- \$90k for 150-200 farms
- \$100k for >200 farms

Non-refundable, all penalty fees go to US Treasury

National Air Monitoring Study

- Ammonia, Hydrogen Sulfide, Total Suspended Particulates, Particulate Matter (PM₁₀, PM_{2.5}), VOCs
- Portable equipment will monitor lagoon emissions and open-sided dairy barns using a “circuit rider” approach
- Field labs [see arrow in picture] will monitor up to four barns simultaneously at farms
- Pork (\$6M); Dairy (\$6M); Eggs (\$2.8M); Poultry



Funding the Study

- Each species funds its own study portion by industry funds or individual contributions
 - Pork, eggs & dairy will use industry funds
 - Producers may also have to contribute if industry funds are inadequate: individuals are responsible for the lesser of:
 - \$2,500 per farm, or
 - Pro rata share of unfunded costs not covered by industry
 - Contingency funds, spare parts are built into each budget
 - Insurance policies protect against loss, liability
 - Multiple layers of accounting, oversight, approvals, independent audits & reports
 - Tax-free, non-profit fiduciary entity serves as the “bank”
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Conduct of the Study

