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Livestock Air Emission Requirements Delayed for Now

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Cornhusker Economics

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Market Report	Year Ago	4 Wks Ago	2-17-18
Livestock and Products,			
Weekly Average			
Nebraska Slaughter Steers, 35-65% Choice, Live Weight	122.00	*	130.00
Nebraska Feeder Steers, Med. & Large Frame, 550-600 lb.	158.79	185.50	192.13
Nebraska Feeder Steers, Med. & Large Frame 750-800 lb.	137.56	152.13	156.24
Choice Boxed Beef, 600-750 lb. Carcass.	191.65	205.89	208.47
Western Corn Belt Base Hog Price Carcass, Negotiated	63.79	69.61	64.65
Pork Carcass Cutout, 185 lb. Carcass 51-52% Lean.	78.99	80.05	76.47
Slaughter Lambs, woolled and shorn, 135-165 lb. National.	141.93	128.01	134.95
National Carcass Lamb Cutout FOB.	347.75	368.74	372.54
Crops,			
Daily Spot Prices			
Wheat, No. 1, H.W. Imperial, bu.	3.07	3.46	4.15
Corn, No. 2, Yellow Columbus , bu.	3.26	3.25	3.43
Soybeans, No. 1, Yellow Columbus , bu.	9.67	8.99	9.41
Grain Sorghum, No.2, Yellow Dorchester, cwt.	5.03	6.34	5.63
Oats, No. 2, Heavy Minneapolis, Mn, bu.	2.90	3.08	2.98
Feed			
Alfalfa, Large Square Bales, Good to Premium, RFV 160-185 Northeast Nebraska, ton.	145.00	.*	*
Alfalfa, Large Rounds, Good Platte Valley, ton.	70.00	90.00	90.00
Grass Hay, Large Rounds, Good Nebraska, ton.	85.00	82.50	82.50
Dried Distillers Grains, 10% Moisture Nebraska Average.	107.25	151.50	146.50
Wet Distillers Grains, 65-70% Moisture Nebraska Average.	43.50	47.00	48.25
* No Market			

Summary. Federal environmental laws require the reporting of emergency releases of hazardous substances to federal, state and local emergency responders. EPA has established a 2008 reporting exemption for livestock operations smaller than large concentrated animal feeding operations (CAFOs). Environmental groups challenged the EPA livestock exemption. On April 11, 2017, the D. C. Court of Appeals invalidated the EPA livestock reporting exemption. Reporting requirements briefly went into effect November 15, 2017 but have now been postponed until May 1, 2018.

What are the federal chemical release reporting requirements? The 1980 federal Superfund law requires reporting to federal emergency response officials releases of hazardous chemicals above EPA established minimum amounts. The 1986 federal Community Right to Know Act requires reporting to state and local emergency responders of similar releases.

Was there any ag exemption? No—not specifically in either statute. In 2008 EPA adopted a regulation exempting livestock operations from Superfund reporting, and limited Right to Know livestock reporting to larger livestock operations called large CAFOs

So what happened? The ag exemption was challenged in court by environmental groups, and the court ruled in April 2017 that the ag exemption was not authorized by either statute.

That kind of messed things up for livestock producers! Yes it did, although it changed nothing for large CAFOs who had always been required to report their emissions.

So what happened? The court originally ordered manure emission reporting beginning November 15, 2017. Livestock producers started calling to make their initial emissions report on November 15, the National Response Center (NRC) told them to email the information instead as the phone lines were only for emergencies and these were not emergency reports, and finally the reporting has been postponed until May 1, 2018.

Why did federal officials suspend the manure emissions reporting? This is not clear; I am guessing that the federal agencies are legally authorized to take emergency steps to keep the emergency reporting phone lines open. The NRC was receiving 1,000 calls an hour with a two-hour hold time. Finally on November 22, 2017, the D.C. Court of Appeals did, grant the EPA request to defer livestock reporting until January 22, 2018.

What happened then? The court did not impose the reporting requirement on January 22 as it had indicated it would. Instead on February 1, 2018 the court announced that it would not impose the manure reporting requirements until May 1, 2018.

What chemicals are released by livestock operations? The principal chemicals are ammonia and hydrogen sulfide, and the minimum daily release amount that triggers reporting is 100 pounds per day for each chemical.

Large CAFOs currently report releases of these chemicals? That is correct. The EPA reporting regulations allow annual reporting of “continuous releases” (instead of daily reporting) where the daily amount released doesn’t vary significantly throughout the year. This means that after the initial reporting, most livestock operators only need to update annually as opposed to reporting daily.

When the new livestock reporting requirements do take effect, who would now be required to report? That is not entirely clear. If you have 200 or more beef cattle you should be prepared to report. You should also check with your state and national livestock associations for additional information.

What’s next? It is hard to say. It is good news that reporting has been postponed until May 1. I hope that EPA will use this time to complete the livestock emission reporting forms EPA told the court were under development, and that these new forms provide clarity especially regarding which specific categories of livestock producers are required to submit reports. In addition, legislation has been introduced in the U.S. Senate by Nebraska Senator Deb Fischer that would eliminate the chemical reporting requirements for livestock producers. But that proposal has a ways to go before it becomes law.

In the meantime, if you want to get a heads up on the reporting process as it currently stands (understanding that it may be revised at least once before May 1, 2018), go to the EPA livestock reporting guidance at: <https://www.epa.gov/epcra/cercla-and-epcra-reporting-requirements-air-releases-hazardous-substances-animal-waste-farms>

Another helpful site is manure.unl.edu. At this site you can find step-by-step information regarding how to fill out older EPA manure emissions reporting forms for large CAFOs which will be helpful guides to filling out the 2018 forms. You will also find information regarding livestock association efforts to develop Nebraska-specific reporting forms for cattle operations.

The EPA webpage contains the most up-to-date information regarding the legal status of the livestock air emission reporting requirements. You may also wish to check with your state and national livestock associations for additional information and perspectives.

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