

# Release Reporting/CERCLA Enforcement: U.S. Environmental Protection Agency and Xenia, Ohio Food Facility Enter into Consent Agreement



**Walter Wright, Jr.**  
wwright@mwlaw.com  
(501) 688.8839

06/14/2024

The United States Environmental Protection Agency (“EPA”) and Bob Evans Farms, Inc. entered into a June 6th Consent Agreement and Final Order (“CAFO”) addressing an alleged violation of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”). See Docket No. CERCLA-05-2024-0006.

Evans Farms is stated to be the owner of a facility in Xenia, Ohio.

Section 103 of CERCLA requires a facility to immediately notify the National Response Center of any release of hazardous substances in an amount equal to or greater than the Reportable Quantity (“RQ”) for that substance. In order for a release to be considered reportable under CERCLA, there are three criteria which must be met:

- Be into the environment.
- Be equal to or exceed the RQ for a particular hazardous substance.
- Occur within a 24-hour period.

The terms “environment” and “facility” are very broadly defined by CERCLA.

The CAFO provides that on July 14, 2023, at or about 9:30 P.M., a release occurred from Evans Farms facility of approximately 634 lbs. of anhydrous ammonia (“the release”). In a 24-hour time period, the release of the anhydrous ammonia is stated to have exceeded 100 lbs. Such release is stated to have spilled, leaked, emitted, discharged, or escaped into the ambient air.

Evans Farms is stated to have had knowledge of the release on July 14, 2023, at 9:30 P.M. Further, it alleges that the release was one for which notice was required under Section 103(a) of CERCLA. Evans Farms is stated to have notified the National Response Center of the release on July 15, 2023, at 11:52 A.M. As a result, the CAFO alleges that Evens Farms did not immediately notify the National Response Center at soon as it had knowledge of the release. This is stated to constitute a violation of Section 103(a) of CERCLA.

A civil penalty of \$18,333.00 is assessed.

A copy of the CAFO can be downloaded [here](#).

