



Proposed Revisions to Air Emissions Reporting Requirements (AERR)

EPA's Preamble Explanations and Additional Industry Questions/Answers

October 25, 2023

Proposed AERR Updates

- ▶ EPA published proposed updates to the AERR on August 9, 2023
- ▶ Comments are due on November 17, 2023
- ▶ Primary objectives of the proposal:
 - ▶ Ensure that EPA has sufficient information to identify and solve air quality and exposure problems to support and carry out provisions of the Clean Air Act
 - ▶ Ensure that communities have data they can use to understand significant environmental risks that may impact them
 - ▶ Address other known limitations of the current AERR

Key Reasons EPA Has Proposed to Require HAP

- ▶ HAP emissions data are used to protect public health and inform communities of potential risks
 - ▶ Current data vary in completeness and accuracy from one community to the next
- ▶ Clean Air Act (CAA) provisions
 - ▶ CAA 112(c)(5): EPA has authority to review the list of section 112 source categories and list new source categories and subcategories according to the statutory criteria
 - ▶ CAA 112(d)(6): technology review every 8 years
 - ▶ *Louisiana Environmental Action Network v. EPA*, 955 F3d 1088 (D.C. Cir 2020) (“LEAN”) decision clarified EPA's obligation to set standards for all HAP emitted from all emissions points for each category of major sources when EPA conducts a technology review and identifies a pollutant for which no Maximum Achievable Control Technology (MACT) standard had been set
 - ▶ CAA 112(f): risk reviews
 - ▶ CAA sections 113, 114 (a), (b) and (d): prioritization of compliance and enforcement would be supported by HAP data
- ▶ Executive Order (E.O.) 12898 ([59 FR 7629](#), February 16, 1994) directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission
- ▶ Office of Inspector General Reports on EPA's progress on CAA 112
- ▶ Voluntary reporting program from States has been insufficient to meet these needs

Common Questions We Have Received

Why Does Proposal Include Smaller Sources than Title V Sources?

- ▶ The proposed approach comes from EPA's responsibility to reduce risk from HAP
- ▶ The Title V HAP threshold of 10 tons/year potential-to-emit (per pollutant) is very high for many highly toxic pollutants
 - ▶ CAA 112(c)(9)(B)(i): Target of cancer risks of 1/million or lower for which EPA may delete a source category from the list of categories

How Did EPA Develop the HAP Reporting Thresholds?

- ▶ We are soliciting comment on the appropriate thresholds to meet the stated goals and purposes of HAP data in the proposal
- ▶ EPA developed the proposed reporting thresholds based on extensive analysis of risk results based on reported emissions and a target of 1/million
- ▶ Thresholds based on 10th percentile level of emissions that could cause 1/million risk given facility locations and release parameters available to EPA
- ▶ This approach results in proposed thresholds with actual emissions levels much lower than 10 tons/year

What is the Combined Air Emissions Reporting System (CAERS)?

- ▶ CAERS is a new emissions data collection system developed by EPA in close collaboration with SLTs over the past 5 years
- ▶ CAERS resulted from the E-Enterprise program with the goal to reduce duplicative reporting of air emissions data by industry
- ▶ A SLT's involvement in CAERS can take many forms
 - ▶ Sharing data between CAERS and SLT system
 - ▶ SLT use CAERS to collect data
 - ▶ Not at all

Why is EPA Proposing to Use CAERS?

- ▶ CAERS already supports centralized collection of detailed emissions data from facilities
 - ▶ Provides flexibility in reporting from either facilities or states, and states have that choice (CAERS is not required for S/L reporters)
 - ▶ Can avoid undue burden of duplicative reporting requirements, support consistency of data across programs, and support S/L and Tribes (SLTs) that collect HAP data
- ▶ EPA expects CAERS enhancements will connect CEDRI source test collection with proposed requirements to use that data to estimate emissions
 - ▶ EPA expects CAERS and CEDRI will share a facility inventory
- ▶ EPA believes that CAERS can reduce costs for SLTs if they choose to use it
- ▶ EPA believes that CAERS will ultimately lessen burden on owners/operators

Why Did EPA Include Certain Mobile Sources for Reporting by Owners/Operators?

- ▶ Under the current AERR, there is no exemption for reporting of mobile sources operating at facilities
- ▶ As previously described, EPA is responsible for addressing emissions of all sources at facilities
- ▶ Proposed requirement is:
 - ▶ Intended to capture emissions from equipment used in the production and operation of a facility
 - ▶ Intended to exclude vehicles of employees, temporary or occasional on-site contractors (such as temporary construction, landscapers, or repair services), and other mobile sources operated in many other locations and/or for other purposes

Why is EPA Proposing to Require Release Point Locations from Facilities?

- ▶ Need accurate location information of HAP emissions releases to be able to perform detailed risk assessments using models
- ▶ Proximity of releases to people and communities is important for proper risk estimation
- ▶ EPA's experience with risk modeling using HAP emissions inventories has been that using default facility locations for all release points provides lower quality results than when models use more detailed data
- ▶ Using imprecise locations can provide inaccurate risk information that could significantly overstate or understate cancer risk
 - ▶ Research has concluded that improved locational data and release parameters can reduce uncertainty in a risk assessment by up to 2 orders of magnitude

Why Has EPA Proposed to Clarify Confidential Treatment of Data Collected Under the AERR?

- ▶ 40 CFR 2.301(a)(2)(i) exempts emissions data from confidential treatment:
 - ▶ Information necessary to determine the identity, amount, and frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source
 - ▶ Information necessary to determine the *[(same items as underlined text above)]* of the emissions which, under an applicable standard or limitation, the source was authorized to emit
 - ▶ A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operating constituting the source)
- ▶ The current AERR has ambiguous statements regarding confidential data that, in the past, have been misinterpreted by states when reporting emissions
- ▶ The current language of AERR (§50.15(d)) was not intended to allow states not to submit certain data or to claim required data as entitled to confidential treatment by EPA
- ▶ EPA expects to continue to make data collected publicly available through its website

Why is EPA Proposing to Require Electronic Reporting of Source Tests?

- ▶ The proposal would require electronic reporting of source tests already required by EPA and states
- ▶ EPA needs these data to develop and improve emissions factors
 - ▶ Many stakeholders, including states and industry, have previously asked EPA to improve its emissions factors
 - ▶ EPA's Inspector General urged EPA to improve both emissions factor quality and quantity in a 2006 report
- ▶ The quality of the annual emissions totals depends in part on the availability and quality of the emissions factors
- ▶ Additional unreported test data are expected to be readily available
- ▶ Source test companies have used electronic reporting for over 10 years and electronic reporting is commonplace

Questions and Answers

- ▶ AERR Website

<https://www.epa.gov/air-emissions-inventories/air-emissions-reporting-requirements-aerr>

- ▶ For additional questions:

Send email to NEI_Help@epa.gov and include “AERR” in the subject line