



# **Proposed Revisions to Air Emissions Reporting Requirements (AERR)**

## **Comments to Date and EPA's Preamble Explanations**

October 23, 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

# State/Local/Tribe on HAPs to Date

(From in-person conversations and comment)

- ▶ Recognize the importance of collecting hazardous air pollutant (HAP) emissions
- ▶ Questions and concerns have largely focused on challenges of implementation rather than the importance of the data
- ▶ The proposal specifies what is required, but not necessarily all specific details of how states and locals would implement certain requirements
- ▶ Recognition that small businesses will need extra help to comply

# Key State/Local (S/L) Concerns to Date

(Webinar questions, docket, in-person conversations)

- ▶ Concern about the process for an S/L to get approval to report HAP voluntarily on behalf of facilities
  - ▶ Some states say they need a minimum of 5 years to implement
  - ▶ State suggestion of provisional approval in some cases
  - ▶ Some say that a change to S/L emissions rules would cause updates to SIPs because SIPs incorporate emissions regs
- ▶ Collecting data from non-permitted facilities
  - ▶ Some expressed concern about collecting from more sources and identifying them if not already permitted
  - ▶ Some may want to include AERR reporting in Title V permits for enforcement purposes, but expressed concern about workload if AERR caused a permit update
  - ▶ State suggestion for S/Ls to report only Title V sources and have EPA collect the rest
- ▶ Some expressed concern that there is not a provision for “negligible” emissions at facilities and for the proposed requirement to report on-site mobile sources
- ▶ Cost to update S/L emissions collection systems to implement proposal
- ▶ Prescribed burning
  - ▶ How to get the data for prescribed burns if their state doesn’t collect it now?
  - ▶ State suggestion for EPA to build a collection approach

# 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

# If S/Ls Choose to Report HAP, Why Would Proposal Require SLT to Update Their Emissions Regulation?

- ▶ A clear and documented transfer of responsibility from owners/operators to S/L is necessary when a S/L elects to report HAP
- ▶ When a S/L adopts the revised regulation, this provides EPA with evidence of a S/L's intent and assures a clear transfer of responsibility

# 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 have proposed thresholds to meet the stated goals and purposes of HAP data in the proposal, and these are open to comment
- ▶ 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 10<sup>th</sup> 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

# Why Did EPA Include Reporting for All Subject Sources Rather than Title V Sources for Voluntary HAP Reporting from S/Ls?

- ▶ In the proposal, EPA proposes a universe of sources that it believes is needed to meet the goals laid out in the preamble
  - ▶ Includes both Title V and smaller sources
- ▶ EPA also proposed a consistent way to collect data for those sources, either:
  - ▶ All subject sources in state report HAP to EPA
  - ▶ If SLT voluntarily reports HAP on their behalf, report all subject sources
- ▶ If there are other ways to achieve the collection, commenters can let us know

# 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
- ▶ CAERS envisions shared data across NEI, SLT, Toxics Release Inventory, CEDRI, and Greenhouse Gas Reporting
- ▶ 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 New Prescribed Burning Requirements for States/Locals?

- ▶ Prescribed burns produce significant emissions that are important contributors to environmental health risks
- ▶ EPA's experience over the past decade has determined that, without more data, it is not possible to accurately differentiate prescribed burning from other types of fires in most states
- ▶ A minimum set of prescribed burning data collected from all S/Ls would allow both for higher quality emissions data and more equitable characterization of the emissions that impact downwind communities
  - ▶ We have excluded prescribed burns conducted by Federal Land Managers, since those are already included in databases available to EPA

# Questions and Answers