

Air Emissions Reporting Requirements Proposal

Frequently Asked Questions

The Federal Register citation for the proposed AERR is [88 FR 54118](#).

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Acronyms

These acronyms are used throughout this document and are defined here for reference.

AERR: Air Emissions Reporting Requirements

CAA: Clean Air Act

CAERS: Combined Air Emissions Reporting System

CAP: Criteria Air Pollutant

CDX: Central Data Exchange

CSP: Curtailment service providers

CEDRI: Compliance and Emissions Data Reporting Interface

EIS: Emissions Inventory System

ERT: Emissions Reporting Tool

HAP: Hazardous Air Pollutant(s)

HEDD: High energy demand day

NAICS: North American Industry Classification System

NESHAP: National Emission Standards for Hazardous Air Pollutants

OAQPS: EPA's Office of Air Quality Planning and Standards

SBA: Small business Administration

SBAR: Small Business Advocacy Review

SLT: State/Local/Tribal (generally refers to an air agency)

TRI: Toxics Release Inventory

1 Emissions estimation related questions

1.1 When will the small business emissions estimation tool be available?

As section IV, A, 13 of the preamble to the proposed rule states, "EPA would develop this tool between the time this rule is proposed and the first year of any new point source reporting."

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1.2 Will sources have to calculate the HAP emissions themselves or will they be able to report the amount of coal, gas, diesel etc. combusted and the EPA will then calculate the HAP emissions?

In the proposed rule, the owners/operators would be required to report emissions. The Combined Air Emissions Reporting System (CAERS) includes features to assist owners/operators in computing emissions. In some cases, CAERS would perform the calculations given the throughputs provided by owners/operators.

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1.3 How would sources that are small sources but not small businesses quantify their emissions?

There is not a separate provision included in the proposal for "small sources;" thus, they would be required to use the best available emission estimation method as described in section IV, I, 6 of the preamble.

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1.4 Since many of the thresholds are so low, are HAP augmentation/speciation profiles acceptable way to estimate small quantities of emissions, or should HAP augmentation/speciation only be done after the facility or state submits the data?

The proposal indicates that speciation profiles are an acceptable way to estimate emissions, provided that the profile is the best available approach for the circumstances.

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1.5 Is CAERS currently linked to SPECIATE or other HAP Augmentation routines to help user estimate HAP emissions based on PM or VOC? If not, is this one of the CAERS improvements scheduled before the 2026 inventory year?

CAERS is not currently linked to SPECIATE or HAP augmentation routines. CAERS improvements related to any final rule have not yet been identified. EPA plans to identify possible improvements to CAERS after the Agency issues the final rule.

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2 Small entities

2.1 What are definitions of small business being considered, and what reduced reporting requirements would be imposed?

EPA is considering two definitions in the proposed rule. In either of these definitions, major sources would not be considered small entities.

- 1) Clean Air Act Definition: As stated in the preamble, section IV, A, 14, “the EPA is proposing a definition of small entity to be consistent with CAA Section 507(c). This definition limits small entities to those that meet all of the following criteria: (a) has 100 or fewer employees, (b) is a small business concern as defined in the Small Business Act ([15 U.S.C. 631 et seq.](#)), (c) is not a major source, (d) does not emit 50 tons or more per year of any regulated pollutant, and (e) emits less than 75 tons per year or less of all regulated pollutants.”
- 2) Small business Administration (SBA) Definition Alternative: EPA is taking comment on a definition based on the SBA which uses the North American Industry Classification System (NAICS) code. The last paragraph of the preamble, section IV, A, 14 states, “EPA is considering a ‘SBA Definition Alternative’ that would modify the proposed definition to replace the 100-employee threshold with the NAICS-based thresholds available from the SBA definition. This alternative would still exclude major sources from being within the definition of small business but would include more non-major small entities in the definition.” The SBA small business size standards are available at [13 CFR 121.201](#).

The reduced requirements for small entities are described in preamble, section IV, A, 12.

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2.2 Why are small business collision shops being excluded? What criteria was used to exclude them?

The preamble to the proposed AERR addresses this question. It states: “[t]he EPA provided an analysis for the Small Business Advocacy Review (SBAR) Panel that estimated the number of small entities expected to report based on EPA's proposed HAP emissions reporting thresholds. This analysis showed that the collision repair industry characterized by NAICS 811121 (Automotive Body, Paint, and Interior Repair and Maintenance) is unique in that it has the most small entities of any industry that the EPA is considering including in the proposed rule according to the 2017 Economic Census data, and that much smaller number of the largest collision repair facilities (about 2,000) are estimated to fall within the emissions reporting thresholds under consideration. Given that the EPA is already receiving data through States from about 2,300 of such sources, the EPA is unlikely to reduce the number facilities for which emissions data must be reported below the number it is already receiving. The EPA reviewed other NAICS in this way, but no other NAICS presented a similar situation. In other industries, the EPA either estimates that many more sources would need to report based on these proposed requirements or the EPA lacks sufficient existing emissions data for facilities with those NAICS to perform the same analysis.”

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2.3 What method would EPA use to contact small businesses about the relief of certain reporting requirements? Would it be through written letter, email, electronic notification or all of the above?

The proposal does not specify the mechanism of notification.

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2.4 Please clarify who has to report under the proposal and if any proposed changes would apply to small rural communities?

Categories and entities potentially regulated by the proposed rule are described in section II of the preamble, with more details provided in section 51.1 of the proposed regulatory text. If a small rural community is operating a major source or a non-major source that has a primary NAICS code listed in Table 1C to Appendix A and annual actual emissions of pollutants greater than or equal to the HAP reporting thresholds (presented in Table 1B to Appendix A), then this proposal would apply.

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2.5 What are the specific industries required to report under these small source categories? Why aren't all industries required to report under the smaller source category?

Under the proposal, non-major sources that have primary NAICS listed in Table 1C to Appendix A would have to report emissions when they have annual actual emissions of pollutants greater than

or equal to the HAP reporting thresholds (presented in Table 1B to Appendix A). Section IV.A.8 of the preamble to the proposed rule explains how EPA selected the thresholds and NAICS codes.

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3 Fires

3.1 Would the proposal require prescribed burning to be reported annually or triennially?

The proposal would require annual reporting of prescribed burning activity, starting with the 2026 inventory year.

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3.2 Would stationary sources be required to report prescribed burning that occurs on their properties?

The proposal does not address this question directly. The proposal would require reporting of annual actual emissions and defines that term in section 51.50 to mean “emissions of a pollutant ... associated with normal source operation and actual or representative production rates.”

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3.3 Do the 25-acre and 50-acre reporting thresholds apply on a per-day basis or apply to the entire planned project? For example, if a 200-acre project is carried out on 5 different days over 4 years, and the number of acres on each burn day is below the 25-acre and 50-acre reporting thresholds, does this project trigger AERR reporting requirements?

The proposed rule does not specify the duration of a prescribed burn. It refers to the definition of prescribed fire defined by [40 CFR 51.301](#), which does not indicate whether the burn occurs on a single day or over multiple days.

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3.4 Are pile burns are grouped under prescribed burns?

The proposal includes pile burns as a type of prescribed burn.

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3.5 Does prescribed burning included agricultural sources?

The proposal provides a separate definition for agricultural fires in section 51.50 of the proposed regulatory text, which reads “*Agricultural burn* means the use of a prescribed fire to burn crop residue.” EPA has proposed that agricultural burns would not have the same requirements as other

prescribed burns under the AERR, rather, SLTs could optionally report agricultural fires or provide comments on EPA's estimates.

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3.6 How are the data sent for prescribed fire reporting? Do we have to adopt an EPA format, or can we grant EPA access to our tools that already collect this data?

EPA has proposed a format for prescribed fire reporting that includes the data fields we are proposing to collect. The format includes both required and optional data fields. EPA welcomes comments about granting EPA access to state tools that collect prescribed fires data.

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3.7 Does Alternative M3 for prescribed burning allow emissions to be submitted, or only acres burned?

Under proposed alternative M3, states would report activity data such as acres burned, and EPA would calculate emissions based on the latest emission factors.

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4 Small EGU units for offsetting energy demand

4.1 Is the rule intended to identify and report emissions from curtailment agreements?

The reporting requirements for small generating units are explained in section IV.D. of the preamble. The relevant sections to the question above are:

- a) EPA "seeks to solve long-standing challenges associated with emissions from certain types of intermittent combustion sources. Interest in emissions and ozone formation on high energy demand days (HEDDs) has led the EPA to consider collecting information from sources that operate to offset electricity demand from the electricity grid during these times."
- b) "The EPA proposes a definition of small generating units to mean 'any boiler, turbine, internal combustion engine or other unit that combusts fuel on an occasional basis to generate electricity for the electricity grid or for on-site use by a facility other than for emergency use.'"
- c) "The data elements that the EPA proposes would be reported include identification of each small EGU used to offset electricity demand from the electricity grid for a given year; the unit's rated capacity in hp and kilowatts; the unit's manufacturer and model; the installation date of the unit; source classification code (including the fuel type); and for each day of operation: the emissions reporting period, reporting period type as daily, date of activity, fuel used or heat input and associated units of measure, and optionally the start hour and end hour of operation."
- d) "Under these proposed requirements, States would have the flexibility to either collect the data from the [curtailment service providers] CSPs (where such entities exist) or from the owners/operators of facilities that operate small generating units. This implementation could

include other entities, such as large energy companies, that also have agreements with other companies to deploy small generating units periodically under certain circumstances. The EPA expects that collecting that data from the CSPs or other types of companies with demand reduction agreements would provide the lowest burden option for States. Additionally, the EPA expects that the CSPs and other companies aggregating demand side reductions could be in the best position to gather from the owners/operators of small generating units the data that needs to be reported as part of their normal operations. This design could reduce burden because the number of CSPs and other companies with demand reduction agreements within a State could be far smaller than the number of facilities with small generating units that operate in any particular year.”

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4.2 Small generating units – what is considered emergency use?

The proposal does not provide a definition of the term “emergency use.”

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4.3 Under the proposal, would generators used only for emergency backup power be exempt from reporting requirements for “small generating units”?

Yes, the proposal exempts generators that are used only for emergency use. Proposed regulatory text at 40 CFR 51.50 provides the definition: “*Small generating unit* means any boiler, turbine, internal combustion engine or other unit that combusts fuel on an occasional basis to generate electricity for the electricity grid or for on-site use by a facility other than for emergency use.”

The proposed regulatory text states at section 51.15(a)(3) that a State must report for small generating units when (i) hourly or daily emissions and activity data from the unit are not otherwise reported to the EPA, (ii) the unit was operated to offset electricity demand from the electricity grid; and (iii) the unit is located at a facility that operates on land. Under the second provision, the only reportable activity for small generating units is that activity when the unit is operated to offset electricity demand from the electricity grid.

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4.4 If a small generating unit is the only emissions unit at a facility, does its emissions have to be reported?

In order for the unit to need to be reported, the facility must first meet the definition of a point source (see proposed 40 CFR 51.50). If the facility meets the definition of a point source due to emissions from any pollutant used in determining point source status, and the small generating unit is operated as the proposal would require (see question 4.3 for details), then the proposal would require reporting according to proposed requirements for states and owners/operators. Please see:

- For states, reporting requirements are described in proposed 40 CFR 51.15(a).

- For owners/operators within states, reporting requirements are described in proposed 40 CFR 51.25.
- For reporting by other owners/operators, reporting requirements are described in proposed 40 CFR 51.27.

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5 Malfunction Emissions

5.1 What is EPA’s proposed definition of actual emissions? What is the separate proposed requirement about malfunction emissions reporting?

EPA proposed that “actual emissions” must be reported by states and owners/operators for facilities that meet the proposed definition of point sources. In the proposal, EPA defines actual emissions to include “emissions of a pollutant that occur during periods of startup, shutdown, and may include malfunctions.” EPA further explains for malfunction emissions that “[s]ince malfunctions are, by nature, unpredictable and given the myriad different types of malfunctions that can occur, malfunction emissions are difficult to estimate. However, to the extent that malfunctions become a regular and predictable event, then such emissions should be quantified with regular and predictable emissions and included in actual emissions.”

The proposal’s “malfunction option” requirement would be for states and owners/operators to report their malfunction emissions as a separate value from the other emissions. This differs from the base proposal where malfunction emissions (those that meet the definition provided for actual emissions) would be included as part of the annual emissions total.

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5.2 How would a company quantify its malfunction emissions? With standard emission factors? Or would source data be appropriate?

The proposal does not specify how owners/operators should quantify malfunction emissions but rather generally indicates the type of calculation approaches that are available to owners/operators to estimate emissions.

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6 Deadlines and Timing

6.1 Why is EPA proposing to make point source reporting deadlines earlier? What is the intent of changing reporting deadlines for SLT?

As described in section IV, F, 1 of the preamble to the proposed rule, “the needs and expectations for faster data turnaround continue to grow.” That section and the preamble also says “[b]y considering earlier State reporting deadlines, the EPA hopes to achieve further improvement in

timeliness of the point source NEI” and that “[d]ecisions and environmental improvements based on new information are delayed when the data take longer to produce.”

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7 Nonpoint and onroad source reporting requirements

7.1 What does EPA expect regarding the documentation that states would need to provide in certain cases for onroad and nonpoint reporting?

As the proposal describes, EPA needs documentation about emissions methods used in states preparing nonpoint emissions for two reasons: (1) to assess state methods in comparison to the EPA methods and (2) to consider the state methods for possible improvements to the EPA methods for future NEI years. The proposal also describes that documentation is needed to support transparency of the data and for reproducibility for subsequent inventory cycles or release of updated activity that improve the estimates. The proposal also says that states would need to provide documentation that describes how the emissions estimates were made and QA steps performed.

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7.2 Would the proposal still require the state to submit inputs to EPA tools if a state submits nonpoint emissions for those same sectors?

Yes, for categories with EPA tools, the proposed requirement is to report the inputs to EPA tools or accept the EPA’s default inputs. EPA has proposed that emissions reports are optional, and the requirement for the input data is not changed if the state reports emissions.

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7.3 For scheduling the proposed coordination between Tribes and states, do both entities have the same deadline, or is one supposed to do it prior to the other so there can be coordination on that?

The proposal has the same deadlines for Tribes and states. Tribes and states can coordinate in advance of those deadlines.

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7.4 How does EPA plan to avoid potential data duplication? For example, for states that report oil and gas production as point sources, providing inputs to EPA’s oil and gas tool would duplicate information that is already being provided.

Avoiding duplication of emissions in the NEI is handled using the nonpoint survey, which EPA has proposed as a requirement for states. The preamble describes additional reasons EPA is proposing to require the tool inputs and how that information would be used.

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7.5 What is the proposed deadline for nonpoint sources with an EPA tool if the SLT chooses to report emissions?

EPA has proposed a floating deadline that depends on when EPA provides information to SLTs. The proposal provides for a minimum of a 30-day window for an SLT to provide feedback on the nonpoint tool inputs, and this timing could be longer depending on the complexity of the emissions sector. Also, SLTs would have a minimum additional 30 days to provide emission if they do not want to use the estimated emissions based on the EPA method.

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8 Rule Development Process

8.1 Is there information that went into the docket regarding which facilities went into the counts used to estimate the number of facilities reported?

The facility counts are based on the 2017 Economic Census, which provides counts but not specific facility lists. The Technical Support Document for the proposal describes the approach EPA used to develop those estimates.

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8.2 How did EPA select the industry codes and set reporting thresholds for non-major sources?

To select the industry codes, EPA performed an analysis based on industry codes that we had from the 2017 NEI, looking at what pollutants were emitted from those industries. More detail on EPA’s approach is provided in Section IV.A.8 of the preamble and in the Technical Support Document for the proposal (provided in the EPA docket).

To set the proposed thresholds, EPA analyzed data from the 2017 NEI and the AirToxScreen results, which included risk estimates. We adjusted the emissions at each of the sources to an emissions level that, if it were emitting at that level, would potentially cause a cancer risk of 1 in 1 million. To set the proposed threshold, we selected the tenth lowest percentile value of the emissions levels that could cause 1-in-1-million risk. More information on this approach is available in Section IV.A.8 of the preamble and in the Technical Support Document for the proposal.

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8.3 Why did EPA choose the 10 TPY default thresholds for HAP?

The upper limit for non-major sources is 10 tons/year because at or above that level, the source is a major source. Under the proposal, major sources need to report all HAP, so thresholds higher than 10 tons/year are not relevant.

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8.4 What happens when the risk values change for a pollutant?

This is discussed in the proposal preamble in section IV, A, 9. In particular, the preamble states, “[t]he EPA occasionally identifies new health benchmarks for pollutants that do not have them or revises the available benchmarks to reflect a new understanding of a HAP’s increased or decreased toxicity. When the available toxicity information about pollutants changes in the future, the EPA expects that it will propose updated emissions reporting thresholds, take comment, and potentially issue final revisions to the HAP emissions reporting thresholds of this subpart. At this time, EPA plans to conduct such revisions in the future via very targeted rulemaking to amend just those HAP emissions reporting thresholds where the toxicity information has changed.”

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