

**EPN Comments on EPA's Revisions to the
Air Emissions Reporting Requirements**

Docket No. EPA-HQ-OAR-2004-0489

November 17, 2023

The [Environmental Protection Network](https://www.epn.org/) (EPN) harnesses the expertise of more than 600 former Environmental Protection Agency (EPA) career staff and confirmation-level appointees from Democratic and Republican administrations to provide the unique perspective of former regulators and scientists with decades of historical knowledge and subject matter expertise.

EPN is pleased to comment on EPA's proposed rulemaking, "Revisions to the Air Emissions Reporting Requirements" (AERR),¹ that would provide new emission reporting requirements beyond those in the current rule,² which was promulgated in February 2015. In general, we believe the proposed changes will result in significant improvements in environmental protection.

- 1. EPN supports the proposal's requirement for *mandatory* annual reporting by industry (i.e., facility owners and operators) directly to EPA of all hazardous air pollutant (HAP) data for major sources and only those HAP that are greater than EPA's HAP reporting thresholds for non-major sources, beginning in 2027.** As the proposal notes, concerns have been raised for many years about the quality of EPA's HAP database in the National Emissions Inventory (NEI).³ The current rule does *not* require air toxics reporting and relies heavily on voluntary reporting by states; thus, the resulting NEI contains large gaps in HAP information from various sources.

EPN agrees with the proposal that mandatory reporting is expected to result in an improved data base that will benefit various EPA actions, including control technology reviews, residual risk assessments and other assessments, such as the agency's AirToxScreen. In addition, more current and extensive HAP emissions data would also allow the EPA to better identify additional source categories and subcategories for listing.

¹ Federal Register / Vol. 88, No. 152 / Wednesday, August 9, 2023 / Proposed Rules. 40 CFR Parts 2 and 51

[EPA-HQ-OAR-2004-0489; FRL-8604-02- OAR] RIN 2060-AV41 Revisions to the Air Emissions Reporting Requirements

² 80 Fed. Reg. 8787 (February 19, 2015).

³ In 2007, EPA's Office of Inspector General (OIG) 2007 report *Improvements in Air Toxics Emissions Data Needed to Conduct Residual Risk Assessments*, found that EPA's HAP emission database was inadequate, contributing to the delay in completion of residual risk assessments, and that EPA's planned activities in response to the OIG report "do not sufficiently address the problems identified, and we consider the issues unresolved." The issues as of 2023 have still not been resolved. More recently, in 2022, OIG issued a second report *The EPA Needs to Develop a Strategy to Complete Overdue Residual Risk and Technology Reviews and to Meet the Statutory Deadlines for Upcoming Reviews*. As the proposal notes, "While this report focuses on the time it takes for EPA to complete a review, rather than availability of emissions data, it is clear from the timetable for conducting these reviews included in the report that collecting emissions data is a limiting factor... The data that EPA proposes to collect here would help address the findings of both OIG reports."

- 2. EPN applauds the proposal's requirement that the reported data be considered public information. As noted in the proposal, this transparency regarding data can be expected to aid communities in their decisions and actions regarding air toxics at neighboring facilities, such as monitoring and land use planning.**

To this end, it is important that EPA invests sufficiently in making the data publicly available in a way that's easy to access, use, and understand. As experienced with prior community initiatives (e.g., EPA's fenceline monitoring requirement around petroleum refineries⁴), it is not enough to simply require data to be collected and reported. Data transparency—easy to access, use, and understand—is key to ensuring the data are of value for communities.

To further aid communities, EPN recommends that EPA consider providing periodic short summary emission reports for specific areas, which would be selected in accordance with criteria EPA would develop. These areas could be ones EPA has identified as having the potential for especially high risk or certain areas with environmental justice concerns. Consideration could be given, for example, to providing these reports as part of the agency's annual trends reports.

- 3. EPN urges EPA to consider carefully the resource requirements that would be needed to implement the proposed HAPs and selected air toxics reporting program. Successful implementation of this program demands a commitment to provide sufficient resources both for EPA and for as many of its state partners as applicable. A major reason the current NEI program has been consistently delayed is lack of resources. It is not prudent for EPA to require the reporting of significantly more data if the agency is not also planning to substantially increase resources internally and for state air agencies to receive, process (including quality assurance), analyze, and report these data.**

Given the broad scope of the proposed program, EPA may wish to consider a phasing-in of some of these requirements. This will allow the agency to implement the program consistent with available resources. In addition, the agency can learn from its initial experience with expanded reporting and make appropriate adjustments as necessary.

- 4. EPN recommends that EPA's final rule provide further discussion of efforts that should be undertaken that would expectedly result in reports of improved HAP/other air toxic emissions data submitted by industry—in particular, EPN recommends that the preamble discuss the agency's work to upgrade better emission factors for key source categories and the ways that measurements (both emissions and ambient) can be used to better characterize or evaluate emissions data.**

Emissions for many source categories are estimated using emission factors and other information. It is understood that EPA is doing some internal work to improve emission factors, but many factors are still either out of date or of poor quality. EPA should provide more transparency about its

⁴ EPA's Petroleum Refinery rule requires facility fenceline monitoring data be gathered routinely, to ensure compliance with benzene and various other toxic emission limits specified in the rule.

emission factor work and should ensure that it is shared, when deemed appropriate, and sufficiently resourced.

For some source categories (e.g., electrical generating units), EPA has for many years successfully required the collection and reporting of emissions measurements. As technology advances, EPN recommends that EPA consider requiring routine reporting of emissions measurements (rather than emissions estimates) for selected other source categories. EPA has also successfully used ambient measurements in certain cases to evaluate and, as necessary, improve the quality of emissions data, such as for commercial sterilizers.⁵ EPN recommends that EPA continue to utilize ambient measurements as a way to improve emissions inventories.

5. **EPN believes that the proposed methodologies for determining air toxics emission reporting thresholds for HAPs and “special case” non-major source air toxic emissions appear reasonable. We note the use of a risk-based analysis for many HAPs. EPN recommends that the rule require that EPA revisit the emission thresholds for reporting periodically, perhaps every three to five years. (See proposal p. 54135)**
6. **EPN supports the mandatory reporting of emissions of per- and polyfluoroalkyl substances (PFAS), which the proposal indicates the agency is considering as an option; these are not currently designated HAPs, but are of particular interest to the agency because of their widespread potential for health risks.** The proposal states that: “...current evidence suggests a need for better identification and characterization of PFAS point source emissions in air.” While no human inhalation health benchmark exists, the deposition of PFAS air emissions in water and their impacts on drinking water can be assessed by the use of the current Oral Reference Doses (RfDs) for several PFAS compounds, e.g., perfluorooctanoic acid. EPN supports the proposed requirement for facilities to use PFAS source measurements for annual emissions reporting purposes when available and use estimation techniques for reporting when measurements are not available. (See proposal p. 54148)
7. **EPN encourages EPA to investigate the potential for special mandatory reporting requirements for emissions of microplastics (not mentioned in the proposal) from various sources, e.g., landfills and incinerators.⁶ EPN recognizes that no microplastics have been designated as HAPs and there is a lack of health reference values and exposure data to assess their impacts.**
8. **EPN supports the proposed requirements for fuel use data for certain sources of electrical generation associated with peak electricity demand, prescribed fire data, as well as further changes for reporting on airports, rail yards, commercial marine vessels, locomotives, and nonpoint sources.**

⁵On April 11, 2023, EPA proposed new requirements to reduce ethylene oxide emissions from commercial sterilization facilities, an effort necessitating consideration of ambient data. In addition, on April 6, 2023, EPA’s proposed revisions to the Hazardous Organic NESHAP (HON) rule that would require routine facility fence-line monitoring of ethylene oxide and chloroprene.

⁶Osman AI, Hosny M, Eltaweil AS, Omar S, Elgarahy AM, Farghali M, Yap PS, Wu YS, Nagandran S, Batumalaie K, Gopinath SCB, John OD, Sekar M, Saikia T, Karunanithi P, Hatta MHM, Akinyede KA. Microplastic sources, formation, toxicity and remediation: a review. Environ Chem Lett. 2023 Apr 4:1-41. <https://doi.org/10.1007/s10311-023-01593-3>

In sum, EPN believes EPA's proposal for mandatory annual reporting by industry to EPA of hazardous air pollutant (HAP) and other specific air toxic data accompanied by its commitment to transparency for the data received will, when finalized, benefit not only EPA and state/local governments, but also the general public. We hope that as EPA moves forward toward development of a final rule that it considers EPN's suggestions for strengthening it.