



November 7, 2023

Mr. Marc Houyoux  
Emission Inventory and Analysis Group, Air Quality Assessment Division  
Office of Air Quality Planning and Standards (OAQPS)  
Office of Air and Radiation (OAR)  
U.S. Environmental Protection Agency (EPA)  
109 T.W. Alexander Drive  
Research Triangle Park, NC 27711

*Submitted via the Federal eRulemaking Portal at <https://www.regulations.gov>*

Subject: Docket ID No. EPA-HQ-OAR-2004-0489; Revisions to the Air Emissions Reporting Requirements

Dear Mr. Houyoux:

The Association of Air Pollution Control Agencies (AAPCA)<sup>1</sup> appreciates the opportunity to provide comments on U.S. EPA's proposed rulemaking, "Revisions to the Air Emissions Reporting Requirements" (AERR).<sup>2</sup> Many of AAPCA's state and local member agencies will be submitting detailed input on the proposed revisions, and this letter highlights concurring technical and policy comments to inform U.S. EPA's approach to reporting requirements for emissions of criteria air pollutants (CAP) and hazardous air pollutants (HAP) under the Clean Air Act (CAA). AAPCA members appreciate U.S. EPA's 30-day extension of the comment period<sup>3</sup> following recent co-regulator discussions and a formal request from the Association<sup>4</sup> for more time to provide substantive comments from state and local air agencies that are responsible for implementing final CAA rules.

The current AERR was promulgated in February 2015,<sup>5</sup> and requires state, local, and some tribal agencies to report emissions of criteria air pollutants and precursors (collectively, CAPs) to U.S. EPA. Further, these agencies may voluntarily collect HAP emissions – and many have elected to do so – via agency-specific emissions inventory systems. The proposed revisions to the AERR place new requirements on facility owners/operators to report HAP emissions directly to U.S. EPA, retain voluntary state/local agency reporting of HAP, and proposes an approach by which an agency may report HAP emissions on behalf of sources in its jurisdiction.

As U.S. EPA is proposing that state and local agencies decide whether to assume the responsibility of reporting HAP emissions on behalf of owners/operators, the final AERR rule must include an approach

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<sup>1</sup> AAPCA is a national, non-profit, consensus-driven organization focused on assisting state and local air quality agencies and personnel with implementation and technical issues associated with the federal Clean Air Act. Created in 2012, AAPCA represents 51 state and local air pollution control agencies, and senior officials from 21 state environmental agencies currently sit on the AAPCA Board of Directors. AAPCA is housed in Lexington, Kentucky as an affiliate of [The Council of State Governments](#). More about AAPCA is at: [www.cleanairact.org](http://www.cleanairact.org).

<sup>2</sup> [88 Fed. Reg. 54118](#) (August 09, 2023).

<sup>3</sup> [88 Fed. Reg. 70616](#) (October 12, 2023).

<sup>4</sup> AAPCA [request to extend the comment period](#) for U.S. EPA's proposed "Revisions to the Air Emissions Reporting Requirements" (September 27, 2023).

<sup>5</sup> [80 Fed. Reg. 8787](#) (February 19, 2015).

for state and local agency reporting of HAP data that is feasible and does not supersede existing air agency emissions inventory systems. AAPCA members have identified several challenges that should be addressed or amended from the current proposal, which impact state and local agency ability to implement regulatory requirements for air emissions reporting. U.S. EPA’s final rule would benefit from improved engagement with state and local air agencies that have pertinent, on-the-ground expertise in managing emissions inventory systems, particularly with respect to these comments.

U.S. EPA acknowledges in the proposal that owners/operators already report HAP to many state and local agencies,<sup>6</sup> but the Agency is seeking to streamline reporting by requiring facilities to directly report to U.S. EPA using the Combined Air Emissions Reporting System (CAERS).<sup>7</sup> While some air agencies have adopted CAERS for their emissions inventory needs, it is not used universally as a system of record, and U.S. EPA has repeatedly assured state and local air agency staff that CAERS adoption will remain optional. However, with the heavy reliance on CAERS in the proposal, U.S. EPA is effectively imposing use of the system by stipulating that air agencies either choose to participate in CAERS or work with U.S. EPA to build a direct connection between the agency’s data system and CAERS. Further, this approach causes concern that future rulemakings may ultimately mandate use of CAERS. Many agencies have made considerable investment in inventory reporting systems and databases that serve industries and businesses under their jurisdiction. AAPCA strongly recommends that U.S. EPA maintains the capacity and flexibility for state and local agencies to continue to use existing methods that best serve their business sectors, local policies, and other unique reporting needs.

Because the proposal mandates owner/operator reporting of HAP data to U.S. EPA using CAERS, in states that have not adopted CAERS this would lead to facilities reporting CAP and HAP emissions in two separate systems, which is duplicative, inefficient, and potentially unworkable. When finalized, U.S. EPA’s approach to collecting HAP emissions directly from owners/operators must – at minimum – ensure compatibility between CAERS and other existing emissions inventory collection systems, such as the State & Local Emissions Inventory System (SLEIS) that is used by a number of state and local programs. Staff- and resource-constrained air agencies need to be able to effectively continue to use their own systems for various program operations (for example, invoicing for billable emissions or applying data quality procedures), therefore U.S. EPA ought to develop a tested “handshake” between CAERS and other systems for seamless data retrieval and exchange. AAPCA also stresses that U.S. EPA continue to support, not supplant, established processes for reporting emissions data, such as submitting to the Emissions Inventory System (EIS).<sup>8</sup>

Critically, state and local agencies already collecting HAP data from facilities perform significant quality assurance (QA) and customer support that is beyond basic, automated quality control (QC) checks that are incorporated into emissions inventory collection systems like CAERS. As proposed, emissions reported directly to U.S. EPA via CAERS by owners/operators will need additional data quality safeguards that may be lost or are not currently evident in the rule revisions. Users have indicated that the current level of QA/QC built into CAERS lacks the extensive QA/QC performed by state and local agencies on emissions data before it is submitted to EIS to report for the National Emissions Inventory (NEI).<sup>9</sup> To

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<sup>6</sup> [88 Fed. Reg. 54123](#).

<sup>7</sup> More on U.S. EPA’s Combined Air Emissions Reporting System (CAERS) [here](#).

<sup>8</sup> More on U.S. EPA’s Emissions Inventory System (EIS) Gateway [here](#).

<sup>9</sup> More on U.S. EPA’s National Emissions Inventory (NEI) [here](#).

address this, AAPCA urges U.S. EPA to continue to improve the QA/QC functionality of CAERs in coordination with air agencies while developing features for use alongside other emissions inventory systems utilized by state and local programs.

U.S. EPA proposes to require that a state or local agency choosing to report on behalf of owners/operators adopt U.S. EPA's requirements, or the equivalent, into the state's or locality's regulations, and indicates that without a sufficient corresponding regulation, U.S. EPA would not be able to approve an agency to report HAP emissions on behalf of owners/operators.<sup>10</sup> The Agency acknowledges that time is required for changes to these regulations, which informs U.S. EPA's proposal of 2026 as the first inventory year that would require HAP reporting by owners/operators within states, assuming promulgation of a final rule by June 2024.<sup>11</sup> However, state and local regulatory processes vary considerably and changes to new or existing rules could take as long as five years. Therefore, AAPCA strongly recommends that U.S. EPA revise the implementation timeline of the rule to allow at least five years for the needed regulatory changes if required for air agencies to obtain approval to report HAP emissions on behalf of owners/operators.

AAPCA also urges U.S. EPA to grant state and local agencies flexibility in rule development to satisfy the proposed reporting requirements for HAP emissions in the revised AERR. The Association asks that U.S. EPA develop a "grandfathering" provision to authorize agencies that already voluntarily collect HAP emissions without requiring a burdensome change to state and local regulations. It is also important that U.S. EPA recognize state and local technical knowledge when evaluating applications for approval to report HAP emissions. An arduous application process – including potential plan revisions or delays in reviewing – would divert already limited state, local, and federal agency resources away from other essential aspects of implementation and must be avoided.

U.S. EPA is proposing to phase-in earlier reporting deadlines, shortening the amount of time in which state and local agencies must report data for point sources from 12 months and 15 days after the end of the inventory year to within nine months of the end of the inventory year beginning with the 2027 inventory year. This timetable is further reduced to only five months after the inventory year ends for the 2030 inventory year and beyond.<sup>12</sup> Starting with the 2026 inventory year, U.S. EPA also proposes to stipulate an impractical timeline of six months to report prescribed fire and agricultural burning data following the end of the inventory year. AAPCA members stress that these earlier deadlines for reporting are unreasonable and will likely result in poorer data quality, as state and local agencies will be required to collect more data per the proposed AERR revisions but be given significantly less time to apply QA/QC procedures. AAPCA recommends that U.S. EPA finalize state/local/tribal point source reporting deadlines that are no shorter than 12 months after the end of the inventory year (e.g., December 31 instead of May 31).

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<sup>10</sup> [88 Fed. Reg. 54132](#).

<sup>11</sup> [88 Fed. Reg. 54160](#). See also [88 Fed. Reg. 54201](#), which states that a "State or owner/operator must estimate annual actual emissions as defined in § 51.50 of this subpart," and suggests air agency submittal of HAP emissions data for point sources would start with the 2023 inventory year. U.S. EPA needs to clarify this inconsistency in the final regulation.

<sup>12</sup> [88 Fed. Reg. 54158](#).

Before finalizing, U.S. EPA should further address how compliance with the rule will be enforced in scenarios where state and local agencies opt to provide emissions data on behalf of owners/operators. The current proposal is unclear as to whether agencies are liable for failure to submit emissions data if facilities fail or refuse to report to the state/local agency by the appointed deadline. AAPCA suggests that U.S. EPA limit state/local agency compliance liability to only the failure to submit reported emissions data received by the agency from the facility.

U.S. EPA's proposal includes new reporting requirements for all 188 HAPs, 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. U.S. EPA convened a Small Business Advocacy review (SBAR) Panel and conducted an analysis that found an estimated 34,000 additional small entities would be subject to the proposed AERR revisions.<sup>13</sup> As already mentioned, state and local agency emissions inventory programs utilize considerable staff time and resources to ensure facilities, in particular small businesses, accurately submit emissions data. Given the extensive new rule requirements and considerable influx of subjected sources, AAPCA members have substantial, demonstrated, and valid concerns about the additional resource challenges that will be placed on state and local air agencies. AAPCA requests that U.S. EPA develop a list of sources that will be required to report to aid state and local agencies in source identification – the scope of which could significantly impact implementation costs of the final rule – and reduce undue burden on state and local programs.<sup>14</sup>

Furthermore, the current proposal does not provide robust definitions for certain small electric generating units (EGUs), portable sources, or mobile sources that will be subject to the AERR revisions. How these sources are determined could exponentially increase the number of applicable new sources that will be required to report. When finalizing the AERR revisions, U.S. EPA should provide clear guidance on how newly subjected sources are to be identified as well as engage state and local air agencies when addressing requirements for unpermitted sources newly subject to the AERR, as these co-regulatory agencies will be most impacted by an expected exponential increase in additional permitting.

In cases of nonpoint sources using U.S. EPA estimation tools, the Agency proposes that air agencies would provide documentation describing the emissions estimation process and the QA procedures utilized. U.S. EPA needs to provide specific details and guidance regarding adequate documentation and approvable QA procedures. U.S. EPA must ensure that prescriptive and time-consuming documentation requirements that further strain resources are not imposed on air agencies, allowing for concise documentation with as much format flexibility as possible. U.S. EPA would also benefit from working directly with end users, particularly state and local agencies, for input on the development of emissions estimation tools.

AAPCA members have also expressed concern that the current proposal includes some reporting requirements based on data collection that is not supported by current inventory methods. For

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<sup>13</sup> [88 Fed. Reg. 54147](#).

<sup>14</sup> U.S. EPA'S [Regulatory Impact Analysis](#) (RIA) for this proposal indicates that "The proposed rule's cost impact on State, local, tribal government authorities is estimated at \$28.5 million on average annually from 2024 to 2026, and then is estimated at \$27.7 million in 2027."

example, U.S. EPA is seeking fire activity data collected by actual acres burned, as opposed to permitted acres burned, which could include a large amount of data that is not typically measured. Similarly, U.S. EPA considers requiring reporting of per- and polyfluoroalkyl substances (PFAS) despite the lack of emissions factors for PFAS. It is important that U.S. EPA avoid requiring unsupported data collection to prevent undue burden on reporting entities.

As noted during multiple co-regulator discussions following the proposed AERR revisions, U.S. EPA has an opportunity to work with state, local, and tribal agencies to draw on existing, relevant expertise that will drastically improve a final rule. Adhering to the Clean Air Act's principles of cooperative federalism will better inform a final rule that produces not just more data, but better and more useful data that can equip federal, state, local, and tribal air agencies with the best available information to improve air quality and protect public health. AAPCA further stresses that the overall scope of U.S. EPA's final rule for the AERR must align with their co-regulators ability to implement it and take into consideration the operational challenges that state and local air agencies face, including ensuring adequate funding for implementation such that existing programs are not adversely impacted.

Thank you for your attention and consideration of these comments from state and local air agencies that will have a primary role in implementing the final AERR revisions. AAPCA reiterates the Association's interest in working with U.S. EPA to develop a nationally informed and technically sound approach to fulfilling reporting requirements for air emissions under the CAA. If you have any questions or would like to further engage AAPCA's membership on this proposal, please contact Mr. Jason Sloan, Executive Director, at [jsloan@csg.org](mailto:jsloan@csg.org) or (859) 244-8043.

Sincerely,



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Louisiana Department of Environmental Quality  
2024 President, AAPCA

cc: Mr. Peter Tsirigotis, EPA OAQPS  
Mr. Richard Wayland, EPA OAQPS