

Publications

USEPA Announces Potential Reporting Requirements for Hazardous Air Pollutant and PFAS Emissions

Related Attorneys

Anthony J. Giuliani

Ryan D. Elliott

Related Services

Environmental

Related Industries

Manufacturing

CLIENT ALERT | 7.27.2023

On Tuesday, July 25, 2023 the United States Environmental Protection Agency (USEPA) announced proposed revisions to the Air Emissions Reporting Requirements (AERR). The proposed revisions would add annual Hazardous Air Pollutant (HAP) emissions reporting requirements estimated to impact more than 100,000 facilities beginning in 2027. USEPA is also considering whether to impose PFAS emissions reporting requirements through the proposed revisions.

Annual HAP Emissions Reporting

The proposed revisions would require facilities that meet the AERR-specific definition of a “point source” to annually report their actual HAP emissions to USEPA using the Combined Air Emissions Reporting System (CAERS). Actual emissions, under the revised AERR, would include emissions of a pollutant that occur during normal source operation as well as emissions that occur during periods of startup, shutdown, and malfunctions that occur on a regular basis. There are currently 188-listed HAPs.

The revised AERR would also expand the definition of a “point source.” Under the revised AERR, a facility would be a point source if the facility is (1) a major source for purposes of Clean Air Act operating permits; or (2) a “non-major” source that belongs to certain industrial sectors, and it emits certain HAPs at or above proposed reporting thresholds. USEPA estimates the revised point source definition would apply to 129,500 facilities.

For facilities that are major point sources, the proposed revisions would require the facility to report all HAP emissions. Non-major point sources would only have to report HAP emissions that exceed a pollutant-specific reporting threshold set by the revised AERR. The revised AERR would not require facilities to conduct any new monitoring or source testing, rather facilities must use the “best available” estimation techniques where measurements of annual emissions are not already available.

Under the revised AERR, a State could elect to report HAP emissions for point source facilities within the State. For the State to assume this responsibility, the State's HAP reporting rules must meet the revised AERR's requirements and receive USEPA approval.

If the proposed revisions are enacted, covered facilities (or States that elect to assume HAP reporting obligations) will be required to report beginning in 2027.

USEPA Is Considering Requiring PFAS Emissions Reporting

Although PFAS are not currently listed as HAPs, USEPA is also considering whether to impose PFAS emissions reporting requirements through the revised AERR. The PFAS subject to reporting under the revised AERR would be the same as the PFAS currently subject to reporting under the Toxic Release Inventory (TRI). There are currently 189 TRI-listed PFAS.

Similar to the HAP reporting requirements under the revised AERR, major point sources would be required to report emissions for all 189 PFAS. Non-major point sources would only be required to report PFAS emissions that exceed a reporting threshold. The revised AERR would set the PFAS emissions reporting threshold at 0.05 tons per year, which is the same as the reporting threshold for the TRI.

Facilities would be required to use PFAS source measurements for annual emissions reporting purposes when available and use best available estimation techniques for reporting when measurements are not available.

Comments on the proposed AERR revisions are due 30 days after they are published in the Federal Register. The Pre-Publication Notice with the proposed AERR revisions can be found [here](#).

If you have questions or concerns about the proposed revisions to the AERR, please contact Anthony Giuliani, Ryan Elliott, or your Vorys attorney.