



INDUSTRIAL COMMISSION OF NORTH DAKOTA

Jack Dalrymple
Governor

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Agriculture Commissioner

December 4, 2015

Air and Radiation Docket and Information Center
Environmental Protection Agency
Mail code 28221T
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Sirs:

Re: **2015 PROPOSED RULES AND DRAFT CONTROL TECHNIQUE GUIDELINES FOR THE OIL AND NATURAL GAS INDUSTRY**
- Draft Control Techniques Guidelines – Docket ID number: **EPA-HQ-OAR-2015-0216**

The North Dakota Industrial Commission (NDIC) appreciates this opportunity to comment on the 2015 Proposed Rules and Draft Control Technique Guidelines for the Oil and Natural Gas Industry as follows:

The State of North Dakota is ranked 2nd in the United States among all states in the production of oil and gas. North Dakota produces approximately 400 million barrels of oil per year and 465 billion cubic feet of natural gas per year.

The NDIC, Department of Mineral Resources, Oil and Gas Division administers North Dakota's comprehensive oil and gas regulations found at N.D. Admin. Code Chapter 43-02-03. These regulations include regulation of the drilling, producing, and plugging of wells; the restoration of drilling and production sites; the perforating and chemical treatment of wells, including hydraulic fracturing; the spacing of wells; operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations; disposal of saltwater and oil field wastes through the ND Underground Injection Control Program; and all other operations for the production of oil or gas.

The proposed rule could have significant impacts on North Dakota's ability to administer its oil and gas regulatory program. The State of North Dakota intends to defend its sovereign jurisdiction over oil and gas regulation in any manner necessary.

The impacts of the proposed rule on North Dakota's ability to administer its oil and gas regulatory program are explained below:

Appendix A.5, B.5, C.6, G.8, H.5 Record Keeping and Reporting Requirements: The record keeping requirements of the proposed rule are far too voluminous for any kind of reasonable inspection and enforcement to be conducted. Additionally, the annual and semi-annual reporting of the extensive

identification and inspection information required by the rule on a nationwide basis will create an unusable, costly, and burdensome records retention and inspection process for the EPA.

Section 4.5.1.1, 4.5.1.2, 5.3.1.1, 5.4, 5.5.3, 5.5.4, 6.2.1, 6.3.2.2, 6.4.2, 9.5.2, D.2, G.5.9, G.5.10, G.8, I.2, Technically achievable, technically feasible, technically infeasible, or technically practical: The proposed rule uses these undefined terms numerous times. This creates uncertainty with regards to the meaning and enforcement of the term and, like the NDIC guidelines under NDIC Order No. 24665, should provide for "extenuating circumstances" beyond the well operator's control.

Section 9.4, 9.5, 9.5.2, G.5.2, G.5.9, G.8, I.2 Repair within 15 days of detection and resurvey no later than 15 days after repair or replacement: The proposed time frame is too short. The production equipment components contained in the proposed rule are spread over thousands of square miles and weather conditions in North Dakota can be very severe and dangerous for extended periods of time.

Federalism: The proposed rule states that it does not have federalism implications. The federalism analysis states the rule will have no substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The analysis further alleges these final rules primarily affect private industry and would not impose significant economic costs on state or local governments. This conclusion is incorrect. As explained in these comments, the proposed rule will conflict with the NDIC's current regulations.

The NDIC recommends the following:

- 1) Eliminate all Record keeping and reporting requirements except the requirement to maintain a log of the last 2-3 years of inspections, repairs, and maintenance activities for storage vessels, pneumatic controllers, compressors, covers, closed vent systems, VOC control devices, and pneumatic pumps.
- 2) Define technically achievable, technically feasible, technically infeasible, and technically practical.
- 3) Change all repair and resurvey time period limits from 15 days to 90 days.
- 4) EPA should withdraw the rule or postpone implementation until the required consultation with state and tribal governments can be conducted and properly documented in the administrative record.

Sincerely,

North Dakota Industrial Commission



Jack Dalrymple, Chairman
Governor



Wayne Stenehjem
Attorney General



Doug Goehring
Agriculture Commissioner