



INDUSTRIAL COMMISSION OF NORTH DAKOTA

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EPA Docket Center (EPA/DC)
Environmental Protection Agency
Mail Code 28221T
1200 Pennsylvania Ave. NW.
Washington, DC 20460.

Docket ID No. EPA-HQ-OAR-2016-0204 "Information Collection Effort for Oil and Gas Facilities" (EPA ICR No. 2548.01, OMB Control No. 2060-NEW)

Dear Environmental Protection Agency ("EPA") officials:

The North Dakota Industrial Commission ("NDIC") appreciates this opportunity to comment on the proposed information collection effort.

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 430 million barrels of oil per year and 585 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. Administrative 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 UIC Program; and all other operations for the production of oil or gas.

It is our position that portions of this Information Collection Request ("ICR") under Section 114 of the Clean Air Act ("Act") are an overreach of the power granted to the EPA Administrator ("Administrator") under the Act. The Act allows the Administrator to require any person who owns or operates any emission source, who has information necessary for administering the Act, to make reports, and provide other information as the Administrator may reasonably require. The information requested by the EPA in the Section 114 request goes beyond a reasonable request by the EPA, requiring operators in all states to perform the California Environmental Protection Agency Resources Board Test Procedures in part 2 of the ICR and

requesting superfluous information such as the distance from a facility to the field office in part 1 of the ICR. We request that the request for information be reduced in scope, and that EPA provide a longer completion period so companies can issue an appropriate response.

The proposed ICR and any enforcement actions that may follow could impact 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 NDIC's specific comments and recommendations are as follows:

Operators will be required to complete the part 1 survey and provide equipment counts for all production facilities that they operate except for facilities selected to complete part 2. The potential respondent universe consists of 22,500 operators for part 1 representing approximately 698,800 facilities. The estimated burden and cost to the industry is 227,923 hours and \$40,149,494.

The part 2 burden estimates are based on mailing out 4,505 part 2 questionnaires and receiving 3,385 responses from industry respondents.

The Agency estimates that it will require 1 hour to review and analyze each part 2 response.

The Agency estimates that it will require 0.25 hours to review and analyze each part 1 response.

The estimated agency burden and cost are 17,947 hours and \$960,793, which includes \$144,618 in O&M costs to send certified Section 114 letters to all respondents selected for part 1 and part 2 surveys with electronic return receipt.

Based on the time required by NDIC personnel to understand and comment on the proposed ICR, the estimated industry time and cost burden in Attachment 3A and the Agency time and cost burden in Attachment 4 have been grossly underestimated by a factor of 2 to 4.

EPA statistical calculations presented in the supporting statement show that statistically reliable information could be acquired with one-seventh to one-fifth as many surveys.

The proposed surveys request information on items outside of the EPA's regulatory authority under the Clean Air Act—such as management of produced water, land ownership, well depth, well length, shut in pressure, casing diameter, and tubing diameter as well as information that is not applicable such as Reid Vapor pressure of feed material.

The EPA anticipates issuing the Section 114 letters by October 30, 2016. These Section 114 letters would require the owner/operator of an oil and gas facility to complete the part 1 survey within 30 days of receipt of the survey.

Based on the time required by NDIC personnel to understand and comment on the proposed ICR, the response time has been underestimated by a factor of 2 to 4.

Part 2, referred to as the detailed facility survey, will be sent to selected oil and gas facilities (production, gathering and boosting, processing, compression/transmission, pipeline, natural gas storage, and LNG storage and import/export facilities) based on statistical sampling method described in part B of this Supporting Statement. Part 2 will collect detailed unit-specific information on emission sources at the facility and any emission control devices or management practices used to reduce emissions.

The data collected from parts 1 and 2 will be used to determine the number of potentially affected emission sources, the types and prevalence of emission controls or emission reduction measures used for these sources at oil and gas facilities nationwide, and potential costs for those measures and controls. Due to the large number of potentially affected sources in most of the industry sectors, a statistically significant number of facilities from each sector will be surveyed to collect this information and fill data gaps for setting emission limits and evaluating the emission impacts of various regulatory options for standards of performance for oil and gas facilities.

This information is needed to understand the types of control systems used at existing facilities, the prevalence of use, and the emissions reductions that can be achieved through alternative regulatory strategies for existing sources.

Analysis of Attachment 2D reveals that only 15 of 580 requested items apply to the stated mission of the ICR.

Attachment 2F will require extensive sampling and analysis of feed material which was not included in time and cost estimates in any states except California.

The North Dakota Industrial Commission recommends the following:

- 1) Reduce the scope of the proposed ICR by performing it in three parts as follows:
 - a. ICR 1 should consist of Attachment 1A name, address, contact, number of facilities, and number of producing wells, and should be sent to all 22,500 operators. No less than 60-120 days should be allowed for operators to complete and return the survey.
 - b. ICR 2 should consist of Attachment 1A parts 1-3 and should be sent to a statistically representative number of operators based upon an evaluation of ICR 1. No less than 180 days should be allowed for operators to complete and return the survey.
 - c. ICR 3 should consist of Attachment 2D; Attachment 2E parts 3 and 4; Attachment 2F parts 1, 2, 3, 5, and 6; Attachment 2G, Attachment 2I, Attachment 2J, Attachment 2K, Attachment 2L, and Attachment 2M and should be sent to a statistically representative number of operators based upon an evaluation of ICR 2. No less than 180 days should be allowed for operators to complete and return the survey.
- 2) All requests for information outside the scope of EPA's jurisdiction authority under the Clean Air Act should be eliminated such as the management of produced water, land ownership, well depth, well length, shut in pressure, casing diameter, and tubing

diameter as well as information that is not applicable like Reid Vapor pressure of feed material.

- 3) Eliminate Attachment 2G part 1; Attachment 2H; Attachment 2I parts 2 and 4, Attachment 2J part 2.

Sincerely,

North Dakota Industrial Commission



Jack Dalrymple, Chairman
Governor



Wayne Stenehjem
Attorney General



Doug Goehring
Agriculture Commissioner