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COMMENTS OF THE INDUSTRY COALITION OF PRODUCERS ON PROPOSED EXPANSION OF NATURAL GAS PRODUCTION SURVEY FORM EIA-914

BACKGROUND: On May 6, 2014, the Energy Information Administration (EIA) published a request for comments in the *Federal Register* on a proposed expansion of the current monthly natural gas production survey Form EIA-914, “Monthly Natural Gas Production Report” to include crude oil and condensate reporting as well as expansion of reporting to additional states. On August 26, 2014, the EIA submitted the proposed expanded survey to the Office of Management and Budget (OMB) for review and approval with an initiation date of January 2015.

PRODUCER STANDING: As an “Industry Coalition” representing both major and independent producers that represent onshore and offshore natural gas and crude oil production, American Petroleum Institute (API), American Exploration & Production Council (“AXPC”), Independent Petroleum Association of America (“IPAA”), Natural Gas Supply Association (“NGSA”), US Oil & Gas Association (“USOGA”), and Council of Petroleum Accountants Societies (COPAS) whose members make up the oil and gas industry's accounting professionals who compile the production data, have concerns that the proposal is too burdensome and unworkable as drafted for the hundreds of individual producing companies that will be required to participate for the first time in the proposed reporting. EIA’s rejection of significant concerns in previous comments based on cognitive testing of currently-surveyed fifteen companies is inadequate. The comments reflected herein reflect the views of the entire producing spectrum

from small to large producers. The Industry Coalition is pleased for the opportunity to provide the OMB the following comments.

COMMENTS:

A. The 40-Day Reporting Deadline is Unduly Burdensome.

The expanded survey, as currently proposed by the EIA, imposes an undue burden on producers due to the proposed 40-day reporting deadline considering the expansion from seven to twenty-one geographic areas throughout the U.S., and the addition of detailed crude oil and lease condensate production data. The vast majority of the Coalition member companies do not currently aggregate and complete their internal production accounting of natural gas and crude oil data at this level of detail and breadth within 40 days after the end of the reporting month. To meet the 40-day reporting due date would require well operators to submit reports that contain a significant number of estimates and require continuous prior period adjustments for the prior month(s).

Furthermore, the requirements in the expanded survey (items 1.7 through 1.9) requesting information on recently acquired and divested properties as well as the names of subsidiary companies for the data that are reported in the monthly survey are not currently on the existing survey and are not readily available; requiring extensive additional research and time by survey respondents to complete prior to the data submission. Compiling this data is extensive given that purchasing and selling land/leases occurs very frequently through the course of our businesses. It would be very difficult and extremely onerous to quantify and report all of these transactions within the existing 40-day deadline. This data compilation is further complicated because, during a transaction, the ‘effective’ date and ‘close’ date can be different, often with a differential of several months. Thus, clarity would be needed on whether the report requires the inclusion of all properties purchased/sold or only those within a certain material threshold. Additional clarity is needed on whether the threshold is defined as a certain percentage of production, e.g., +/- X% from prior month or as an absolute volume change.

It is also not clear whether these items 1.7 through 1.9 were included in the EIA cognitive testing. The Industry Coalition strongly urges elimination of questions 1.7, 1.8 and 1.9. If the survey items 1.7 through 1.9 are retained in the survey, however, this increased reporting is yet another reason in which EIA’s reporting deadline should be extended to 60 days after the end of the report month to ensure that the submitted data can be as accurate and timely as possible to minimize respondents’ resubmission and implementation expenses. Furthermore, should the questions be retained in the proposed survey, they should be handled in the same manner as the “acquired and divested property” questions in the current existing survey, i.e. placed in the comment/explanatory notes section and not as separate line item questions.

The Industry Coalition understands EIA’s mandate of providing timely and reliable energy information. However, public dissemination of production reports based on ever-changing, estimated data could potentially send the wrong signals and diminish the reliability of the information to the marketplace.

B. New Data Response Filing Format Should be Flexible and Secure.

The Industry Coalition has concerns surrounding the lack of information and potential user burdens of the new proposed Data XChange Portal reporting system which was not included in the May 6th FRN and therefore, the coalition did not have any opportunity to comment on the new portal. EIA's proposal of three methods to report via EIA's new Data XChange Portal, requiring login in credentials, could create confusion on how to file a response under the new system. We urge EIA to retain the current Secure File Transfer system as an option for electronic report submissions and clearly detail the reporting options in the survey instructions. Also, retaining security of the production information and identification of the computer system from where the data is submitted is important to Industry Coalition member companies.

If EIA institutes the use of the new Data XChange Portal electronic reporting system, EIA should provide more detailed information regarding the new reporting system as well as the effective date of implementation in order to avoid confusion, inefficiencies and delays. We would recommend that the new reporting system allow access by multiple employees, including in different regions of the country, within a company. We have concerns that the new reporting system may place constraints on respondents by requiring individual user access codes which cannot be shared, making it difficult when an employee is transitioned to another job or on leave, constraining the responding company from filing the reports. We would strongly encourage that the EIA electronic data submission system allow companies to separately file by crude oil and natural gas and by state. Survey instructions should clearly indicate that the data may be submitted for each product separately.

C. Burden of Survey Expansion Likely Underestimated

EIA's estimated reporting burden hours per response was reduced from 3 hours in the current EIA-914 survey on natural gas to only 2 hours in the expanded EIA-914 survey that includes crude oil, lease condensate and natural gas. The new collection survey expands to 14 additional regions for natural gas and to all 21 regions for crude oil and lease condensate. Industry Coalition requests clarification on how these man-hour requirements were estimated. For example, what factors were responsible for the decrease in the per response burden hours? The reduction in hours could significantly underestimate the burden time, especially considering the number of producers who will be completing the survey for the first time. Also, in the OMB Federal Register Notice, EIA reports a zero annual estimated reporting and record keeping cost burden. Given the expansion of the survey and increased informational requirements, we strongly disagree with this estimate. The true costs of the proposed expanded EIA-914 survey must be provided.

D. Impact on Small Independent Producers

The concerns noted by the Industry Coalition above apply to all natural gas and crude oil producers. However, the expanded Form EIA-914 will have a disproportionate impact on smaller

producers, who will comprise much of the respondent base when EIA moves from the current 243 to approximately 600 operators. While the proposed changes will impose a burden on larger, publicly-traded companies, the increased burden for smaller privately-held companies could be significant given that they typically do not have large accounting and regulatory staff, as these companies do not have the reporting obligations, such as those to the Securities and Exchange Commission. Therefore, when EIA notes that its cognitive testing did not reveal difficulties in complying with the expanded form, the experience of the relatively larger 15 companies tested is not likely to be a predictor for smaller companies not currently reporting.

IPAA, AXPC and USOGA raised several specific concerns in response to the May 6th FRN. While EIA provided comments on these concerns, EIA did not accommodate the suggested changes. In particular, the smaller independents requested that EIA increase the crude oil production cutoff of 500 barrels per day (bpd) to 5,000 barrels per day. The comments noted that the higher cutoff would establish a more realistic threshold of what constitutes small amounts of production. For example, the tax code uses crude production of 1,000 barrels per day as a part of provisions related to marginal well producers – an effort to capture the concept of a marginal well producer. However, a higher threshold would be needed to give a more meaningful definition of “small producer.” A crude oil producer identified as a top producer in one of the geographic areas would be expected to report all crude volumes by state. However, the comments urged EIA to avoid identifying an operator with crude oil production of less than 5,000 barrels per day in each of the 19 states and Federal Gulf of Mexico.

EIA did not alter its cutoff level, responding that the 5,000 bpd minimum would yield less than 85 percentage statistical coverage in some smaller states. It is not clear how much less coverage would be achieved, however, especially when weighed against the burdens imposed on smaller producers. Rather than rejecting our arguments outright, EIA should reexamine other levels that can provide broader coverage yet acknowledge a more representative threshold for small producers (such as 2,500 bpd).

CONCLUSION: The Industry Coalition encourages the OMB to increase the reporting deadline of the *Monthly Crude Oil, Lease Condensate, and Natural Gas Production Report* data in Form EIA-914 from 40 days to 60 days after the end of the report month. This will eliminate the large number of prior period adjustments that would be required to comply with the reporting resubmission accuracy requirement. The Industry Coalition also strongly suggests eliminating questions 1.7 through 1.9 as these new reporting items are not readily available and will require extensive additional research and time by survey respondents to complete prior to the data submission. Furthermore, we urge EIA to provide a flexible and secure electronic report submission system that recognizes that the security of the production information is of the utmost importance to Coalition member companies and retain the current *Secure File Transfer* reporting option. The Coalition requests that OMB delay the implementation of the data collection until June 2015 to provide a six-month lead time to allow companies sufficient time to modify their existing accounting and reporting systems. Finally, the Coalition urges OMB to acknowledge the significant reporting burdens on small producers and increase the threshold for minimum crude oil production from the proposed 500 barrels per day. With these changes, we can support the proposed expanded reporting with greater confidence in the reported data, minimize the costs of implementation, and reduce the burden for hundreds of small well operators.

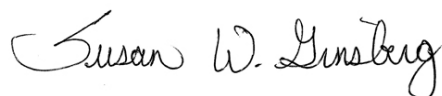
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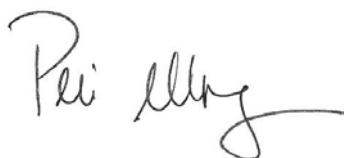
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