

Supporting Statement A

Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands (43 CFR Part 3160)

OMB Control Number 1004-0203

Terms of Clearance: None.

General Instructions

A completed Supporting Statement A must accompany each request for approval of a collection of information. The Supporting Statement must be prepared in the format described below, and must contain the information specified below. If an item is not applicable, provide a brief explanation. When the question “Does this ICR contain surveys, censuses, or employ statistical methods?” is checked “Yes,” then a Supporting Statement B must be completed. OMB reserves the right to require the submission of additional information with respect to any request for approval.

Specific Instructions

Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection.**

The Bureau of Land Management (BLM) requests a new control number in order to conduct the collection of information as presented in a supplemental proposed rule titled, “Oil and Gas Hydraulic Fracturing on Federal and Indian Lands,” RIN 1004-AE26. Upon OMB’s approval to conduct the proposed information collection activities and after publication of a final rule, the BLM plans to request that OMB merge control number 1004-0203, and its new uses and burdens, with control number 1004-0137, Onshore Oil and Gas Operations (43 CFR Part 3160).

Background

Hydraulic fracturing involves the injection of fluid under high pressure to increase the effective permeability of hydrocarbon-bearing rocks, and thereby increase the potential production of oil and gas from such rocks. The BLM has the following authorities for collecting information from those who wish to undertake hydraulic fracturing operations in connection with oil and gas operations on public lands and tribal lands (except on the Osage Reservation, the Crow Reservation, and certain other areas):

- (1) The Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*);
- (2) The Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*);
- (3) The Act of August 7, 1947 (Mineral Leasing Act for Acquired Lands) (30 U.S.C. 351-359);
- (4) The Indian Mineral Leasing Act, 25 U.S.C. 396 and 396a;
- (5) The Indian Mineral Development Act, 25 U.S.C. 2101;
- (6) The National Environmental Policy Act of 1969;
- (7) The regulations at 43 CFR part 3160; and
- (8) Onshore Order Number 7, Disposal of Produced Water.

The BLM published a proposed rule on hydraulic fracturing on May 11, 2012 (77 FR 17691), inviting public comment on the proposed regulations and on the proposed collection of information. The initial public comment period for the proposed regulations ended July 10, 2012. In response to requests from some public commenters, the BLM extended the public comment period for another 60 days, until September 10, 2012. 77 FR 38024 (June 26, 2012).

In conjunction with the proposed rule, the BLM submitted an information collection request to OMB for a new control number to authorize new uses and burdens that would be associated with BLM Form 3160-5, Sundry Notices and Reports on Wells. Form 3160-5 has been approved by OMB for uses enumerated at 43 CFR 3162.3-2, and is one of 17 information collection activities that are included in control number 1004-0137, Onshore Oil and Gas Operations (43 CFR Part 3160) (expiration date October 31, 2014).

On July 19, 2012, OMB issued a Notice of Action, in accordance with 5 CFR 1320.11(c). In that document, OMB assigned a new control number (1004-0203) without either approving or disapproving of the proposed collection of information at that time. OMB also instructed the BLM to submit a summary of all comments related to the proposed collection, and the BLM's responses, before publication of a final rule. That summary and the BLM's responses are included in the supplemental proposed rule under the heading "Paperwork Reduction Act." A concise summary is in this supporting statement under Item No. 8.

Upon review of the comments submitted in response to the May 11 proposed rule, the BLM decided to publish a supplemental proposed rule on hydraulic fracturing. The supplemental rule includes provisions that have been modified for clarity or in response to comments, as well as certain other revisions. The BLM now requests approval to conduct the collection of information as revised in the supplemental proposed rule.

Why the Proposed Collection is Necessary

The BLM's existing regulations specific to hydraulic fracturing were promulgated in 1982, and were not written to address modern hydraulic fracturing activities. The BLM's recent outreach efforts have revealed a high level of public concern about whether fracturing can allow or cause the contamination of underground water sources, whether the chemicals used in fracturing

should be disclosed to the public, and whether there is adequate management of well integrity and the “flowback” fluids that return to the surface during and after fracturing operations.

As a result of its deliberations and outreach, the BLM has determined that this rulemaking, including its proposed collection of information, is necessary in order to modernize the BLM’s management of hydraulic fracturing activities on the public and tribal mineral estate. In furtherance of that modernization goal, the supplemental proposed rule, like the proposed rule, would require:

- Public disclosure of the chemicals used in the hydraulic fracturing process, with necessary provisions related to trade secrets claims;
- Confirmation that wells used in fracturing operations meet appropriate construction standards; and
- A requirement that operators put in place appropriate plans for managing flowback waters from fracturing operations.

While the supplemental proposed rule includes some details that differ from those in the proposed rule, the BLM has determined that provisions of the types listed above are necessary in order to provide useful information to the public and to help ensure that hydraulic fracturing is conducted safely and in a way that adequately protects the environment.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection. Be specific. If this collection is a form or a questionnaire, every question needs to be justified.

Under both the proposed rule and the supplemental proposed rule, new 43 CFR 3162.3-3 would require operators to:

- Propose, and seek prior BLM approval of, hydraulic fracturing operations (i.e., pre-fracturing requirements); and
- Submit a report on subsequent actual hydraulic fracturing operations (i.e., post-fracturing requirements).

In addition, new section 43 CFR 3162.3-3 would allow operators to request a variance from the pre-fracturing requirements.

The scope of the supplemental proposed rule differs somewhat from the scope of the proposed rule. While the proposed rule would have covered well stimulation, including hydraulic fracturing, the supplemental proposed rule would cover only hydraulic fracturing. Other revisions are described below.

Request for Prior Approval

Existing regulations, at 43 CFR 3162.3-2, require operators to use Form 3160-5 to propose, and obtain BLM approval, before commencing certain “subsequent well operations,” including “nonroutine fracturing jobs.” As explained above, OMB has approved the use of Form 3160-5 for such proposals under control number 1004-0137.

Both the proposed rule and the supplemental proposed rule would remove the distinction between “routine” and “nonroutine” fracturing jobs, and require in new section 3162.3-3¹ that operators propose and seek prior BLM approval for all fracturing jobs. In addition, the supplemental proposed rule would require written proposals and prior approval for refracturing jobs.

The supplemental proposed rule would also modify the proposed requirement that a proposal / request for prior approval be submitted for each well. While the proposed rule would have required a proposal / request to be filed for every potentially affected well, the supplemental proposed rule would allow operators to submit a proposal / request for approval for:

- A single well; or
- A group of wells within the same geologic formation.

If the submission would be for a group of wells, the information should describe a “type well” (defined in the supplemental proposed rule as a well in a field where geologic characteristics are substantially similar across the field, and operations such as drilling, cementing, and hydraulic fracturing are likely to be successfully replicated using the same design).

The proposed rule that was published on May 11 would have required operators to use Form 3160-5 in order to submit a request for approval of hydraulic fracturing. The proposed rule referred to such a submission as a “Notice of Intent Sundry.”

The supplemental proposed rule, at 43 CFR 3160-3.3(c), would allow operators to submit the required information either as a Notice of Intent Sundry (using Form 3160-5), or – with some exceptions -- as part of an application for permit to drill. The option of submitting the required information as part of an application for permit to drill would not be available if an operator has received a previous BLM approval for hydraulic fracturing operations, and:

- Hydraulic fracturing or refracturing operations have not commenced within 5 years after the effective date of approval of the fracturing operation;
- The operator has significant new information about the geology or the area, the stimulation operation or technology to be used, or the anticipated impacts of the fracturing operation to any resource; or
- The operator proposes refracturing of the well.

¹ New section 3162.3-3 would replace existing section 3162.3-3, which would be renumbered and revised as section 3162.3-4, and conforming changes would be made in the numbering of the rest of the regulations in 43 CFR Subpart 3162.

Also notable is the removal of a provision of the proposed rule (at section 3162.3-3(c)(2)) that would have required the submission of a cement bond log (or other log acceptable to the BLM) proving that the occurrences of usable water have been isolated to protection them from contamination. The supplemental proposed rule would not require the submission of a cement bond log before fracturing, but would add a new paragraph (at section 3162.3-3(e)(1)) requiring that the operator monitor and record the flow rate, density, and treating pressure during cementing operations (and before fracturing operations), and then submit the monitoring report to the BLM within 30 days of completion of the hydraulic fracturing.

The following table provides a summary of all the proposed information-collection regulations in the supplemental proposed rule that would apply before commencing hydraulic fracturing:

Table 2-1 Collection of Information Before and During Fracturing

Supplemental Proposed Regulation 43 CFR	Proposed Regulatory Text	Rationale
§ 3162.3-3(d)(1)	The geological names, a geological description, and the proposed measured depth of the top and the bottom of the formation into which hydraulic fracturing fluids are to be injected.	The BLM would use the information to determine the properties of the rock layers and the thickness of the producing formation, and identify the confining rocks above and below the zone that would be stimulated.
§ 3162.3-3(d)(2)	The measured or estimated depths (both top and bottom) of all occurrences of usable water by use of a drill log from the subject well or another well in the vicinity and within the same field. Note: This provision in the May 11 proposed rule would have required a cement bond log, as well as the items listed above. This provision is no longer in the supplemental proposed rule.	The BLM would use the information to help protect water resources.

<p>§ 3162.3-3(d)(3)</p>	<p>The proposed measured depth of perforations or the open-hole interval, estimated pump pressures, and information concerning the source and location of water supply, such as reused or recycled water, or rivers, creeks, springs, lakes, ponds, and wells, which may be shown by quarter-quarter section on a map or plat, or which may be described in writing. It must also identify the anticipated access route and transportation method for all water anticipated for use in fracturing the well.</p>	<p>The BLM would use the information to determine the impacts associated with operations and the need for any mitigation applicable to Federal and Indian lands.</p>
<p>§ 3162.3-3(d)(4)</p>	<p>A plan for the proposed hydraulic fracturing design, that includes, but is not limited to, the following: (i) the estimated total volume of fluid to be used; (ii) The anticipated surface treating pressure range; (iii) The maximum injection treating pressure; and (iv) The estimated or calculated fracture direction, length, and height, including the estimated fracture propagation plotted on the well schematics and on a topographical map. The topographical map must be of a scale no smaller than 1:24,000.</p>	<p>The information would enable the BLM to verify that the proposed engineering design is adequate for safely conducting the proposed hydraulic fracturing, that the maximum wellbore design burst pressure will not be exceeded at any stage of the hydraulic fracturing operations, and that the intended effects of the hydraulic fracturing operation will remain confined to the petroleum-bearing rock layers and will not have unintended consequences for other rock layers, such as aquifers.</p>

<p>§ 3162.3-3(d)(5)</p>	<p>The following information concerning the handling of recovered fluids: (i) the estimated volume of fluid to be recovered during flow back, swabbing, and recovery from production facility vessels; (ii) The proposed methods of handling the recovered fluids, including, but not limited to, pit requirements, chemical composition of the fluid, pipeline requirements, holding pond use, re-use for other stimulation activities, or injection; and (iii) The proposed disposal method of the recovered fluids, including, but not limited to, injection, hauling by truck, or transporting by pipeline.</p>	<p>The BLM would use the information to ensure that the facilities needed to process or contain the estimated volume of fluid will be available on location, that the handling methods will adequately ensure protection of public health and safety, and that the BLM has all necessary information regarding disposal of chemicals used, in the event it is needed to protect the environment and human health and safety and to prevent unnecessary or undue degradation of the public lands.</p>
<p>§ 3162.3-3(d)(6)</p>	<p>Additional information, as requested by the authorized officer.</p>	<p>. The information would allow the BLM to make an informed decision about the proposed hydraulic fracturing if special circumstances exist.</p>
<p>§ 3162.3-3(e)(1)</p>	<p>Monitor and record the flow rate, density, and treating pressure. This information would be collected by the respondent during cementing operations and before fracturing operations, and would be submitted to the BLM as a cement operation monitoring report that would be included in the Subsequent Report.</p>	<p>The BLM would use the information to help protect water resources.</p>

Subsequent Report (i.e., Subsequent Report Sundry Notice)

Within 30 days after the completion of hydraulic fracturing operations, section 3162.3-3(f) of the proposed rule would require operators to submit a Subsequent Report Sundry Notice on Form 3160-5 (Sundry Notices and Report on Wells). The information to be included in this Subsequent Report, and the reasons for requiring it, are listed in the following table:

Proposed Regulation 43 CFR	Proposed Regulatory Text	Rationale
3162.3-3(d)(1)	A continuous record of the annulus pressure must be submitted with the required Subsequent Report Sundry Notice (Form 3160-5, Sundry Notices and Reports on Wells) identified in paragraph (f) of this section.	The BLM would use the information to ensure that hydraulic fracturing activities are conducted as designed. The information would also show that stimulation fluids are going to the formation for which they were intended.
3162.3-3(d)(2)	If during the stimulation the annulus pressure increases by more than 500 pounds per square inch as compared to the pressure immediately preceding the stimulation, the operator must orally notify the authorized officer as soon as practicable, but no later than 24 hours following the incident. Within 15 days after the occurrence, the operator must submit a report containing all details pertaining to the incident, including corrective actions taken, as part of a Subsequent Report Sundry Notice (Form 3160-5, Sundry Notices and Reports on Wells).	The BLM would use the information to ensure that stimulation fluids are going into the formation for which they were designed. The BLM also needs to obtain reasonable assurance that other resources are adequately protected.
§ 3162.3-3(f)(1)	The actual measured depth of perforations or the open-hole interval, the source and location(s) of the water used in the stimulation fluid or trade name of base fluid (if other than water), type of proppants, and estimated pump pressures. Information concerning water supply, such as rivers, creeks, springs, lakes, ponds, and wells, which	The BLM would use the information to determine the impacts associated with operations and the need for any mitigation applicable to Federal and Indian lands.

	<p>may be shown by quarter-quarter section on a map or plat, or which may be described in writing. It must also identify the source, access route, and transportation method for all water used in stimulating the well.</p>	
§ 3162.3-3(f)(2)	The actual total volume of the fluid used.	The BLM would use the information to maintain a record of the stimulation operation as actually performed.
§ 3162.3-3(f)(3)	The actual surface pressure and rate at the end of each fluid stage, and the actual flush volume, rate, and final pump pressure.	The BLM would use the information to ensure that the maximum allowable pressure has not been exceeded at any stage of the hydraulic fracturing operation.
§ 3162.3-3(f)(4) and (5)	<p>(4) A report (table) that discloses all additives of the actual stimulation fluid, by additive trade name and purpose (such as, but not limited to, acid, biocide, breaker, brine, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, or surfactant); and</p> <p>(5) A report (table) that discloses the complete chemical makeup of all materials used in the actual stimulation fluid without regard to original source additive (see paragraph (f)(4) of this section). For each chemical, the operator must provide the Chemical</p>	The BLM would use the information to maintain a record of the stimulation operation as performed.

	<p>Abstracts Service Registry Number as well as the percentage by mass. The percent mass value is the mass value for each component (Mc) divided by the value of the entire fluid mass (Mt) times 100. $(Mc/Mt)*100 =$ percent value. The percent mass values should be for the entire stimulation operation, not for the individual stages.</p>	
§ 3162.3-3(f)(6)	<p>The actual, estimated, or calculated fracture length and fracture height.</p>	<p>The BLM would use the information to verify that the intended effects of the hydraulic fracturing operation remain confined to the petroleum-bearing rock layers and will not have unintended consequences on other rock layers or aquifers.</p>
§ 3162.3-3(f)(7)	<p>The Subsequent Report Sundry Notice (Form 3160-5, Sundry Notices and Reports on Wells) may be completed in whole or in part, as applicable, by attaching the service contractor's job log or other report, so long as the information required in paragraphs (f)(1) through (f)(6) of this section is complete and readily apparent.</p>	<p>This provision would allow the operator the flexibility to submit a copy of the service company contractor's job log or other report in lieu of all or part of the data described above, so long as the required information is complete and readily apparent.</p>
§ 3162.3-3(f)(8)	<p>A certification signed by the operator that the treatment fluid used complies with all applicable permitting and notice requirements as well as all applicable Federal, tribal, state, and local laws, rules, and regulations.</p>	<p>The BLM would use the information to help protect public health and safety and obtain the operator's self-certification of compliance with all necessary permits and notice requirements.</p>
§ 3162.3-3(f)(9)	<p>A certification signed by the</p>	<p>The BLM would use the</p>

	operator that wellbore integrity was maintained throughout the operation, as required by paragraphs (c), (d) (1), and (d)(2) of this section.	information to help protect public health and safety and obtain the operator's self-certification that wellbore integrity was maintained throughout the operation.
§ 3162.3-3(f)(10)	The following information concerning the handling of recovered fluids: (i) The volume of fluid recovered during flow back, swabbing, or recovery from production facility vessels; (ii) The methods of handling the recovered fluids, including, but not limited to, pipeline requirements, holding pond use, re-use for other stimulation activities, or injection; and (iii) The disposal method of the recovered fluids, including, but not limited to, injection, hauling by truck, or transporting by pipeline. The disposal of fluids produced during the flow back from the hydraulic fracturing process must follow the requirements set out in Onshore Order Number 7, Disposal of Produced Water, Section III. B.	The BLM would use the information to help protect human health and safety and prevent the contamination of the environment. The BLM also needs to confirm that the disposal methods used are those that were approved and conform to the regulations.
§ 3162.3-3(f)(11)	If the actual operations deviate from the approved plan, the deviation(s) must be documented.	The BLM would use the information to maintain a record of any deviations of the operation from the approved plan in the event such information is needed to protect health and safety and prevent undue degradation of the environment.

Requesting a Variance

Proposed 43 CFR 3162.3-3(i) would read as follows:

Requesting a Variance from the Requirements of this Section. The operator may make a written request to the authorized officer to request a variance from the requirements under this section. The BLM encourages submission using a Sundry Notice (Form 3160-5, Sundry Notices and Reports on Wells).

(1) A request for a variance must specifically identify the regulatory provision of this section for which the variance is being requested, explain the reason the variance is needed, and demonstrate how the operator will satisfy the objectives of the regulation for which the variance is being requested.

(2) The authorized officer, after considering all relevant factors, may approve the variance, or approve it with one or more conditions of approval, only if the BLM determines that the proposed alternative meets or exceeds the objectives of the regulation for which the variance is being requested. The decision whether to grant or deny the variance request is entirely within the BLM's discretion.

(3) A variance under this section does not constitute a variance to provisions of other regulations, laws, or orders.

(4) Due to changes in Federal law, technology, regulation, BLM policy, field operations, noncompliance, or other reasons, the BLM reserves the right to rescind a variance or modify any conditions of approval. The authorized officer must provide a written justification if a variance is rescinded or a condition of approval is modified.

Other Information Requested on Form 3160-5

In addition to the information discussed above, we obtain the following information on Form 3160-5:

(Item 1) Identify the type of well. The BLM needs this information to identify the type of well for the individual operation.

(Items 2-3) Identify the name of the operator, address, and telephone number. The BLM needs this information to identify the operator of the individual operation.

(Item 4) Identify the location of well. The BLM needs this information to identify the location of the well for the individual operation.

(Item 5) Identify the lease serial number. The BLM needs this information to identify the lease serial number of the individual operation.

(Item 6) Identify the BIA identifier if the action is on Indian land. The BLM needs this information to identify if the individual operation is on Indian land.

(Item 7) Identify the unit or CA agreement name and number. The BLM needs this information to identify if the individual operation is within a unit or CA agreement.

(Item 8) Identify the well name and number. The BLM needs this information to identify the well name and number of the individual operation.

(Item 9) Identify the API well number. The BLM needs this information to identify the API well number of the individual operation.

(Item 10) Identify the field and pool or exploratory area. The BLM needs this information to identify the field and pool or exploratory area of the individual operation.

(Item 11) Identify the county or parish. The BLM needs this information to identify the county or parish of the individual operation.

(Item 12) Identify the appropriate notice, report, or other data. The BLM needs this information to identify the appropriate notice, report, or other data on the individual operation.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden and specifically how this collection meets GPEA requirements.

In accordance with the Government Paperwork Elimination Act (GPEA), the public can fill out and download Form 3160-5. Thus, the form is fillable and printable.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

No duplication of information occurs in the information we collect. The requested information is unique to the operator/operating rights owner and the lease and is not available from any other data source. No similar information is available or able to be modified. The information is required to obtain or retain a benefit.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The BLM has examined potential impacts on small businesses that are most likely to be impacted by the rule and, more specifically, the requirements that would pose a burden to operators. The BLM expects that the 55 firms that have completed wells on public lands within the past 5 years are most likely to be affected by this information collection. From that list the

BLM researched company annual report filings with the Securities and Exchange Commission to determine annual company net incomes and employment figures. Of those, 33 firms were classified as small businesses (i.e., employ fewer than 500 employees) on the basis of Small Business Administration criteria. The information we require from all respondents is limited to the minimum necessary to authorize and regulate oil and gas operations on public lands.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If we did not collect the information, or collected it less frequently, oil and gas leasing activities and operations could not occur on Federal or Indian leases in compliance with pertinent statutes and policies.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- * **requiring respondents to report information to the agency more often than quarterly;**
- * **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**
- * **requiring respondents to submit more than an original and two copies of any document;**
- * **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records, for more than three years;**
- * **in connection with a statistical survey that is not designed to produce valid and reliable results that can be generalized to the universe of study;**
- * **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**
- * **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**
- * **requiring respondents to submit proprietary trade secrets, or other confidential information, unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

There are no special circumstances that require the collection to be conducted in a manner inconsistent with the guidelines in 5 CFR 1320.5.

8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and in response to the PRA statement associated with the collection over the past three years, and describe actions

taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years — even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

On May 11, 2012, the BLM published an initial proposed rule entitled “Oil and Gas; Well Stimulation, Including Hydraulic Fracturing, on Federal and Indian Lands” (77 FR 27691). The comment period on the initial proposed rule closed on July 10, 2012. At the request of public commenters, on June 26, 2012, the BLM published a notice extending the comment period for 60 days (77 FR 38024). The extended comment period closed on September 10, 2012. The BLM received over 177,000 comments on the initial proposed rule from individuals, Federal and state governments and agencies, interest groups, and industry representatives.

In accordance with the PRA, the BLM invited public comments on the information collection in the initial proposed rule. One commenter submitted comments specifically in response to this opportunity. In addition, some commenters addressed the necessity, practical utility, and/or estimated burdens of the proposed collections.

Some commenters questioned whether the proposed collections are necessary and avoid unnecessary duplication. For example:

- One commenter stated that the proposed collection of both pre- and post-fracturing information is a requirement to submit basically the same information twice, and recommended that the BLM consider requiring submission of pre-completion information and then requiring operators to advise the BLM of any post-completion changes or deviations;
- Another commenter recommended that operators be allowed to submit a generic or Master Plan for similar operations on a plan of development, at the field or unit level;
- One commenter stated that the proposed collection of information about the water source to be used in hydraulic fracturing duplicates protections afforded by the Environmental Protection Agency and states under the Clean Water Act and the Safe Drinking Water Act;
- One commenter stated that the proposed collections duplicate state-required collections in Colorado, New Mexico, Alabama, and Texas;

- One commenter stated that the proposal to collect an estimate of the volume of fluid to be recovered during flowback, swabbing, and recovery from production facility vessels (43 CFR 3162.3-3(c)(6)(i)) duplicates a requirement in Wyoming for post-fracturing reporting as to the amounts, handling, and disposal or reuse of hydraulic fracturing fluid; and
- One commenter stated that the information in the NOI Sundry and the Subsequent Report Sundry Notice duplicates information required and approved by individual states, and suggested that the BLM provide for exemptions for operators in states that have adopted hydraulic fracturing regulations, or accept information filed under state laws or regulations in lieu of requiring operators to submit duplicative information to the BLM for approval.

Some comments included statements of support. One commenter stated that full disclosure of chemicals involved in the hydraulic fracturing process results in a transparent process that benefits industry, regulatory agencies, and the public. Some other commenters generally supported transparency and full disclosure of pollution data. For example, one commenter stated that the post-fracturing collection of information on the volume of water used in the fracturing process will aid water resource managers in planning water resources on and near Federal lands, and suggested that the same type of information be collected on the Notice of Intent Sundry.

Some commenters questioned whether the BLM has sufficient expertise and staffing to use the information that is collected. One commenter specifically stated that it has seen no indication that the BLM intends to provide the training and education to enable its staff to use the information. The BLM does not share those concerns regarding practical utility. The BLM employs many petroleum engineers and technicians, and they are well qualified to use the information required by the revised proposed rule.

With regard to burdens on the public, some commenters made general assertions that the BLM underestimated the annual costs associated with the proposed rule. For example:

- One commenter stated that the BLM should consider ways to minimize the submission of information by allowing operators to conduct fracturing operations within acceptable operating ranges and allowing operators to use standard completion reports; and
- One commenter suggested that, to reduce the burdens on operators, the BLM should allow operators to submit generic hydraulic fracturing plans for a targeted zone in resource play areas that can be referenced when an Application for Permit to Drill is submitted. Similarly, another commenter requested that the rule provide for acceptance of a general Operator's Master Fluid Management Plan that may be used consistently across a plan of development.

In response to these comments, the BLM has deleted some aspects of the pre-fracturing collection from the revised proposed rule, and has provided in the revised proposed rule for submission of pre-fracturing data either for each well or for a group of wells sharing substantially similar geological characteristics within the same geologic formation. These revisions of the proposed rule result in a reduction of the estimated annual number of NOI

Sundries from 1,700 to 415. They also result in a reduction of the estimated number of Variance Requests, from 170 to 41, because such requests apply to NOI Sundries. These estimates are the average of the expected responses over the first three years of implementation.

The estimated number of annual Subsequent Reports Sundry Notices has increased because the revised proposed rule (at 43 CFR 3162.3-3) now requires post-fracturing data on both fracturing and re-fracturing operations. This revision results in an increase in the estimated annual responses, from 1,700 to 3,657.

The general comments about the BLM's analysis under the Paperwork Reduction Act, other statutes, and various executive orders did not address the specific information collection associated with the proposed rule. Therefore, the BLM has not changed the collection in response to these comments. However, in the supplemental proposed rule the BLM invites further comments.

The BLM has not adopted suggestions to allow operators to conduct fracturing operations within acceptable operating ranges, to allow operators to use standard completion reports, or to allow operators to submit Fluid Management Plans or generic hydraulic fracturing plans for a targeted zone in resource play areas that can be referenced when an APD is submitted. Such provisions would not enable the BLM to meet its statutory responsibilities to regulate operations associated with Federal and some Indian oil and gas leases; prevent unnecessary or undue degradation; and manage public lands using the principles of multiple use and sustained yield. Moreover, the information that states, tribes, or other Federal agencies collect is not necessarily reasonably accessible to the BLM.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

We do not provide payments or gifts to the respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Unlike the initial proposed rule, the supplemental proposed rule would not require operators to submit to the BLM any information that is exempt by law from public disclosure. Section 3162.3-3(j)(1) of the supplemental proposed rule would provide that operators will be deemed to have waived any right to protect from public disclosure information submitted with a Subsequent Report Sundry Notice or through FracFocus or another designated database. That same paragraph would provide that, in order to claim that any otherwise required post-fracturing information is exempt from public disclosure as a matter of law, the operator must submit to the BLM an affidavit that:

- Identifies the Federal statute or regulation that prohibits the public disclosure;

- Affirms that the information is not publicly available;
- Affirms that the information is not required to be publicly available under any applicable law;
- Affirms that the release of the information would likely harm the operator's competitive position; and
- Affirms that the information is not readily apparent through reverse engineering.

If the affidavit is complete, the BLM would not ordinarily seek to adjudicate whether the undisclosed chemicals are exempt from public disclosure. The BLM would have discretion, however, to require the operator to submit the withheld information for the BLM's review. If the BLM determined that the information is exempt from disclosure, it would be kept confidential. Section 3162.3-3(j)(3) of the supplemental proposed rule would provide that, if the BLM determines that information is not exempt from public disclosure, the operator would be given at least ten days' notice before making the information available to the public. That notice would allow the operator time to seek preliminary relief from a Federal court – ten days is the minimum notice required before the BLM will release such information in response to a request under the Freedom of Information Act (FOIA), pursuant to 43 CFR 2.23(g).

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

We do not require respondents to answer questions of a sensitive nature.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- * **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- * **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- * **Provide estimates of annualized cost to respondents for the hour burdens for**

collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here.

The weighted average hourly costs for respondents, as a result of the proposed rule, are shown in Table 12-1, below, and were determined using national Bureau of Labor Statistics data at: http://www.bls.gov/oes/current/oes_nat.htm. The benefits multiplier of 1.4 is supported by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

Table 12-1 — Estimated Weighted Average Hourly Costs

A. Position	B. Mean Hourly Pay Rate	C. Hourly Rate with Benefits (Column B x 1.4)	D. Percent of Collection Time	E. Weighted Average Hourly Cost (Column C x Column D)
General Office Clerk (43-9061)	\$14.07	\$19.70	10%	\$1.97
Engineer (17-2199)	\$44.87	\$62.82	80%	\$50.26
Engineering Manager (11-9041)	\$64.06	\$89.68	10%	\$8.97
Totals			100%	\$61.20

Estimated annual hour and cost burdens to respondents are shown in the table below, and include time spent for researching, preparing, and submitting information. These estimates are the average of the expected responses over the first 3 years of implementation. The estimate of 8 hours per response is the same as the per-response current estimate for Form 3160-5 under control number 1004-0137. No comments on the initial proposed rule suggested questioned that per-response burden estimate.

The weighted average hourly wage associated with the revised information collections is shown at Table 12-1, above. The frequency of response for each of the information collections is “on occasion.”

Table 12-2 — Estimates of Hour and Cost Burdens Annually

A. Type of Response	B. Number of Responses	C. Hours Per Response	D. Total Hours (Column B x Column C)	E. Total Wage Cost (Column D x \$61.20)
Sundry Notices and Reports on Wells / Hydraulic fracturing / Notice of Intent Sundry (43 CFR 3162.3-3) Form 3160-5	415	8	3,320	\$203,184
Sundry Notices and Reports on Wells / Hydraulic fracturing / Subsequent Report Sundry Notice (43 CFR 3162.3-3) Form 3160-5	3,657	8	29,256	\$1,790,467
Sundry Notices and Reports on Wells / Hydraulic fracturing / Variance Request (43 CFR 3162.3-3) Form 3160-5	41	8	328	\$20,074
Totals	4,113		32,904	\$2,013,725

13. Provide an estimate of the total annual non-hour cost burden to respondents or recordkeepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected in item 12.)

- * The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life) and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information (including filing fees paid for form processing). Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- * If cost estimates are expected to vary widely, agencies should present ranges of cost

burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- * Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.**

No capital, start-up costs, or non-hour costs would be involved with this information collection -- respondents would not have to purchase additional computer hardware or software to comply with these information collection requirements.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information.

Table 14-1 shows the hourly cost to the Federal Government. The mean hourly wages are U.S. Office of Personnel Management Salary data at <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2013/general-schedule/2013-gs-hourlyovertime-rates-by-grade-and-step/>. The benefits multiplier of 1.5 is implied by information at <http://www.bls.gov/news.release/ecec.nr0.htm>.

Table 14-1 — Weighted Average Federal Wage Cost

Position	Pay Grade	Hourly Pay Rate (\$/hour)	Hourly Rate with Benefits (x 1.5)	Percent of Collection Time	Weighted Avg. (\$/hour)
Clerical	GS-5, step 5	\$14.90	\$22.35	10%	\$2.24
Technical	GS-9, step 5	\$22.57	\$33.86	80%	\$27.08
Managerial	GS-13, step 5	\$38.92	\$58.38	10%	\$5.84
Weighted Average Hourly Pay Rate (\$/hour): \$35.16					

Table 14-2 shows the annualized Federal costs for each collection in the supplemental proposed rule. The weighted average hourly wage associated with these information collections is shown at Table 14-1, above.

Table 14-2 — Estimated Annual Cost to the Government as a Result of the Proposed Rule

A. Type of Response	B. Number of Responses	C. Hours Per Response	D. Total Hours (Column B x Column C)	E. Total Wage Cost (Column D x \$35.16)
Sundry Notices and Reports on Wells / Hydraulic fracturing / Notice of Intent Sundry (43 CFR 3162.3-3) Form 3160-5	415	4	1,660	\$58,366
Sundry Notices and Reports on Wells / Hydraulic fracturing / Subsequent Report Sundry Notice (43 CFR 3162.3-3) Form 3160-5	3,657	4	14,628	\$514,320
Sundry Notices and Reports on Wells / Hydraulic fracturing / Variance Request (43 CFR 3162.3-3) Form 3160-5	41	4	164	\$5,766
Totals	3,570		16,452	\$578,452

15. Explain the reasons for any program changes or adjustments in hour or cost burden.

The collections in this request would become program changes to 1004-0137, only if they were

consolidated with the collections in that control number. The increased burdens associated with the program changes in the supplemental proposed rule are necessary in order to modernize the BLM's management of hydraulic fracturing operations. Such operations have changed in ways that were not anticipated when the existing collection requirements approved under control number 1004-0137 were developed, and will enable the BLM to ensure that operators are using best practices in fracturing operations; prevent unnecessary or undue degradation; and manage public lands using the principles of multiple use and sustained yield.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

The BLM will not publish the results of this collection.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

The BLM will display the expiration date of the OMB approval on the forms included in this information collection.

18. Explain each exception to the topics of the certification statement identified in "Certification for Paperwork Reduction Act Submissions."

There are no exceptions to the certification statement.