

**SUPPORTING STATEMENT  
ENVIRONMENTAL PROTECTION AGENCY**

**Approval and Promulgation of Federal Implementation Plan for Oil and Natural Gas Well  
Production Facilities; Fort Berthold Indian Reservation (Mandan, Hidatsa, and Arikara  
Nation), North Dakota (Renewal)**

**Part A of the Supporting Statement**

**1. Identification of the Information Collection**

*(a) Title and Number of the Information Collection.*

Federal Implementation Plan for Oil and Natural Gas Well Production Facilities; Fort Berthold Indian Reservation (Mandan, Hidatsa, and Arikara Nation), North Dakota (Renewal). This is a renewal of information collection request (ICR), EPA tracking number 2478.03, OMB Control Number 2008-0001.

*(b) Short Characterization.*

This ICR covers information collection requirements in the final Federal Implementation Plan (FIP) for Oil and Natural Gas Well Production Facilities; Fort Berthold Indian Reservation (Mandan, Hidatsa, and Arikara Nation), North Dakota (40 CFR part 49, subpart K, §§ 49.4161 through 49.4168), herein referred to as the FBIR FIP. The information collected will be used by the EPA and delegated tribal agencies to determine the compliance status of sources subject to the rule.

On March 22, 2013 (78 FR 17858), the EPA promulgated a final FIP for oil and natural gas well production sources operating on the FBIR, which addressed volatile organic compound (VOC) emissions from well completions, recompletions, and production and storage operations. The standards in the FBIR FIP apply to any person who owns or operates an existing (constructed or modified on or after August 12, 2007), new, or modified oil and natural gas production facility that is located on the FBIR and producing from the Bakken Pool<sup>1</sup> with one or more oil and natural gas wells, any one of which a well completion or recompletion operation is/was initiated on or after August 12, 2007.

The potential respondents are owners or operators of oil and natural gas production facilities found throughout the FBIR. For the purposes of the FBIR FIP, an oil and natural gas

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<sup>1</sup> The Bakken Pool is defined as a compilation of crude oil formations consisting of Bakken, Sanish and Three Forks formations.

production facility consists of all the air pollution emitting units and activities located on or integrally connected to one or more oil and natural gas wells that are necessary for production operations and storage operations. An oil and natural gas well is a single well that extracts subsurface reservoir fluids containing a mixture of oil, natural gas, and water. A well completion means the process that allows for the flowback of oil and natural gas from newly drilled or re-fractured wells to expel drilling and reservoir fluids and tests the reservoir flow characteristics, which may vent produced hydrocarbons to the atmosphere via an open pit or tank. A well completion operation means any oil and natural gas well completion with hydraulic fracturing occurring at an oil and natural gas production facility. The completion date is considered the date that construction at an oil and natural gas production facility has commenced. The recompletion date is considered the date that a modification has occurred at an oil and natural gas production facility.

In general, owners or operators are required to maintain records of all oil and natural gas well completions and recompletions, required monitoring, and rule compliance. The FBIR FIP also requires annual reports containing information for each oil and natural gas production facility, including a summary of all required records identifying each oil and natural gas well completion or recompletion conducted during the reporting period, and a summary of all instances where construction or operation was not performed in compliance with the requirements of the FBIR FIP during the reporting period. These reports and records are essential in determining compliance and are required of all sources subject to the FBIR FIP.

The Office of Management and Budget (OMB) approved the currently active ICR without change. OMB did note with the previous renewal that the EPA should round time and cost burden to significant digits when re-submitting this ICR.

## **2. Need For and Use of the Collection**

### *(a) Need/Authority for the Collection.*

The EPA is charged under sections 301(a) and 301(d)(4) of the Clean Air Act (CAA) to promulgate regulations as necessary to protect tribal air resources. Promulgating the FBIR FIP addresses an important initial step to fill a regulatory gap between state and federal requirements with regard to controlling volatile organic compound (VOC) emissions from oil and natural gas production operations on the FBIR. There is no other federal rule, including the New Source Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants

(NESHAP) for the Oil and Natural Gas Sector (NSPS OOOO and OOOOa and NESHAP HH), that establishes air pollution control regulations for the particular oil and natural gas production operations that exist on the FBIR. This is in contrast to oil and natural gas operations off the Reservation, which are governed by the North Dakota Department of Health (NDDoH)<sup>2</sup> regulations and North Dakota Industrial Commissions (NDIC) regulations within the State of North Dakota's jurisdiction. Consistent with the regulatory structure that exists off the FBIR, and NSPS OOOO, the FBIR FIP has requirements for VOC emissions control and reductions, monitoring, recordkeeping, and reporting. In addition, section 114(a) states that the Administrator may require any owner or operator subject to any requirement of this Act to:

- establish and maintain such records;
- make such reports; install, use, and maintain such monitoring equipment;
- and use such audit procedures, or methods;
- sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods, and in such manner as the Administrator shall prescribe);
- keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;
- submit compliance certifications in accordance with section 114(a)(3); and
- provide such other information as the Administrator may reasonably require.

*(b) Use/Users of the Data.*

These records and reports are necessary for the EPA Administrator (or the tribal agency if delegated) to: (1) confirm compliance status of stationary sources; (2) identify any stationary sources not subject to the requirements and identify stationary sources subject to the regulations; and (3) ensure that the stationary source control requirements are being achieved. The information would be used by the EPA or tribal enforcement personnel to: (1) identify stationary sources subject to the rules; (2) ensure that appropriate control technology is being properly applied; and (3) ensure that the emission control devices are being properly operated and maintained on a continuous basis. Based on the reported information, the EPA Administrator (or

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<sup>2</sup> Authority now transferred to North Dakota Department of Environmental Quality as of April 29, 2019.

the delegated tribe) can decide which stationary sources, records or processes should be inspected.

### **3. Nonduplication, Consultations, and Other Collection Criteria**

*(a) Nonduplication.*

The EPA does not anticipate a significant additional burden on the respondents due to potentially duplicative recordkeeping or reporting requirements. Because the FBIR FIP applies to sources located in Indian country, other federal agencies may also have jurisdiction on the FBIR. The EPA reviewed other federal regulations and discussed potentially applicable requirements to the respondents with staff from other federal entities to determine if and when the possible duplication of information collection exists. The EPA has identified potentially minor duplicative recordkeeping and reporting requirements with other federal regulations; however, we have determined that some sources may not be subject to the duplicative requirement or the duplication does not result in a significant burden to the respondents.

The U.S. Department of Interior (DOI) has established regulations that may apply to the respondents of the FBIR FIP. DOI's jurisdiction differs from the EPA's jurisdiction under the CAA in that the applicability of DOI regulations is dependent on the lease status of the land where the facility is located. While DOI regulations do apply to a large majority of the respondents, oil and natural gas production facilities on the FBIR that are not operating on a federal or Indian oil and natural gas lease are not subject to DOI regulations. Therefore, certain requirements of the FBIR FIP are only potentially duplicative as DOI regulations may not apply to all sources subject to the FBIR FIP.

The FBIR FIP at §49.4166(a) requires owners and operators to measure the barrels of oil produced according to the methods specified in the Bureau of Land Management (BLM) Onshore Order #4, which also specifies that records of this measurement be kept for 6 years.<sup>3</sup> This information is reported on a monthly basis to the Office of Natural Resources Review (ONRR) through Form OGAR-A.<sup>4, 5</sup> The FBIR FIP also requires recordkeeping of the barrels of oil produced (see §49.4167(a)(1)). Additionally, the FIP requires owners and operators to keep records of the volume of produced natural gas sent to the control device (see §49.4167(a)(2)),

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<sup>3</sup> US Department of the Interior's Bureau of Land Management at 43 CFR part 3160, in the "Onshore Oil and Gas Operations; Federal and Indian Oil & Gas Leases; Onshore Oil and Gas Order No. 4; Measurement of Oil."

<sup>4</sup> US Department of Interior's Office of Natural Resources Revenue at 30 CFR 1210, "Forms and Reports."

<sup>5</sup> Oil and Gas Operating Report, Part A – Well Production, OMB Control Number 1012-0004.

which is reported to the ONRR on a monthly basis through Form OGAR-B.<sup>6</sup> Although the FBIR FIP requires similar recordkeeping, the information collected is not required to be submitted in the annual report. This information would also be necessary to be kept by the respondents as standard industry practice regardless of the FBIR FIP in order to determine applicability to federal CAA permitting requirements. Therefore, these potentially duplicative recordkeeping requirements do not impose any additional burden on the respondents and are not included as part of this ICR.

The FBIR FIP requires owners and operators of oil and natural gas production facilities to submit an annual report each year (see §49.4168(b)). As part of the annual report, the respondents are required to provide information about the date, time, duration and location of well completion and recompletion operations performed during the reporting period, as well as the first date of production for each oil and natural gas well. The EPA has determined that the location of well completion and recompletion operations and the first date of production are also required to be reported to the BLM within 30 days following completion operations through Form 3160-4.<sup>7</sup> However, the EPA believes this potentially duplicative information request is extremely minimal and does not pose a significant burden to the respondents. Although the EPA would accept a copy of the submitted Form 3160-4 in lieu of any duplicated information required in the annual report for the FBIR FIP, we anticipate it will be easier for the respondents to separately include the location of the well completion or recompletion and first date of production with the other information submitted in the annual report. The EPA has determined that the FBIR FIP requirements to report the date, time, and duration of flowback and venting during completion and recompletion operations are not duplicative of any other DOI requirements that require similar information during the production phase (i.e., as opposed to the completion phase requirements in the FBIR FIP).

The EPA asserts that any potentially duplicative recordkeeping or reporting requirements of the FBIR FIP are necessary for the agency to ensure compliance with the rule. We also note that the potential for duplication only exists for facilities subject to DOI requirements, which may not apply to all facilities on the FBIR depending on the land lease status of the facility. The information submitted to BLM and ONRR is not publicly available and it would be extremely

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<sup>6</sup> Oil and Gas Operating Report, Part B – Product Disposition, OMB Control Number 1012-0004.

<sup>7</sup> Well Completion or Recompletion Report and Log, OMB Control Number 1004-0137.

resource intensive for the federal agencies to share such a small component of information relative to the total information the EPA is requesting under this ICR. Furthermore, much of the information collected under this ICR is a customary and usual business practice for the respondents. The oil and natural gas industry maintain their own records of production operations as part of routine business operations. The recordkeeping and reporting requirements in the FBIR FIP have been minimized to the greatest extent practicable while still ensuring compliance with the rule as an effort to reduce the regulatory burden on the respondents. Additionally, the FBIR FIP at §49.4164(f) exempts sources subject to the storage tank control requirements of NSPS OOOO from the requirements of the FBIR FIP for the same affected equipment; therefore, there is no duplication with other EPA regulations.

*(b) Public Notice Required Prior to ICR Submission to OMB.*

An announcement of a public comment period for the renewal of this ICR was published in the Federal Register (84 FR 26103) on June 5, 2019.

*(c) Consultations.*

The agency has consulted industry experts and internal data sources in the development and implementation of the FBIR FIP and ICR. The primary source of information for the renewal of this ICR are the annual reports, which are submitted by industry to the EPA in compliance with the recordkeeping and reporting provisions in the FIP. These annual reports contain information on the date, time, duration and location of well completion and recompletion operations and were used to calculate an industry growth rate for the purposes of the ICR. In the development stage, the EPA reviewed existing state and industry standards, and consulted with the Three Affiliated Tribes of the Mandan, Hidatsa, and Arikara Nation, industry, and state and federal agencies. The EPA held numerous workshops to provide industry and other interested parties an opportunity to comment on all aspects of the FBIR FIP and ICR including technical operations, burden and costs, and the permitting process. Specific information concerning industry growth and costs associated with the ICR were obtained from the following companies:

<b>Organization</b>	<b>Contact Person</b>
Enerplus Resources Corporation	Tony Lucero

EOG Resources, Inc.	Curtis Rice
QEP Field Services Company	Craig Brown
Slawson Exploration Company, Inc.	Ray Gorka
WPX Energy, Inc.	Jodell Mizoue
XTO Energy, Inc.	John McMichael

Additionally, the EPA consulted with its own internal industry experts to verify the accuracy of the burden and costs numbers generated for the renewal of this ICR.

*(d) Effects of Less Frequent Collection.*

Respondents must monitor all specified criteria at each affected facility and maintain these records for 5 years. The required reporting frequency to the EPA has been established to minimize the burden on owners and operators of affected facilities.

*(e) General Guidelines.*

This collection of information is consistent with all OMB guidelines established by OMB at 5 CFR part 1320, section 1320.5.

*(f) Confidentiality.*

All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the EPA policies set forth in Title 40, Chapter 1, part 2, subpart B-- Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 39999, September 28, 1978; 43 FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

*(g) Sensitive Questions.*

This section is not applicable because this ICR does not involve matters of a sensitive nature.

**4. The Respondents and the Information Requested**

*(a) Respondents/NAICS Codes.*

Potential respondents under the FBIR FIP are owners or operators constructing, modifying or operating an oil and natural gas production facility producing from the Bakken Pool with one or more oil and natural gas wells, for any one of which completion or recompletion operations are/were performed on or after August 12, 2007, that is located on the FBIR. The North American Industry Classification System (NAICS) code for the oil and natural

gas industry potentially subject to the FBIR FIP is 211111 (Crude Petroleum and Natural Gas Extraction).

(b) *Information Requested.*

(i) *Data Items, Including Recordkeeping Requirements.*

<b>Recordkeeping</b>	
Maintain records of the measured barrels of oil produced at the oil and natural gas production facility each time the oil is unloaded from the produced oil storage tanks.	49.4167(a)(1)
Maintain records of the volume of produced natural gas sent to each enclosed combustor, utility flare and pit flare.	49.4167(a)(2)
Maintain records of the volume of natural gas emissions from the produced oil storage tanks and produced water storage tanks sent to each enclosed combustor, utility flare and pit flare.	49.4167(a)(3)
Maintain records of each oil and natural gas well completion operation and recompletion operation.	49.4167(a)(4)
Maintain records of the written, site-specific designs, operating instructions, operating procedures and maintenance schedules for each enclosed combustor, utility flare and pit flare.	49.4167(a)(5)(i)
Maintain records of all required monitoring of operations for each enclosed combustor, utility flare and pit flare.	49.4167(a)(5)(ii)
Maintain records of any deviations from the operating parameters specified by the written site-specific designs, operating instructions, and operating procedures.	49.4167(a)(5)(iii)
Maintain records of any instances in which the pilot flame is not present, auto ignition system is not functioning, or the monitoring equipment is not functioning in the enclosed combustor, the utility flare or the pit flare.	49.4167(a)(5)(iv)
Maintain records of any instances in which a recording device installed to record data from the enclosed combustor, utility flare, or pit flare is not operational.	49.4167(a)(5)(v)
Maintain records of any time periods in which visible smoke emissions are observed emanating from the enclosed combustor, utility flare or pit flare.	49.4167(a)(5)(vi)
Maintain records to demonstrate compliance with the use restrictions for pit flares.	49.4167(a)(6)

<b>Recordkeeping</b>	
Maintain records of any instances in which any closed-vent system or control device was bypassed or down, the reason for each incident, its duration, and the corrective actions taken and any preventative measures adopted to avoid such bypasses or downtimes.	49.4167(a)(7)
Maintain records of the documentation of all produced oil storage tank and produced water storage tank inspections required in § 49.4166(e) and (f).	49.4167(a)(8)
Records retention requirements.	49.4167(b), 49.1467 (c)
<b>Notifications and Reporting</b>	

Each owner and operator must submit an annual report containing the information specified in 49.4168(b)(1) through (4).	49.4168(b)
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*(ii) Respondent Activities.*

<b>Respondent Activities</b>
Read instructions.
Gather relevant information.
Enter information required to be recorded above.
Submit the required reports.
Develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information.
Develop, acquire, install, and utilize technology and systems for the purpose of processing and maintaining information.
Train personnel to be able to respond to a collection of information.
Completing and reviewing the collection of information.
Transmit, or otherwise disclose the information.

**5. The Information Collected – Agency Activities, Collection Methodology, and Information Management**

*(a) Agency Activities.*

The agency activities associated with the FBIR FIP are to review, analyze, and maintain the annual reports required to be submitted by industry. Section 6(c) provides further detail into the agency activities related with the FBIR FIP.

*(b) Collection Methodology and Management.*

Data and records maintained by the respondents are tabulated for internal use in compliance and enforcement programs of the EPA or delegated tribal agency. Records may be maintained by the respondents in hard copy or electronic format to allow flexibility and reduce the burden. As a further effort to minimize the reporting burden, the FBIR FIP allows for the electronic submittal of annual reports via email to [r8airreportenforcement@epa.gov](mailto:r8airreportenforcement@epa.gov). The FBIR FIP also allows owners/operators to submit one report for all of their affected facilities, thus reducing the burden for multiple reports. Additionally, owners/operators are allowed to submit their annual reports required by the FBIR FIP at the same time as any required annual reports under the Title V operating permit program. EPA Region 8 will continue to work with owners/operators to streamline the recordkeeping and reporting process whenever possible.

*(c) Small Entity Flexibility.*

Minimizing the information collection burden for all sizes of organizations is a continuing effort for the EPA. The impact on small entities (i.e., small businesses) was taken into consideration during the development of the regulation. The EPA has tried to reduce the impact of this rule on small entities by the selection of highly cost-effective controls and specifying monitoring requirements that are the minimum to ensure compliance.

*(d) Collection Schedule.*

The specific frequencies for each information collection activity within this request are shown in Exhibit 1a, Exhibit 1b, and Exhibit 1c: Respondent Burden of Reporting and Recordkeeping Requirements.

**6. Estimating the Burden and Cost of the Collection**

*(a) Estimating Respondent Burden.*

Exhibit 1a, Exhibit 1b, and Exhibit 1c document the calculation of individual burdens for the recordkeeping and reporting requirements applicable to the respondents for the FBIR FIP included in this ICR for each of the next 3 years. The table below contains a summary of the respondent burden labor hours detailed in Exhibit 1a, Exhibit 1b, and Exhibit 1c.

<b>Year</b>	<b>Total Annual Labor Burden (hours)</b>
1	102,000
2	112,000
3	122,000
Total	336,000
3-Year Average	112,000

*(b) Estimating Respondent Costs.*

The respondent costs for the information collection activities in the FBIR FIP are presented in Exhibit 1a, Exhibit 1b, and Exhibit 1c. The total cost for each respondent activity includes labor costs, capital/startup costs, and operations and maintenance costs.

*(i) Estimating Labor Costs.*

This ICR uses the following labor rates:

Managerial	\$59.82
Technical	\$35.92
Clerical	\$26.50

These rates are from the *Employer Costs for Employee Compensation* published by the Department of Labor, Bureau of Labor and Statistics, September 2018, “Table 2. Civilian Workers, by occupational and industry group.” (Source: <http://www.bls.gov/news.release/ecec.toc.htm>). The rates are the total compensation rates and include the base rate for wages and salaries, as well as benefits such as paid leave, insurance and retirement savings. The table below contains a summary of the respondent labor costs detailed in Exhibit 1a, Exhibit 1b, and Exhibit 1c.

<b>Year</b>	<b>Total Annual Labor Cost (\$)</b>
1	\$3,680,000
2	\$4,040,000
3	\$4,410,000
Total	\$12,100,000
3-Year Average	\$4,050,000

*(ii) Estimating Capital and Operations and Maintenance (O&M) Costs.*

Capital/startup and O&M costs associated with the FBIR FIP result from the requirement to monitor and record proper operation of the control device through the use of an auto igniter or continuous pilot flame, each equipped with a remote notification system, malfunction alarm and continuous recording device. These costs were also included in the EPA’s preliminary cost analysis, which concluded the FBIR FIP was not a significant regulatory action under Executive Order 12866.<sup>8</sup> The capital/startup costs and O&M costs specific to the auto igniter and continuous pilot flame were provided to the EPA by operators subject to the FBIR FIP. These initial capital/startup costs and O&M costs included the costs for the continuous pilot flame or auto igniter, in addition to the costs for the remote notification system, malfunction alarm and

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<sup>8</sup> The technical support document for the FBIR FIP includes a more detailed explanation of the preliminary cost analysis for this action. It can be found in the docket for this rule, Docket ID: EPA-R08-OAR-2012-0479, which can be accessed at: <http://www.regulations.gov>.

continuous recording device. Since the EPA obtained information that an auto igniter or continuous pilot flame is typically already included with the control device, the EPA believes the estimated capital/startup and O&M costs are conservative overestimates. Furthermore, the annual capital/startup and O&M costs are expected to decline due to group discounts on equipment and increasing familiarity with the system components by the operators. The initial capital/startup costs were annualized over the expected lifetime of the equipment. Since the estimated lifetime of the equipment exceeds the 3-year period covered by this renewal ICR, those initial annualized capital/startup costs are included for each year of this renewal. The table below shows the expected capital/startup costs and O&M costs for this ICR.

<b>Capital/Startup vs. Operation and Maintenance (O&amp;M) Costs</b>						
(A) Continuous Monitoring Device	(B) Capital/Startup Cost for One Respondent <sup>a</sup>	(C) Average Annual Number of Respondents	(D) Average Annual Capital/Startup Cost, (B×C)	(E) Annual O&M Costs for One Respondent <sup>b</sup>	(F) Average Number of Respondents with O&M <sup>c</sup>	(G) Average Annual O&M Cost, (E×F)
Auto igniter or continuous pilot flame, each equipped with remote notification, malfunction alarm, and data recording device	\$3,470	2,442	\$8,470,000	\$5,073	2,442	\$12,380,000

**Assumptions:**

<sup>a</sup> Capital startup cost estimates were provided by two operators, QEP Field Services Company and EOG Resources, Inc. at the time of the original rulemaking. The EPA averaged these estimates and presented the information in a summary document along with the actual operators’ estimates in the docket for the rule. See further discussion below.

<sup>b</sup> O&M costs reflect operation and maintenance of an auto igniter or continuous pilot flame, which is typically included as part of the control device. Therefore, the above costs are a conservative overestimation of actual costs.

<sup>c</sup> Capital/Startup and O&M costs for continuous control device monitoring were already included in the cost analysis for the FBIR FIP, as detailed in the technical support document for the rule.

The capital/startup cost for one respondent is \$3,470 shown in the above table. This cost was estimated during the original rulemaking and used in the initial ICR where the capital/O&M costs were annualized over 10 years. Since this is the second ICR renewal that covers the years 7, 8, and 9 of this 10-year period, the \$3,470 estimated cost will continue to be used to remain consistent with the initial ICR. The cost is an average that was calculated based on the

information provided by two FBIR operators at the time of the initial ICR, QEP Field Services Company (QEP) and EOG Resources, Inc.(EOG), which were the only two operators who included annual O&M costs specific to control device monitoring operations in estimates provided to the EPA. The EPA averaged these estimates and presented the information in a summary document along with the actual operators' estimates in the docket for the rule. Footnote "c" in the FBIR ICR 2019 Respondent & Agency Burden Tables also makes note of this. To briefly summarize these calculations, Auto Ignition – TCI annual cost values for both EOG and QEP were added and then divided by 2:  $(\$1,708.56 + \$583.76) / 2$ , yielding \$1,146.16. This was also done for Continuous Pilot – TCI annual cost:  $(\$1,708.56 + 640.71) / 2$ , yielding \$1,174.64. On average, an oil and natural gas production facility was determined to consist of 2 wells per facility. We based our cost estimate on 1 utility flare and 2 enclosed combustors for each oil and natural gas production facility. Therefore, the enclosed combustor cost was multiplied by 2 and added to the utility flare cost:  $(\$1,146.16 * 2 + \$1,174.64)$ , yielding \$3,466.95. This was rounded to \$3,470 capital/startup cost for one respondent per production facility. This second ICR renewal covers years 7, 8, and 9 of the 10-year period, and therefore, the \$3,470 cost was also used in this ICR renewal to remain consistent with the initial ICR.

The average annual number of respondents is 2,442 shown in column (C) of the above table on page 12. Footnotes "d" and "e" in the FBIR ICR 2019 Respondent & Agency Burden Tables address how this was calculated. To briefly summarize this calculation, data was pulled from <https://info.drillinginfo.com> which indicates in Year 1, there were approximately 2,000 oil and natural gas facilities and 221 new facilities yielding a total of 2,221 respondents. This estimate is consistent with the number of new facilities reported in annual reports to the EPA. The average number of new facilities was estimated to remain the same, 221, in each of the remaining 2 years. In Year 2, the average number of new facilities (221) was added to 2,221, yielding a total of 2,442 respondents. Lastly, in Year 3, the average number of new facilities (221) was added to 2,442, yielding a total of 2,663 respondents. These numbers were then added and divided by 3:  $(2,221 + 2,442, + 2,663) / 3$ , yielding an average annual number of respondents of 2,442.

The average annual O&M costs for one respondent is \$5,073 shown in column (E) of the above table on page 12. This was calculated by adjusting O&M costs from 2015 to 2018 dollars for the second ICR renewal as noted in footnote "i" in the FBIR ICR 2019 Respondent &

Agency Burden Tables. To briefly summarize these calculations, the inflation rate used was 6.8% or 1.068 multiplied by 4,750, yielding an average annual O&M cost for one respondent of \$5,073.

The average annual capital/startup costs for this ICR are \$8,470,000. This is the total of column (D) in the above table on page 12. The average annual operation and maintenance (O&M) costs for this ICR are \$12,380,000. This is the total of column (G) in the above table on page 12. Combined, the average annual cost for capital/startup and operation and maintenance costs to industry during the 3-year period of the ICR is estimated to be \$20,850,000.

*(c) Estimating Agency Burden and Cost.*

Because the information collection requirements were developed as an incidental part of FIP development under section 301 of the CAA, no costs can be attributed to the development of the information collection requirements. Since reporting and recordkeeping requirements on many of the respondents are potentially required under the operating permits rule in 40 CFR part 71, no additional operational costs will be incurred by the federal government for these sources. Examination of records to be maintained by the respondents will occur incidentally as part of the periodic inspection of sources that is part of the EPA’s overall compliance and enforcement program and therefore is not attributable to the ICR. The only costs that the federal government will incur are user costs associated with the analysis of the reported information as presented in Exhibit 2a, Exhibit 2b, and Exhibit 2c. This cost is based on the average hourly labor rate as follows:

Managerial	\$97.42 (GS-14, Step 5, \$58.25 + 60%)
Technical	\$72.75 (GS-13, Step 1, \$43.50 + 60%)
Clerical	\$36.78 (GS-7, Step 3, \$22.00 + 60%)

These rates are from the Office of Personnel Management (OPM), 2018 General Schedule, which includes locality rates of pay for the EPA Region 8 employees in the Denver, Colorado. The rates have been increased by 60 percent to account for the benefit packages available to government employees. The table below contains a summary of the agency labor costs detailed in Exhibit 2a, Exhibit 2b, and Exhibit 2c.

Year	Total Annual Labor Cost (\$)
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1	\$181,000
2	\$199,000
3	\$216,00
Total	\$596,000
<b>3-Year Average</b>	<b>\$199,000</b>

(d) *Estimating the Respondent Universe and Total Burden and Costs.*

It was estimated that an average of 2,221 facilities will be subject to the FBIR FIP requirements in the first year; 2,442 in the second year; and 2,663 in the third year during the 3-year period of this ICR. These numbers are based on information available at the Drillinginfo website<sup>9</sup> as well as information provided by oil and natural gas operators in the required annual reports for reporting years 2016, 2017 and 2018 and information from consent agreements and final orders<sup>10</sup> (CAFOs) finalized in August 2011. The EPA believes this is an overestimation for future development and that the number of facilities (respondents) will decline as lease spacing limitations for drilling are met. For the FBIR FIP, the components of the total annual responses attributable to this ICR are recordkeeping and reporting of an average of 2,442 entities by 17 owner/operators over the 3-year period.

The number of total annual responses for the FBIR FIP is estimated as: 7,326 total respondents from 17 operators over the 3-year period. The average number of annual responses is 2,442.

<b>Year</b>	<b>Annual Number of Respondents</b>
1	2,221 (221 new)
2	2,442 (221 new)
3	2,663 (221 new)
Total	7,326

(e) *Bottom Line Burden Hours and Cost Tables.*

(i) *Respondent tally.*

<sup>9</sup> <https://drillinginfo.com> accessed on April 11, 2019.

<sup>10</sup> The FBIR CAFOs are included in the docket for this rule, Docket ID: EPA-R08-OAR-2012-0479, which can be accessed at: <http://www.regulations.gov>.

The bottom line respondent burden hours and costs, presented in Exhibit 1a, Exhibit 1b, and Exhibit 1c are calculated by adding person-hours per year down each column for technical, managerial, and clerical staff, and by adding down the cost column. The average annual burden for the recordkeeping and reporting requirements for the 17 owners and operators that are subject to the FIP is 112,000 person-hours, with an annual average cost of \$24,900,000.

*(ii) The agency tally.*

The average annual EPA cost is \$199,000 for an average of 2,800 hours for the FBIR FIP. The bottom line agency burden hours and costs presented in Exhibit 2a, Exhibit 2b, and Exhibit 2c are calculated by adding person-hours per year down each column for technical, managerial, and clerical staff, and by adding down the cost column.

*(iii) Variations in the annual bottom line.*

This section does not apply since no significant variation is anticipated.

*(f) Reasons for Change in Burden.*

For both the respondent and the EPA, there is an increase in the total estimated labor burden and total estimated annual costs as currently identified in the OMB Inventory of Approved Burdens. There is an increase of 67,539 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to the anticipated industry growth projected to occur over the next 3-year period of this ICR. In the initial creation of this program, the capital/O&M costs were annualized over 10 years. This is the second ICR package and it will cover years 7, 8, and 9 of this 10-year period. The annual estimates over 10 years, along with the anticipated industry growth, explain the increase in cost. The anticipated industry growth comes from an estimated annual increase of 221 facilities each year. Additionally, the EPA updated the respondent and the agency labor costs to reflect current rates referenced from the Bureau of Labor Statistics and the Office of Personnel Management.

*(g) Burden Statement.*

The burden for this ICR is summarized in the table below.

Burden	Average Annual Number of Responses	Average Annual Labor Burden (hours)	Average Annual Costs			
			Labor Costs	Capital Costs	O&M Costs	Total Annual Costs
Respondent	2,442	112,000	\$4,050,000	\$8,470,000	\$12,380,000	\$24,900,000
Agency	NA	2,800	\$199,000	\$0	\$0	\$199,000

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 48 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number. The OMB Control Numbers for the EPA regulations are listed at 40 CFR part 9 and 48 CFR chapter 15.

To comment on the agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, the EPA has established a public docket for this ICR under Docket ID Number EPAR08-OAR-2012-0479, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Office of Environmental Information Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the OEI Docket is (202) 566-1752. An electronic version of the public docket is available at [www.regulations.gov](http://www.regulations.gov). This site can be used

to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select “search,” then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17<sup>th</sup> Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-R08-OAR-2012-0479 and OMB Control Number 2008-0001 in any correspondence.

## **7. Response to Comments**

On December 23, 2019, the EPA received comments from the American Petroleum Institute (API). The comments provided by API state that some information collected in the annual reports is duplicative of the records that are also submitted under NSPS OOOOa. Also, API stated that more than 20 personnel hours are commonly required to prepare the annual FBIR FIP report and that the EPA has underestimated the individual reporting burden along with estimated costs associated with completing the paperwork for demonstrating compliance with the FBIR FIP. The EPA concluded that copies of NSPS OOOOa reports in lieu of FBIR FIP annual reports would be accepted if companies preferred that approach. Below is EPA’s detailed response:

EPA appreciates the comment and agrees that there are some recordkeeping and reporting requirements that are duplicative with equivalent requirements of NSPS OOOOa. The FBIR FIP was originally promulgated in 2013 and revised in 2015, both before NSPS OOOOa was promulgated. In an attempt to avoid duplicative requirements for sources subject to NSPS OOOO, promulgated in 2012, the FIP contained provisions stating that applicability to NSPS OOOO for certain equipment or activities supersedes applicability to the FIP for those equipment or activities. Since NSPS OOOOa was promulgated, EPA has intended to revise the FIP to include such a provision for NSPS OOOOa, but has not yet processed a revision. We note that although an oil and natural gas production facility may be subject to certain FIP requirements that are duplicative of applicable NSPS OOOOa requirements, the source is also likely subject to other FIP requirements for equipment or activities that are not covered by NSPS OOOOa. As such, an annual report is required for compliance with the FIP regardless. Until such time as the FIP is revised to include a provision that applicability to NSPS OOOOa supersedes applicability to the FIP for certain equipment and activities, EPA has accepted and will continue to accept a

courtesy copy of the NSPS OOOOa annual report that accompanies the FIP report to demonstrate compliance with equivalent requirements of the FIP. We expect previously submitted NSPS OOOOa reports would satisfy the required contents for §49.4168 (b)(1)-(3) and (4)(ii), but note that narratives would still be required to satisfy paragraphs (b)(4)(i) and (iii) through (iv).

The commenter also asserted that EPA underestimated the time required to prepare the annual FBIR FIP compliance report, stating that more than 20 personnel hours are required to prepare the annual FBIR FIP report. The commenter did not provide any documentation to support that estimate. It is unclear from the comment if 20 personnel hours are being assigned on a per facility basis or for any single report. We note that 40 CFR 49.4168(b) provides that if you own or operate more than one oil and natural gas production facility, you may submit one report for multiple facilities, provided the report contains all of the required information for each facility. Given the lack of supporting documentation for increasing the burden of annual report preparation, EPA has not revised the estimated burden in this final ICR renewal.

### **Part B of the Supporting Statement**

This section is not applicable because statistical methods are not used in data collection associated with the final rule.