



July 1, 2016

Submitted via electronic mail

Mr. Shaun Donovan
Director
Office of Management and Budget
725 17th Street
Washington, DC 20503

Re: Proposal to Reissue and Modify Nationwide Permits
Information Collection Requirements
Office of Management and Budget

Dear Mr. Donovan:

The American Exploration & Production Council (“AXPC”) and the Independent Petroleum Association of America (“IPAA”) were pleased to see the publication of the *Proposal to Reissue and Modify Nationwide Permits* (“Proposal”) in the federal register on June 1, 2016, (Volume 81, Number 105) and submits the following in response to the request for comments concerning the information collection requirements for the proposed rule.

By way of background, AXPC and IPAA filed a comment extension request with the U.S. Army Corps of Engineers (“USACE”) citing the breadth and depth of USACE’s comment requests as one of the reasons to extend the 60-day comment period¹. This extensive effort, which likely requires the submittal of data and other relevant material, is complicated by the concurrent effort to provide comment on the information collection requirements to the Office of Management and Budget (“OMB”) by the suggested date of July 1, 2016 (Volume 81, Number 105). Further, the June 1, 2016, Proposal states that, “...the proposed rule would establish new and revise existing information collection requirements...,” and USACE is requesting information collection requirement comment on four distinct subjects².

¹ AXPC and IPAA comment extension request letter submitted via electronic mail on June 13, 2016.

² The four subjects of information collection requirements are: whether the collection of information is necessary for the proper functioning of the Corps, including whether the information will have practical utility; the accuracy of the Corp’s estimate of the burden of collecting the information, including the validity of the methodology and assumptions used; the quality, utility, and clarity of the information to be collected; and, how to minimize the information collection burden those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

In regard to USACE's request of, "Whether the collection of information is necessary for the proper functioning of the Corps, including whether the information will have practical utility," AXPC and IPAA submit that the information USACE seeks regarding the, "2015 revisions to the definition of 'waters of the United States,'" has little if any practical utility. USACE is asking public commenters to think through hypothetical circumstances while providing specific, practical examples, with supporting data, without having a clear idea of what utility they are actually providing to USACE. Given the ongoing litigation concerning the stayed 2015 Clean Water Rule, public commenters are being asked to make their own interpretations on a wide range of scenarios and definitions which may likely never materialize. AXPC and IPAA appreciate USACE's desire to understand how the stayed 2015 Clean Water Rule could affect, "the applicability and efficiency of the proposed NWP," however, it is irresponsible to burden the public with the task of determining the potential impacts when the outcome is uncertain and possibly year(s) away.

Considering only USACE's waters of the United States comment request, while acknowledging there are several other substantial requests, AXPC and IPAA submit that USACE underestimated the burden of collecting the requested information. The Proposal does not provide definitions for some water related terms nor cites a specific rule leading the public commenter to make educated assumptions and consider the revision in a variety of ways. In AXPC and IPAA's cursory review it appears that USACE did not even consider the impacts of the stayed 2015 Clean Water Rule although the Proposal appears to incorporate certain provisions of the final rule. Instead, USACE is asking public commenters to detail the impacts and has incorrectly estimated the burden of this request. To that end, AXPC and IPAA would ask that OMB evaluate USACE's methodology and assumptions as they relate to the 2015 Clean Water Rule and its assertion that a Pre-Construction Notification ("PCN") form takes 11 hours to complete, "which would otherwise be spent on completing an individual permit application, which we [USACE] estimate also takes, on average, 11 hours to complete, the net effect on the public is zero." AXPC and IPAA believe that USACE should provide clarification as to how it arrived at this 11 hour determination and assumption that the public will forgo individual permits for NWPs. Given the uncertainty of the stayed 2015 Clean Water Rule, AXPC and IPAA believe it is imprudent of USACE to make this conclusion.

In regard to General Condition 32, the Proposal states that, "The only real change to the public's paperwork burden from this proposal is a decrease due primarily to a modification to the PCN requirements for NWPs 33 and 48, and, to a lesser extent, a minor increase associated with the minor changes we are proposing to the content required for a complete PCN." While the changes to the PCN form and notification may very well be minor, considering AXPC and IPAA's above comments concerning the stayed 2015 Clean Water Rule, the number of NWP authorized activities could be altered effecting the PCN paperwork assumptions and, "the accuracy of the Corps' estimate of the burden of collecting the information."

AXPC and IPAA look forward to continuing to participate in this important public process and appreciates OMB's consideration on this information collection request comment. Additionally, AXPC and IPAA fully support the comments filed by the American Petroleum Institute concerning this matter.

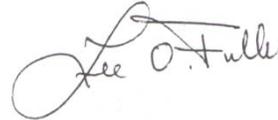
AXPC is a national trade association representing 28 of America's premier independent natural gas and oil exploration and production companies. AXPC's members are leaders in developing and applying the innovative and advanced technologies necessary to explore for and produce crude oil and natural gas, and that allow our nation to add reasonably priced domestic energy reserves in environmentally responsible ways.

IPAA is a national trade association representing the thousands of independent crude oil and natural gas explorers and producers in the United States. It also operates in close cooperation with 44 unaffiliated independent national, state, and regional associations, which together represent thousands of royalty owners and the companies that provide services and supplies to the domestic industry. IPAA is dedicated to ensuring a strong and viable domestic oil and natural gas industry, recognizing that an adequate and secure supply of energy developed in an environmentally responsible manner is essential to the national economy.

Respectfully Submitted,



V. Bruce Thompson
President
American Exploration & Production Council
101 Constitution Avenue, NW Suite 700E
Washington, DC 20001



Lee Fuller
Executive Vice President
Independent Petroleum Association of
America
1201 15th Street NW, Suite 300
Washington, DC 20005

cc: U.S. Army Corp of Engineers
441 G Street NW
Washington, DC 20314