

February 11, 2015

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*Attn: Docket ID No. EPA-HQ-OECA-2014-0523*

On behalf of our member agencies, the Northeast States for Coordinated Air Use Management (NESCAUM) offers these comments on the U.S. Environmental Protection Agency's (EPA's) proposed Information Collection Request (ICR) concerning "Air Stationary Source Compliance and Enforcement Information Reporting" published on January 11, 2015 (79 Fed. Reg. 49511). NESCAUM is the association of state air quality agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont.

NESCAUM disagrees with EPA's assertion that under this ICR, nationally, reporting agencies will realize a reporting burden decrease of 2,971 hours. The reality is that many states will face a stark choice between being unable to meet the minimum data reporting requirements or significantly increasing the resources needed for data reporting. Within this ICR and the final Supporting Statement, EPA has failed to recognize and address the serious concerns raised in our October 2014 comments regarding burden impacts on reporting agencies. In fact, this ICR has expanded the scope of our concerns. EPA has again failed to address issues in four key areas:

- (1) comports ICIS Air reporting with the universe of sources subject to federal reporting policies;
- (2) accurately portraying the addition of new reporting requirements within ICIS Air,
- (3) recognizing and accurately reporting the high cost of duplicate data entry, especially for states with lower major source thresholds, due to the inability to batch upload existing and new data elements to ICIS Air, and
- (4) accurately characterizing the high cost placed on states to transition to the new system and the cost to modify tracking systems to provide the new data.

EPA has failed to acknowledge that in the Northeast alone, these elements will likely translate into thousands of extra hours required to meet the requirements laid forth in this ICR. As stated in our comments on the August 2014 notice, this ICR has been published during a time of transition from the previous Air Facility System (AFS) to the new ICIS-Air system. At the time of publication, states are just beginning to understand the new system and certain reporting elements are still not clearly defined. Because states have not yet fully learned how to operate the new system, it is not possible to make specific burden estimates, however, our limited

experience indicates that EPA’s burden analysis is seriously flawed and significantly underestimates the resource impact on states.

NESCAUM offers comments on the following items put forward in the ICR’s Supporting Statement.

Reporting Universe

The ICR Supporting Statement clearly articulates on page 9 that EPA intends to mandate reporting of data for sources not tracked under key policies, including the Compliance Monitoring Strategy (CMS), the Federal Reportable Violation (FRV) policy, and the High Priority Violation (HPV) policy. EPA’s estimate of burden for this expansion is inadequate and does not accurately characterize the impact of such a requirement on states whose programs incorporate large numbers of minor sources. EPA’s Supporting Statement provides incorrect data on the number of major, synthetic minor, and minor sources per state. Tables 1 and 2 compare EPA’s data with actual data from the states. There are differences with the number of major sources and EPA fails to distinguish between major sources and mega sources. The numbers for synthetic minors show wider variation. The largest discrepancy is with minor sources where EPA estimates are off by thousands or in some cases tens of thousands of sources. By understating the number of minor sources EPA has substantially underestimated the burden of maintaining facility records and reporting formal enforcement, both of which are proposed as minimum data reporting elements. It is impossible even with the injection of significant resources for data reporting from EPA to expand reporting requirements from tens of sources to thousands without significantly increasing the reporting burden. As a region, therefore, we will not support or report to ICIS-Air any data on any source other than majors, SM80s, CMS, or an EPA approved Alternative Compliance Monitoring Strategy (ACMS).

Table 1. Source Data Reported to NESCAUM by States

<b>State Agency</b>	<b>Majors</b>	<b>Synthetic Minor</b>	<b>Minors</b>
<i>Connecticut</i>	73	211	9,500
<i>Maine</i>	59 (9 mega)	160	700
<i>Massachusetts</i>	139	945	3,225*
<i>New Hampshire</i>	32	137	535
<i>New Jersey</i>	268	910	18,000
<i>New York</i>	410	5,373	6,000+
<i>Rhode Island</i>	38	82	400+
<i>Vermont</i>	13	24	65

\*This figure includes 1,000 unclassified sources

Table 2. Source Data provided in EPA’s Supporting Statement

<b>State</b>	<b>Majors</b>	<b>Synthetic Minor</b>	<b>Minors</b>
<i>Connecticut</i>	72	194	25
<i>Maine</i>	57	168	6
<i>Massachusetts</i>	140	924	150
<i>New Hampshire</i>	35	119	72
<i>New Jersey</i>	279	1,024	56
<i>New York</i>	423	2,954	104
<i>Rhode Island</i>	37	87	6
<i>Vermont</i>	14	84	1

Minimum Data Reporting (MDR)

Many of the data elements referenced in the ICR Supporting Statement are not currently MDR elements. We recognize that EPA has moved from the old AFS system to the new ICIS-Air system, however, EPA has assumed that the elimination of some small reporting elements while adding new data entry screens equates to a reduction in workload. Based on recent experience, this assumption is incorrect. For example, EPA claims that it reduced the reporting burden to agencies by eliminating the “compliance status” field. While EPA has removed reporting of a single data point, it has added three screens and six new data elements that must be entered in lieu of this entry. This does not represent a reporting burden reduction, but rather a more than six-fold increase in reporting burden for this element alone.

EPA also assumes that under the new system states will not need to “resolve” enforcement (the equivalent to returning a facility to “in compliance” status in AFS). If states do not return to the enforcement record and resolve the enforcement action, however, the public will be misled into believing that violations are never corrected. This is not in the state or EPA’s best interest. Counter to EPA’s contention of burden reduction, the reality is that states will recognize a significant increase in burden associated with ensuring enforcement actions are resolved in the case file. EPA must revise its burden estimate for case file efforts to reflect the reality both in data entry actions and expansion of reportable sources.

In its Supporting Statement EPA also fails to recognize that many of the new data elements they wish states to report are not currently part of state data tracking systems. Reporting these elements not only adds burden for additional time to enter data but adds a more significant workload on states to undertake costly and time consuming information technology (IT) projects, which EPA has failed to adequately characterize in its burden estimate. States such as Maine and Massachusetts are beginning to embark on such efforts and it will cost millions of dollars and take years to implement new data systems. Data reduction efforts such as eliminating the

requirement to report “Attainment Status” are trivial in nature when compared to the significant burden placed on reporting agencies with the creation of case file reporting.

Throughout the ICR Supporting Statement, EPA appears to expand or revise definitions of current reporting requirements that would increase the reporting burden. On pages 13, 24 and 28 of the Supporting Statement, EPA details a requirement that agencies will report informal enforcement actions to EPA without providing clear guidance the universe of applicable sources. This clearly contradicts reporting requirements laid out in the revised FRV policy.

Compounding this issue is EPA’s requirement discussed on page 14 of the Supporting Statement, where EPA expands the reporting burden even further by requiring that formal enforcement actions for all facilities, including those sources not included in federal oversight activities must be reported. Reporting of informal enforcements is problematic and not required as part of FRV reporting requirements nor is reporting of formal or informal activities for some synthetic minors and all true minor sources. Furthermore, states do not track these actions for all sources, making reporting of this information into a federal system infeasible. EPA should eliminate all reference in the ICR Supporting Statement asserting or implying reporting requirements for informal enforcement actions and eliminate reporting for any source smaller than a SM80. Tracking informal enforcement actions adds a significant reporting burden to states for sources subject to federal policies. When compounded with the expanded universe of synthetic minor and minor resources; the additional burden is significant and unachievable. The NESCAUM states will not report these data elements.

EPA also failed to account for the increased burden related to reporting of applicable regulations. On page 5 of the Supporting Statement EPA states, “*the delegated agency is to report the violation type, the applicable federal air program or the state or local regulation*” (italics added). This change will affect the burden estimate since it requires significant resources to address information not currently tracked and gathered by reporting agencies. Furthermore, reporting of this element will mandate new functionality and reporting requirements that states have not agreed they can or will provide. Finally, given the significant variation in state regulations, we fail to see how reporting this data is relevant to federal oversight activities. EPA must recognize the burden added by requiring reporting of this data and either provide significant additional resources or eliminate this requirement.

#### Electronic Data Transfer (EDT)

EPA’s contention on page 9 of the Supporting Statement that the new ICIS-Air system will eliminate the need for double data entry is incorrect. In Section 3(a) of the Supporting Statement, EPA indicates that only a dozen delegated agencies out of more than 200 will use ICIS-Air as their primary data repository. EPA also estimates that approximately one-third of the states will use EDT to transfer data. Using EPA’s own figures suggests that approximately 60 percent of the reporting agencies will be manually entering data into their own systems and EPA’s system, which translates to a significant duplication of effort. This impact is likely to increase, as many states find that they cannot use EDT to transfer all their information. A query of the NESCAUM members finds that only two states believe that they can use EDTs by the end

of 2015. Five of the eight states believe it will be several years before they can use EDT and even then, will still need to manually enter data in the federal system due to limited resources and the inability to change state reporting systems. The \$3,055,606 awarded in Exchange Network grants in FY '13 and '14, is woefully inadequate and EPA will need to vastly increase funding to reporting agencies to ensure they have the resources to use EDTs. Given uncertainty, it is invalid for EPA to assume a burden reduction from use of EDT. EPA's analysis should eliminate consideration of this component for three years or until the Agency has sufficient data to better estimate the acceptance and use of EDT.

EPA acknowledges that the transition to ICIS-Air will require some investment, but believes reporting agencies will experience "a significant overall reduction in reporting burden" for both direct and batch users. EPA goes on to assert that state operational and maintenance costs will increase modestly due only to inflationary pressures. Such statements trivialize the huge resource burden that has and will continue to be placed on reporting agencies as the new ICIS-Air system is put in place. In the Supporting Statement, EPA asked representatives from eight agencies to provide data on time spent participating in calls, this represents only a fraction of the effort that is and will be needed to transition to the new system. As stated in earlier comments, direct entry users will need to invest resources up front to learn the system and the impact will continue as EPA expands reporting requirements. The impact on batch users will be far greater. Those states will need to invest significant dollars and staff time to revise their systems, a figure EPA did not include in its burden estimate. Additionally, it will take years for states to implement EDT, so EPA estimates must include several years of transition costs, as well as double data entry costs.

#### New Reporting Requirements

EPA asked for comment on the potential for new reporting elements. Until a characterization of transition and reporting burden is provided that reflects the reality of many reporting agencies, NESCAUM does not believe additional data elements should be added. Our comments on the specific elements are provided below.

*Source Reported Compliance Status* – EPA suggests that agencies should include the compliance status reported by the source on the annual certification. This appears to be an effort by EPA to return to Compliance Status reporting, which they are eliminating under this ICR. Another issue that will arise from reporting compliance status from Title V certifications relates to deviations reported on annual certifications, however, many deviations are not violations. Reporting of this data will lead to the same issues EPA experienced with reporting of compliance status: data will be reported inconsistently and inaccurately. Once again EPA appears to be over-reaching its authority and asking for data that cannot be tracked accurately and cohesively at the federal level.

*Subparts for all sources with a Title V permit* – Once again, we question the utility of this effort as states with State Implementation Plans (SIPs) may have similar requirements but not be able

to relate the data to subparts. Since this data will not be useful for federal tracking, this element should not be implemented in the future

*Source Classification* – NESCAUM supports reporting source level classification in lieu of a pollutant level classification.

*Linking a Notification to a Case File* – NESCAUM supports linking notifications for HPVs only, and does not support reporting of this data for other applications, such as FRVs.

*Violation Start and End Date* – EPA indicated that where a start and end date can be determined, it would be beneficial to the public to report this information. NESCAUM does not support reporting of this information because it cannot be applied universally in a common method.

In summary, the northeast states fully support public access to data relating to public health, including information on compliance of the regulated community consistent with the provisions of the Clean Air Act but reporting of that information should not place an unbearable burden on reporting agencies. Several of the reporting expectations laid out in this ICR are unattainable and will not create useful data for either EPA oversight or public knowledge of program efforts. We hope that OMB will require EPA to modify its requirements so that it addresses the delicate balance between the need for the data, the quality of the data, and the burden associated with reporting the data. We look forward to working with you and to continued discussions on the reporting requirements in issue. Please do not hesitate to contact Lisa Rector ([lrector@nescaum.org](mailto:lrector@nescaum.org)), should you wish to discuss any of the matters raised by this letter.

Sincerely,



Arthur Marin, Executive Director  
NESCAUM

Cc: NESCAUM Board of Directors  
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