

March 20, 2020

Mr. Gregory Sopkin  
EPA Region 8 Administrator  
1595 Wynkoop St.  
Denver, CO 80202-1129

The North Dakota Petroleum Council (NDPC) is a trade association representing over 700 companies involved in all aspects of the oil and gas industry, including oil and gas production, refining, pipeline, mineral leasing, consulting, legal work, and oilfield service activities in North Dakota, South Dakota, and the Rocky Mountain region.

NDPC members produce 98 percent of the oil and gas in North Dakota. NDPC has been a partner with state and federal agencies, including the Environmental Protection Agency (EPA), to reduce emissions and protect the environment.

North Dakotans are proud our state is generating a substantial amount of energy, increasing our nation's energy independence, and fueling our state and national economy while maintaining the cleanest air and water in the country.

Unusual times require unusual decisions and actions. With the COVID-19 pandemic, we are certainly in unusual times. The safety of our communities, workers, and federal partners is first and foremost in our thoughts.

During this time of extreme commodity price volatility, demand shock, and COVID-19 pandemic, suppression or suspension of nonessential reporting or compliance activities would be extremely helpful to the heavily impacted oil and gas industry. These activities refer to tasks or items conducted during normal business conditions that could be delayed under the extraordinary business conditions industry is now facing. Specifically, NDPC is asking EPA to publicly provide a statement related to performance delays tied to challenges with the pandemic.

NDPC is seeking temporary relief through enforcement discretion, waivers, or revised compliance timeframes in response to the COVID-19 pandemic. This request is in direct response to the state and federal mandates for social distancing and corresponding challenges of worker availability. State, federal, and company staff are going to become a premium. The industry and government efforts should be focused on essential work right now and not on non-essential work.

Considering the restrictions and guidelines issued by the Centers for Disease Control and Prevention and the President of the United States' Coronavirus Task Force, the following are key considerations for the oil and gas industry. These considerations are necessary for the safety of the public and the industry's employees and contractors, as well as the operability of the oil and gas critical infrastructure relied upon by the nation.

- Compliance with Federal, State and Local requirements around social distancing

- Agency response to limit exposure by tele-working/working remotely
- Compliance with travel restrictions imposed by the President
- Compliance with other restrictions imposed by state and local governments to prevent the additional spread of COVID-19

Considering these restrictions, and the uncertainty of the severity and duration of this pandemic, the following categories of constraints have been identified.

- Category 1: Administrative constraints while working remotely
- Category 2: Physical constraints with on-site testing/monitoring requirements
- Category 3: Operability of Assets

Please see attachment for list of identified issues for industry compliance with both agency regulations and federal government COVID-19 recommendations.

The industry is already prioritizing their resources for the continued maintenance of its facilities, which is a business-critical activity. This is necessary to not only provide for the safety of its constrained employee and contractor workforce, but also continue the supply of products the nation depends upon daily. Operators are continuing to issue permits to work for those activities that are deemed essential to safely operate their facilities.

Temporary relief from the agency requirements outlined in Categories 1 and 2 are not expected to result in a significant impact to human health or the environment. By providing temporary relief to those requirements, operators will be able to prioritize their resources toward those critical activities that will allow continued supply of natural resources for the nation at this crucial time.

Thank you for your consideration of this request;



Ron Ness  
President, North Dakota Petroleum Council

Attachment:

Category 1: Administrative challenges while working remotely

EPA

- Wet signatures requirements on permit applications and reports such as Title V permit applications. Responsible officials may not have ready access to printers or a DocuSign option. Clarity needed on alternatives.
- Deferred permit renewal applications for expiring permits to address revised work schedules/arrangements
- Periodic certification and reporting:
  - o Consider deferred filing of periodic reports
    - Examples include emissions inventory, emissions banking and trading, Tier 2 reports and rule- or permit-required periodic reports
  - o Filing of reports without the normal signatures (where plant manager or formal designee is unavailable)

Category 2: Physical challenges with on-site testing/monitoring requirements

EPA and Potentially Other Federal and State Agencies

- Fugitive Leak Detection and Repair
  - o Deferred LDAR monitoring
  - o Late repair times
  - o Late recheck of LDAR component after monitoring
  - o Delayed reporting
  - o Inability to address DORs during unit shutdowns due to personnel, supply or external resource shortages or disruptions
- Delayed GHG Reporting
- Drinking Water Permit testing and reporting requirements
  - o Expected delays in laboratory analysis and short hold time for coliform
- Effluent inspections, sampling and reporting (NPDES and SWPPP):
  - o Deferred inspections (monthly, quarterly, etc.)
  - o Deferred sampling and WET testing
  - o Deferred filing of periodic reports
  - o Late lab turn-around time on sample results
  - o Missed hold-time on samples
  - o Delayed reporting
  - o Contractor who typically performs daily grab samples is temporarily unable to access site pending medical screening
  - o Improper storage temperature
- Soil and/or groundwater remediation:
  - o Delayed sampling and reporting requirements
- CEMS and stack tests:
  - o Delayed stack and RATA testing
  - o Missed or late CEMS evaluation
  - o Unable to repair CEMS due to specialized knowledge vested in personnel
  - o Unable to repair CEMS due to parts unavailability

- o Delayed reports from contractors whose employees are quarantined or in remote work arrangements
- Incinerator stack testing delays
- Cooling tower sampling:
  - o Delayed sampling and analysis
  - o Delayed reports from contractors whose employees are quarantined or in remote work arrangements
- Fence line monitoring:
  - o Unable to timely change sample tubes
  - o Disruptions in lab shipments
  - o Lab analytical delays
  - o Delayed reports from contractors whose employees are quarantined or in remote work arrangements
- Relative Accuracy Test Audits on a quarterly basis.
  - o While not an ongoing requirement, compliance relief might still be needed when considering contractor availability and social distancing
- Hazardous waste accumulation:
  - o Deferral of movements past time limits, including 3-day satellite accumulation time limit and 90-day accumulation time limit
  - o Delayed reporting
  - o Manifest management disruptions
  - o TSD permit noncompliance due to personnel, supply or external resource shortages or disruptions
  - o Deferral of weekly inspections
  - o Delay of annual training
- Benzene Waste Operations (BWON)
  - o Deferred monitoring
  - o Late repair times
  - o Delayed reporting
- Cooling tower sampling:
  - o Delayed sampling and analysis
  - o Delayed reporting
- NSPS & MACT
  - o Regulatory noncompliance due to limited onsite personnel or external resource shortages or disruptions
  - o Late reports due to limited onsite personnel or external resource shortages or disruptions
- SPCC
  - o Deferral of daily and monthly inspections
  - o Deferral of annual training and drills
  - o API 653 integrity inspections
- Engine (RICE) readings and monitoring required by Subpart ZZZZ, IIII, or JJJJ
- Fuels Reporting and Compliance
  - o Request enforcement discretions for late reports, due to access and resource limitations for the following reports

- Annual Gasoline Program Reports
- EMTS Fuels ABT Credit generation and retirement for compliance with gasoline programs
- Annual Renewable Fuel Standard (RFS) Reports
- EMTS RIN retirements for annual compliance with RFS standards
- Annual Gasoline and RFS program Attest Engagements
- Self-audits/disclosures (where applicable):
  - o Late notices
  - o Late Disclosures of Violation and other submittals on pending audits
  - o Late implementation of corrective actions
- Emergency response drills and mandatory equipment deployment to demonstrate emergency readiness
- Past-due regulatory training that can only be done in a face to face environment, e.g. Method 9 opacity certification

### Category 3: Operability of Assets

The industry is already prioritizing their resources for the continued maintenance of its facilities, which is a business-critical activity. This is necessary to not only provide for the safety of its constrained employee and contractor workforce, but also continue the supply of products the nation depends upon daily. Operators are continuing to issue permits to work for those activities that are deemed essential to safely operate their facilities.

Temporary relief from the agency requirements outlined in Categories 1 and 2 are not expected to result in a significant impact to human health or the environment. Providing temporary relief to those requirements will allow operators to prioritize their resources toward those critical activities necessary for a continued supply of natural resources.