

SUPPORTING STATEMENT FOR STANDARD FORM 83-I

PART A OF THE SUPPORTING STATEMENT

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) TITLE AND NUMBER OF THE INFORMATION COLLECTION

Regulation of Fuel and Fuel Additives: Gasoline Benzene Program. The OMB control number is 2060-0277. The EPA number for this ICR is 1591.22. The docket number is EPA-HQ-OAR-2005-0036.

(b) SHORT CHARACTERIZATION/ABSTRACT

Section 211(k) of the Clean Air Act (“Act”) requires that reformulated gasoline (RFG) be sold in the nine worst ozone nonattainment areas, as well as in other ozone nonattainment areas that “opt in” to the RFG program. The Act also requires EPA to regulate the production and sale of conventional gasoline (non-RFG) throughout the rest of the country. Refiners and importers of gasoline are required to demonstrate compliance by conducting sampling and testing of the gasoline and reporting the results to EPA’s Office of Transportation and Air Quality. See 40 CFR part 80, subparts D through F. Previous ICRs in this 1591 series have covered start up costs and other record keeping, reporting, and testing requirements associated with the final rule. This ICR covers burdens and costs associated with the gasoline benzene program, which includes an averaging, banking and trading credit program. The program will not be fully implemented until 2011, but there are several information collection items related to registration, establishment of benzene baselines and early credit generation, and pre-compliance reporting that will apply from 2007-2009, and these are the subject of this ICR. For convenience, we have included rough estimates for future reporting beyond that timeframe as well. Future reporting will be the subject of a future ICR.

2. NEED FOR AND USE OF THE COLLECTION

(a) NEED/AUTHORITY FOR THE COLLECTION

The basic need and authority for the collection of information have been established in the ICR for the RFG and anti-dumping final rule. The Act specifically provides that recordkeeping and reporting requirements are among the tools EPA may use in enforcement of the provisions of § 211(k) and also provides that EPA must develop an enforceable scheme. Sections 114 and 208 of the Act authorize EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the Act.

## (b) PRACTICAL UTILITY/USERS OF THE DATA

The practical utility and use of the collection of information related to the RFG and conventional gasoline have been established in the ICR for the RFG and anti-dumping final rule.

The EPA's Office of Enforcement and Compliance Assurance and EPA's Office of Air and Radiation, Office of Transportation and Air Quality, will be the governmental users of the information contained in this proposed information collection.

## 3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

### (a) NONDUPLICATION

This proposed ICR is not unnecessarily duplicative of information otherwise reasonably accessible to the Agency. Wherever possible, we have designed the regulation to make sure that there is no unnecessary duplication. For example, parties who have already registered under the RFG and anti-dumping program do not have to re-register, and recordkeeping and reporting related to sampling and testing activities are based upon existing provisions that adequately meet program needs.

### (b) PUBLIC NOTICE REQUIRED PRIOR TO ICR SUBMISSION TO OMB

The proposed ICR changes are included in the rule. A supporting statement was placed in the public docket cited above, in connection with the notice of proposed rulemaking. This supporting statement revises the one prepared for the notice of proposed rulemaking.

### (c) CONSULTATIONS

We consulted the American Petroleum Institute for assistance with the estimates in this proposed ICR. In addition, industry was consulted in making the assumptions related to the original information collection burden and in developing the rule that this proposed ICR is based on. We are seeking industry comment via this supporting statement and encourage all interest parties to submit comments to us.

### (d) EFFECTS OF LESS FREQUENT COLLECTION

Less frequent reporting would make discovery and correction of violations take too long to discover from the date of violation, and would give non-complying parties a competitive advantage for long periods of time. A lesser recordkeeping burden would make verification of compliance extremely difficult.

(e) GENERAL GUIDELINES

The general guidelines for the collection of information pursuant to the RFG and anti-dumping rule are approved in the ICR for the final RFG and anti-dumping rule.

(f) CONFIDENTIALITY AND SENSITIVE QUESTIONS

(i) Confidentiality

Any information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to EPA regulations at 40 C.F.R. 2.201 et seq.

(ii) Sensitive Questions

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

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

(a) RESPONDENTS/NAICS and SIC CODES

Respondents are gasoline refiners and importers (324110 / 2911) of RFG and conventional gasoline.

(b) INFORMATION REQUESTED

(i) Data Items, Including Recordkeeping Requirements

Knowledge of the following definitions at 40 CFR 80.2 is important for a thorough understanding of the reporting and recordkeeping requirements:

“Gasoline” means any fuel sold in any State (State means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands) for use in motor vehicles and motor vehicle engines, and commonly or commercially known or sold as gasoline.

“Refiner” means any person who owns, leases, operates, controls, or supervises a refinery.

“Importer” means a person who imports gasoline, gasoline blending stocks or components, or diesel fuel from a foreign country into the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands).

“Reformulated Gasoline” means any gasoline whose formulation has been certified under 40 CFR 80.40 and which meets each of the standards and requirements prescribed under 40 CFR 80.41.

“Conventional Gasoline” means any gasoline which has not been certified under 40 CFR 80.40.

## REPORTING REQUIREMENTS

The following reporting requirements may be applicable to a party between January 1, 2007 and December 31, 2009:

- Company Registration - Registration is required under this regulation for refiners and importers and will use existing forms. Refiners and importers who have already registered with us will not be required to register again. EPA issues a four-digit identification number for each company.
- Facility Registration - Refiners and importers must register all their facilities. Facilities already registered with us will not be required to be registered again. Application will be via existing EPA forms. EPA issues a five-digit identification number for each facility.
- Attest Engagement “Audit” Report - Refiners and importers who meet compliance on average will have to expand the existing attest engagement to include benzene content and credit generation. An attest engagement is performed by an independent auditor. There is no EPA form, but the attest engagement must follow requirements specified in the regulation and which are based upon American Institute of Certified Public Accountants (AICPA) standards.
- Benzene Baseline Application – Those refiners intending to generate early credits must establish a benzene baseline 60 days prior to the end of the first period during which credits will be generated. This is a one time application. There is no standard EPA form.
- Early Compliance Application - Refiners and importers may submit this application, which will typically take the form of a letter. There is no standard EPA form. (This report was not included in the supporting statement that accompanied the notice of proposed rulemaking due to an accidental omission.)
- Hardship Applications - Refiners may apply for temporary hardship relief. Small refiner status and accompanying regulatory relief for small refiners. Refiners or importers may apply for relief under extraordinary circumstances. These are one time applications. There is no standard EPA form.

- o Notification Letter (Acquisitions) – If a refiner acquires a small refiner that has received small refiner flexibility, notification must be made by letter. These are one time notifications. There is no standard EPA form.
- o Pre-Compliance Report - Refiners and importers will submit this report, which will typically take the form of a letter. There is no standard EPA form.
- o Annual Report - Annual reports will be submitted by refiners and importers using established EPA forms. It will be necessary for EPA to develop a new benzene credit report, but this form has not yet been developed.

During the initial three years of the program (the period covered by this ICR), most recordkeeping and reporting activities will be performed only by parties who choose to generate early benzene credits. In future years, it will be necessary to develop product transfer documents (PTDs) and pump labels for aircraft and certain racing fuels that would be exempt under the benzene requirements. Future reporting items are roughly estimated in this ICR for informational purposes, although they are not part of the burden calculations.

(ii) Respondent Activities

The following are required:

- Read and comprehend the regulations and instructions on completing the forms.
- Train personnel to meet the requirements, employing new technologies if warranted.
- Develop the information that is not already available.
- Gather and organize the information.
- Review the information, perform quality assurance, and take corrective action, if necessary, to meet the regulatory requirements.
- Report the information to EPA, on forms as appropriate, and/or retain the information, as specified in the regulations.

5. THE INFORMATION COLLECTED--AGENCY ACTIVITIES, COLLECTION METHODOLOGY AND INFORMATION MANAGEMENT

(a) AGENCY ACTIVITIES

The following are required:

- Develop a thorough understanding of the regulatory requirements. Prepare guidance documents and forms.
- Convey the requirements in a manner that is understandable. Emphasize the benefits of submitting data electronically.
- Respond to inquiries.
- Provide access to the regulations, guidance documents, and forms.

- Review the submitted information prior to data entry for compliance with submission requirements.
- Contact the respondent when the information has not been submitted properly and provide guidance on correction of the problem.
- Maintain and refine hardware and software systems for handling confidential data via hard copy and electronically.
- Administer a contract for data entry.
- Input information into databases and store the information.
- Perform data analysis and identify violations.

#### (b) COLLECTION METHODOLOGY AND MANAGEMENT

The information collection has been developed by EPA offices that have planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which will enhance the utility of the information for the Agency and the public. The information collection, to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, Agency efficiency, and responsiveness to the public.

EPA has supplied, or will supply, forms and electronic formats for many reporting requirements. (For some of the requirements, forms or formats would be impractical. The information may be submitted in a manner chosen by the respondent.) It is our goal to have nearly all forms received electronically and in a simplified, flat file format by the time this rule is implemented.

The product transfer document information can be included on standard transfer documentation customarily used. EPA allows the information to be encoded to facilitate reporting and save space. Detailed production documents are already used and maintained by refiners.

The information is carefully reviewed for compliance with the requirements. Most of the information submitted to the Agency under the RFG and anti-dumping program is confidential. It is stored in a secure area and on secure databases.

No changes to the collection methodologies in the existing ICR for the RFG and anti-dumping final rule are anticipated as a result of this proposed ICR modification.

#### (c) SMALL BUSINESS FLEXIBILITY

The underlying rule attempts to provide small businesses maximum flexibility in meeting the benzene content standard. For example, small refiners may apply for flexibility or delay in meeting regulatory requirements.

(d) COLLECTION SCHEDULE

There is no change in collection schedules relative to the ICR for the RFG and anti-dumping final rule as a result of this proposed ICR modification.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

(a) ESTIMATING THE RESPONDENT BURDEN

We drew upon experience implementing similar regulations among the same entities to develop estimates of the burden associated with this modification.

(b) ESTIMATING THE RESPONDENT COST

Three labor categories are involved: managerial (includes legal and professional review), technical, and clerical. The estimates use Bureau of Labor Statistics, "Employer Costs for Employee Compensation - Table 12 - Private Industry, Manufacturing, and Non-Manufacturing Industries by Occupational Group (December 2003), with a 3% inflation factor applied to bring the values to 2006. Using this method, the following wages and benefits apply by category:

Wages and Benefits

Managerial	\$53.87 per hour
Technical	\$35.29 per hour
Clerical	\$24.56 per hour

Doubling for company overhead beyond wages and benefits, and for convenience, rounding up to the dollar, gives the following rates for this ICR:

Total Employer Cost

Managerial	\$108 per hour
Technical	\$71 per hour
Clerical	\$49 per hour

The labor mix for the activities estimated will be about the same for each and is consistent with prior ICRs in this series. It is assumed that for each hour of activity the mix will be about 0.1 hour managerial, 0.7 hour technical, and 0.2 hour clerical. This gives an average labor cost of \$71 per hour, which will be used in this ICR modification. For the purpose of estimating purchased services, the average labor cost is doubled to \$142 per hour. Since most purchased services are going to be CPA or independent auditor services, this hourly rate represents a reasonable average estimate for outside professional services. (For the supporting statement provided with the notice of proposed rulemaking, we used \$71. However, \$142 is a

more accurate figure that we have used in similar, more recent supporting statements. Therefore, we have amended this supporting statement accordingly.)

(c) ESTIMATING AGENCY BURDEN AND COST

The annual Agency burden is determined using the 2006 OPM hourly pay table, with values multiplied by 1.6, the standard government benefits multiplier. The hourly wage rates are as follows, rounded up to the nearest five dollars:

- EPA Manager = \$80
- Technical Staff (GS-13) = \$60
- Clerical Staff (GS-5) = \$25

We have assumed that each response will require 3.5 hours of technical staff time to review and prepare the written response. It is estimated that manager will be required to expend 0.25 hour per response and that the clerical staff will expend 0.25 hour per response. Contractors will not be used to handle these applications and are not included. The total number of responses is calculated for benzene baseline applications (70), temporary hardship applications (20), applications for relief under extraordinary circumstances (2) and small refiner applications (27), which yields a total of 119 Agency responses.

The total annual Agency burden hours are estimated as follows:

<b>Activity</b>	<b>No. of Responses</b>	<b>Manager Hours</b>	<b>Technical Hours</b>	<b>Clerical Hours</b>	<b>Total Agency Hours</b>
Evaluate Data	119	0	2.5	0	297.5
Prepare And Send Response	119	0.25	1	0.0	148.75
Store Data	119	0	0	0.25	29.75
<b>Total</b>		0.25	3.5	0.25	476

The total cost per responses is estimated to be \$6/clerical worker, \$210/technical staff, and \$20/manager, which yields \$236/response. The total cost burden to the Agency for 119 responses would be \$28,084.

(d) ESTIMATING THE RESPONDENT UNIVERSE

We were able to estimate the number of regulated entities drawing upon our experience regulating the same entities. We have assumed 125 refiners and 60 importers, total. We have



assumed 70 refiners would generate early credits. (This number is based upon an estimate of 68 in the proposed Regulatory Impact Analysis, rounded up to 70.) Importers cannot generate early credits. "Purchased services" on the following table relates to refiners who may hire an outside consultant to prepare their benzene application; this has been a common practice in industry with respect to similar applications.

(e) BOTTOM LINE BURDEN HOURS AND COSTS

The annual estimates in burden hours and costs associated with this final rule are as follows:

**Annual Respondent Burden Hours & Costs  
(Including Non-Postage "Other Costs")<sup>1</sup>**

Collection Activity	# Respondents By Activity	# Responses per Respondent	Total # of Responses	# Hours per Response	Total Hours and Total Costs @ \$71/hour	Non-Postage Other Costs (O&M)
Refiner and importer registration (§ 80.1225)	10	1	10	1	10 hours --- \$710	0
Facility registration (§ 80.1225)	10	2	20	1	20 hours --- \$1,420	0
Benzene baseline applications (§ 80.1285)	70	1	70	200	14,000 hrs --- \$994,000	\$1,998,000
Early compliance applications (§ 80.1334)	70	1	70	40	2,800 hours --- \$198,800	0
Temporary hardship applications (§ 80.1335)	20	1	20	40	800 hours --- \$56,800	0

<sup>1</sup> Please note that costs are not expressed in thousands of dollars as is the usual custom for supporting statements, but in actual dollars. Because some amounts are relatively small, it is easier in this case to use actual dollars.

Application for relief under extreme circumstances (§ 80.1336)	2	1	2	40	80 hours --- \$5,680	0
Application for small refiner status (§ 80.1340)	25	1	25	40	1,000 hours --- \$71,000	0
Application for delay of compliance date for small refiner hardship (§ 80.1343)	2	1	2	40	80 hours --- \$5,680	0
Refiner acquisition of a small refiner – notification letter (§ 80.1344)	2	1	2	1	2 hours --- \$142	0
Generate and retain calculations related to benzene content and credits (§ 80.1350)	70	1	70	40	2,800 hours --- \$198,800	0
Pre-Compliance Reporting (§ 80.1352)	125	1	125	40	5,000 hrs --- \$355,000	0
Attest engagement for early credit generation	70	1	70	2	<i>All purchased services.</i>	2 hours --- \$142

(§ 80.1375)						
<b>TOTALS</b>					<b>26,592 hours === \$1,888,032</b>	<b>\$1,988,284</b>

**TOTALS:**

**TOTAL NO. OF REPORTS: 486**

**TOTAL BURDEN HOURS: 26,592**

**TOTAL COSTS @ \$71/hour: \$1,888,032**

**TOTAL NON-POSTAGE PURCHASED SERVICES ONLY @ \$142/hour: \$1,988,284**

The following information is provided for informational purposes only, as it relates to future recordkeeping and reporting activities associated with this rule that would not be covered by the initial three-year period of the proposed ICR. These will be the subject of a future ICR modification, but are provided here in order to aid interested parties in understanding the rule. Attest engagements are required to be performed by an outside auditor and therefore are all "purchased services." Attest engagements are already performed under the anti-dumping program, so the cost estimated is an additional charge for adding the benzene item to the pre-existing attest engagement.

**Annual Respondent Burden Hours & Costs  
(Including Non-Postage "Other Costs")  
Applicable after December 31, 2009  
---informational table only; not included in burden estimates---**

<i>Collection Activity</i>	<i># Respondents By Activity</i>	<i># Responses per Respondent</i>	<i>Total # of Responses</i>	<i># Hours per Response</i>	<i>Total Hours and Total Costs @ \$71/hour</i>	<i>Non-Postage Other Costs (O&amp;M)</i>
<i>Refiner and importer registration (§ 80.1225)</i>	<i>10</i>	<i>1</i>	<i>10</i>	<i>1</i>	<i>10 hours --- \$710</i>	<i>0</i>
<i>Facility registration (§ 80.1225)</i>	<i>10</i>	<i>2</i>	<i>20</i>	<i>1</i>	<i>20 hours --- \$1,420</i>	<i>0</i>
<i>Application for relief under extreme circumstances (§80.1336)</i>	<i>2</i>	<i>1</i>	<i>2</i>	<i>40</i>	<i>80 hours --- \$5,680</i>	<i>0</i>

<i>Generate and retain calculations related to benzene content and credits (§ 80.1350)</i>	185	1	185	40	7,400 --- \$525,400	0
<i>Developing in-house format / procedure for annual reporting and report (year one) (§§ 80.1295 and 80.1354)</i>	185	1	185	100	18,500 hrs --- \$1,313,500	0
<i>Pre-Compliance Reporting (§80.1352) For 2010</i>	125	1	125	40	5,000 hours --- \$355,000	0
<i>Annual reports (after year one) (§§ 80.1295 and 80.1354)</i>	185	1	185	1	185 hours --- \$13,135	0

<i>Attest engagement (§ 80.1375)</i>	185	1	185	2	<i>All purchased services.</i>	\$52,540
<i>Implement code for PTDs for aircraft / racing</i>	50	1	50	4	200 hours --- \$14,200	0
<i>Develop pump labels for aircraft / racing</i>	50	1	50	4	200 hours --- \$14,200	0
<b>TOTALS</b>	987	11	997	233	<b>31,595 hrs</b> === <b>\$2,243,245</b>	<b>\$52,540</b>

#### (f) REASON FOR CHANGE IN BURDEN

The proposed change in burden is due to rulemaking affecting benzene content of RFG and conventional gasoline.

#### (g) BURDEN STATEMENT

The average respondent burden in hours per response for this ICR is estimated to be 55 hours.<sup>2</sup>

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 currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 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, EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2005-0036, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Air and Radiation Docket and Information Center 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 Air and Radiation Docket and Information Center is (202) 566-1742. 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 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2005-0036 and OMB Control Number 2060-0277 in any correspondence.

#### B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

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<sup>2</sup> This is the total number of hours from the "Annual Respondent Burden Hours & Costs" table on pages 10-12, divided by the total number of reports, rounded up for simplicity.



This section is not applicable because statistical methods are not used in the data collection associated with the reformulated and anti-dumping regulations.