

SUPPORTING STATEMENT FOR
RENEWABLE FUELS STANDARD (RFS2) PROGRAM (PROPOSED RULE)

A. JUSTIFICATION

1. Identification of the Information Collection

a. Title: Renewable Fuels Standard (RFS2) Program, EPA ICR No. 2333.01, OMB Control Number 2060-NEW.

b. Short characterization:

The Energy Policy Act (EPAAct) of 2005 amended the Clean Air Act, section 211(o), and required the existing RFS program. The existing RFS program is referred to in this supporting statement as "RFS1". The RFS1 program started in 2006 and was covered by EPA ICR No. 2242.02, OMB Control Number 2060-0600. Please refer to "Regulation of Fuels and Fuel Additives: Renewable Fuel Standard Program – Notice of Proposed Rulemaking" and "Regulation of Fuels and Fuel Additives: Renewable Fuel Standard Program – Final Rule" (both available in docket number EPA-HQ-OAR-2005-0161) for a detailed discussion of the RFS1 program.

The Energy Independence and Security Act (EISA) of 2007 further amends the Clean Air Act, section 211(o), and has required EPA to propose new regulations for renewable fuels. The proposed RFS program is referred to in this supporting statement as "RFS2." Under RFS2, the volume requirement and types of renewable fuels will be expanded; non-road uses are included (RFS1 only affected motor vehicle fuel); there are additional types of waivers and special provisions for renewable fuel types; and EPA proposes to implement an EPA-Moderating Trading System for RINs. Additional parties will be required to register, keep records, and report. Please refer to the Notice of Proposed Rulemaking (available in docket number EPA-HQ-OAR-2005-0161) for a detailed discussion of the RFS2 program.

For compliance purposes, under both RFS1 and proposed RFS2, volumes of renewable fuel are identified through the use of renewable identification numbers (RINs) that are initially generated by the producer of the renewable fuel. However, how RINs are used varies slightly in RFS2, with the proposed EPA-Moderated Trading System.

EPA is proposing a moderated trading system for RINs because of unexpected difficulties encountered by regulated parties under the RFS1 program. The RIN is a 38-digit, unique identification number that is assigned to a batch of renewable fuel by the producer or importer. Once a RIN number is created, it is not supposed to change. However, in RFS1, we discovered that many parties in the distribution system misused RINs by transposing numbers or creating alpha-numeric RINs instead of RINs entirely composed of numbers. Once a mistake is made with a RIN, every party in the distribution system may be faced with a lengthy and difficult process of tracking down

and correcting errors in records and reports. Likewise, EPA must assist in tracking down and correcting errors in its databases. Correcting RIN errors has proved a time-consuming effort for both industry and the government. By proposing a moderated trading system for RFS2, we seek to remove the burden and responsibility from regulated parties and permit them to reliably and confidently generate and use RINs. We believe that the EPA Moderated Trading System will be welcomed by regulated parties, who will no longer have to worry if the RINs they receive are correct. An incorrect RIN is an invalid RIN. Holding invalid RINs may lead to non-compliance on the part of an obligated party.

We believe that the EPA Moderated Trading System will reduce errors and increase confidence on the part of regulated parties. The difficulties in using RINs will be significantly decreased and the confidence of parties who own RINs will be greatly increased. Although the system will work in "real time," as explained in detail in the NPRM, we intend to design it in a manner that is logical from a business standpoint and that will simplify every day RIN transactions for regulated parties.

The EPA Moderated Trading System will have design costs associated with it, but we estimate that it will result in lower annual Agency operational costs compared to RFS1. We have explained our Agency cost estimates in section III.c. of this supporting statement.

This supporting statement provides tables that break down reporting items by party (e.g. producer, importer, refiner, etc.) Parties who are interested in recordkeeping and reporting burden will want to review these tables carefully. The proposed RFS2 program includes provisions for an EPA Moderated Trading System for RINs, which was not a feature of RFS1, as well as other new features mentioned above.

The draft Regulatory Impact Analysis (RIA), which was prepared for the Notice of Proposed Rulemaking, has been placed in the public docket. This document was consulted to provide additional detailed information about the regulated universe (see Chapter 1 of the draft RIA). We also considered the actual number of reporting parties under RFS1 and similar reporting programs.

2. Need For, and Use of, the Collection

a. Authority for the Collection

Sections 114 and 208 of the Clean Air Act (CAA), 42 U.S.C. §§ 7414 and 7542, authorize EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the CAA.

b. Practical Utility/Uses of the Data

The recordkeeping and reporting requirements of this regulation will allow EPA to monitor compliance with the RFS program.

3. Non-duplication, Consultation, and other Collection Criteria

a. Non-duplication

Efforts have been made to eliminate duplication in this information collection.

b. Public Notice

We are describing the proposed recordkeeping and reporting in the notice of proposed rulemaking and are providing this draft supporting statement in order to assist parties potentially affected by RFS2 to comment upon recordkeeping and reporting burdens.

c. Consultations

We have drawn upon our experience with RFS1 and with similar fuels regulations to develop the estimates in this supporting statement. Interested parties may also be interested in reviewing "Chapter 1 – Industry Characterization" of the draft Regulatory Impact Analysis (RIA) available in the public docket. Some assumptions from the RIA were used for this supporting statement.

d. Effects of Less Frequent Data Collection

We have designed the reporting schedule to coincide with existing reporting deadlines applicable to many of the same parties under such programs as RFG and anti-dumping and diesel fuel. Less frequent collection of data would make it impossible to carry out the provisions of the CAA and EISA.

e. General Guidelines

This rule does not exceed any of the OMB guidelines.

f. Confidentiality

We inform respondents that they may assert claims of business confidentiality (CBI) for information they submit. We have proposed that actual RINs should not be treated as confidential business information under RFS2, as they are necessary identifiers to accompany renewable fuels. Any information claimed as confidential will be treated in accordance with 40 CFR Part 2 and established Agency procedures. Information that is received without a claim of confidentiality may be made available to the public without further notice to the submitter under 40 CFR § 2.203.

g. Sensitive Information

This information collection does not require submission of any sensitive information.

4. The Respondents and the Information Requested

a. Respondents/with NAICS and SIC Codes

The respondents to this information collection fall into the following general industry categories: petroleum refineries (324110/2911), ethyl alcohol manufacturers (325193/2869), other basic organic chemical manufacturing (325110/2869), chemical and allied products merchant wholesalers (426990/5169), petroleum bulk stations and terminals (422710/5171), petroleum and petroleum products merchant wholesalers (422720/5172), and other fuel dealers (454319/5989).

b. Information Requested

A) Reporting: The individual reports proposed to be required from regulated parties are described in the preamble. Reporting items include registration of parties engaged in activities covered by the RFS2 regulation and reporting related to transactions involving RINs and associated volumes of fuel.

Compliance reports will be submitted on an as-needed, monthly, quarterly, or annual basis. The following types of reporting are required. Each table indicates reporting by "like" parties:

Information Collection Burden by Type of Party

Table I: Producers of Renewable Fuel

(reporting that is specific to foreign producers is broken out separately)

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
80.1403 - "OPTION TWO"							
Producers who own grandfathered facilities	200	1	200	8	568	1600	113600
80.1416 -							
New renewable fuels and pathways	25	1	25	8	568	200	14200
80.1426 -							
Assignment of RINs	400	104	41600	0.25	17.75	10400	738400
80.1431 -							
Recordkeeping to reflect invalid RINs	20	1	20	0.5	35.5	10	710
80.1432 -							
Recordkeeping to reflect "spilled" RINs	2	1	2	0.5	35.5	1	71
80.1449 -							
Production outlook reports	400	1	400	16	1136	6400	454400
80.1450 -							
Registration							
(b)(1) at \$71/hour	400	1	400	8	568	3200	227200
(b)(2) at \$142/hour	400	1	400	8	1136	3200	454400
80.1451 -							

Recordkeeping	400	236	94400	0.25	17.75	23600	1675600
80.1452 - Reporting							
<i>Real time production reporting/transactions</i>	400	104	41600	0.25	17.75	10400	738400
<i>Monthly reporting re: production reporting/transactions</i>	400	24	9600	1	71	9600	681600
<i>Quarterly reporting re: RIN credit activity</i>	400	4	1600	1	71	1600	113600
80.1453 - PTD	400	104	41600	0.25	17.75	10400	738400
80.1464 - Attest engagement at \$142/hour	400	1	400	24	3408	9600	1363200
CDX Registration	400	1	400	2	142	800	56800
Documentation related to croplands criterion	400	104	41600	0.25	17.75	10400	738400
Determine/assign D Code	400	104	41600	0.25	17.75	10400	738400
Designation-batches for export (foreign producers only)	25	104	2600	0.25	17.75	650	46150
TOTALS	5472		318447			112461	8893531

Information Collection Burden by Type of Party

Table II: Importers of Renewable Fuels

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
80.1416 - New renewable fuels and pathways	25	1	25	8	568	200	14200
80.1426 - Assignment of RINs	100	104	10400	0.25	17.75	2600	184600
80.1431 - Recordkeeping to reflect invalid RINs	5	1	5	0.5	35.5	2.5	177.5
80.1432 - Recordkeeping to reflect "spilled" RINs	1	1	1	0.5	35.5	0.5	35.5
80.1449 - Production outlook reports	100	1	100	16	1136	1600	113600
80.1450 - Registration							
(b)(1) at \$71/hour	100	1	100	8	568	800	56800
(b)(2) at \$142/hour	100	1	100	8	1136	800	113600
80.1451 - Recordkeeping	100	236	23600	0.25	17.75	5900	418900
80.1452 -							

Reporting							
<i>Real time production reporting</i>	100	104	10400	0.25	17.75	2600	184600
<i>Monthly reporting re: RIN generation/transactions</i>	100	24	2400	1	71	2400	170400
<i>Quarterly reporting re: RIN credit activity</i>	100	4	400	1	71	400	28400
80.1453 -							
PTD	100	104	10400	0.25	17.75	2600	184600
80.1464 -							
Attest engagement at \$142/hour	100	1	100	24	3408	2400	340800
CDX Registration	100	1	100	2	142	200	14200
TOTALS	1131		58131			22503	1824913

Information Collection Burden by Type of Party

Table III - "Obligated Parties"

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
80.1431 -							
Recordkeeping to reflect invalid RINs	8	1	8	0.5	35.5	4	284
80.1432 -							
Recordkeeping to reflect "spilled" RINs	1	1	1	0.5	35.5	0.5	35.5
80.1441 -							
(b)(2) - Verification letter	25	1	25	4	284	100	7100
(e)(2) Written notice to waive exemption	1	1	1	4	284	4	284
80.1442 -							
Application for Small Refiner Status	25	1	25	8	568	200	14200
80. 1450 -							
Registration							
(a) at \$71/hour	150	1	150	2	142	300	21300
80.1451 -							
Recordkeeping	150	294	44100	0.25	17.75	11025	782775
80.1452 -							
Reporting							
<i>Annual compliance reporting</i>	150	1	150	4	284	600	42600

<i>Monthly reporting re: RIN transactions</i>	150	12	1800	1	71	1800	127800
<i>Quarterly reporting re: RIN credit activity</i>	150	4	600	1	71	600	42600
<i>Real time reporting</i>	150	104	21000	0.25	17.75	5250	372750
80.1453 -							
PTD	150	347	52050	0.25	17.75	13012.5	923887.5
80.1464 -							
Attest engagement at \$142/hour	150	1	150	24	3408	3600	511200
CDX Registration	150	1	150	2	142	300	21300
TOTALS	1410		120210			36796	2868116

Information Collection Burden by Type of Party

Table IV - Any Party Who Owns/Intends to Own RINS

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
80.1431 - Recordkeeping to reflect invalid RINs	75	1	75	0.5	35.5	37.5	2662.5
80.1432 - Recordkeeping to reflect "spilled" RINs	8	1	8	0.5	35.5	4	284
80. 1450 - Registration (a) at \$71/hour	1500	1	1500	2	142	3000	213000
80.1451 - Recordkeeping	1500	45	67500	0.25	17.75	16875	1198125
80.1452 - Reporting <i>Real time reporting</i>	1500	104	210000	0.25	17.75	52500	3727500
<i>Monthly reporting re: RIN transactions</i>	1500	12	18000	1	71	18000	1278000
<i>Quarterly reporting re: RIN credit activity</i>	1500	4	6000	1	71	6000	426000
80.1453 -							

PTD	1500	35	52500	0.25	17.75	13125	931875
80.1464 -							
Attest engagement at \$142/hour	1500	1	1500	24	3408	36000	5112000
CDX Registration	1500	1	1500	2	142	3000	213000
TOTALS	12083		358583			148541.5	13102446.5

Information Collection Burden by Type of Party

Table V: Additional Items of Reporting for Small Foreign and Foreign Refiners

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
80.1465 -							
<i>(c) - Designation, foreign refiner certification, and PTDs</i>	15	104	1560	1	71	1560	110760
<i>(d) - Load port independent testing and refinery identification</i>	15	104	1560	1	142	1560	221520
<i>\$142/hour - uses independent third party</i>							
<i>(l) - Petitions related to transport into the US by truck</i>	15	12	180	1	71	180	12780
<i>(m) Additional attest engagement requirements at \$142 an hour</i>	15	1	15	8	1136	120	17040
<i>(o) Application for small refinery exemption for foreign refiners</i>	5	1	5	8	568	40	2840
TOTALS	65		3320			3460	364940

Information Collection Burden by Type of Party

Table VI - Additional Items of Reporting for Foreign RIN Owners

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
<i>Application to be a foreign RIN owner</i>	15	1	15	1	71	15	1065
<i>80.1467 (h) - Additional attest requirements for foreign RIN owners at \$142/hour</i>	15	1	15	8	1136	120	17040
TOTALS	30		30			135	18105

Information Collection Burden by Type of Party

Table VII - Recordkeeping and Reporting related to Labeling

Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (In Dollars)	Total Hours	Total Cost (In Dollars)
80.1469(b)	25	1	25	1	71	25	1775
<i>Requesting alternative language for label</i>							
TOTALS	25		25			25	1775

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The exact reports filed will depend upon the activity engaged in by the party. A party must file reports appropriate for each activity it engages in – for example, if a party is *both* an exporter of renewable fuel *and* a producer of renewable fuel, then that party must file the reports applicable to both activities.

In the NPRM, we propose that “real time” reporting be construed as within three (3) business days of a reportable event (e.g. generation and assignment of RINs, transfer of RINs). This means that some parties may elect to “batch” real time reports, similar to how businesses batch credit card transactions at the end of the day. We estimate that an average party would report twice per week each year, for a total of 104 real time reports per year. These estimates are reflected in the tables above.

Monthly reports would be submitted to EPA by the last day of the next calendar month following the compliance period (i.e., the report covering January would be due by the last day of February, the report covering February would be due by March 31st, etc.).

Quarterly reports would be due as follows:

Quarterly Reporting Schedule for RFS2 Program

Quarter Covered by Quarterly Report	Due Date for Quarterly Report
January - March	May 31
April - June	August 31
July - September	November 30
October - December	February 28

Annual reports would be due on February 28 for the preceding year.

Tables I - VII estimate the recordkeeping and reporting burden by party. We will provide respondents the opportunity to engage in simplified, secure, electronic reporting via the Agency's Central Data Exchange (CDX) and its exchange network protocol. An attachment explaining the exchange network protocol is provided with this supporting statement. Respondents must keep copies of all reports filed for five years.

B) **Recordkeeping:** Respondents must retain underlying records related to reports they file for five years. This period is consistent with other fuels programs and with customary business practices (CBP) for the industry. Respondents must transfer volumes of fuel with product transfer documentation or bills of lading, which is already done in the course of business. However, parties will have to actually develop and include new codes on product transfer documents and this supporting statement includes estimates for that burden.

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

a. Agency Activities

- All reports and registrations will be reviewed by EPA for completeness and for potential violations.
- Potential violations will be referred to enforcement personnel.
- Registration numbers will be issued for new registrants.
- Contacting reporting parties if there is a problem with their submission.

b. Collection and Methodology and Management

We anticipate receiving data in a simplified and secure fashion via the Agency's CDX. Information claimed as CBI will be stored in appropriately controlled areas.

c. Small Entity Flexibility

This collection will not adversely affect small entities. The notice of proposed rulemaking describes flexibility provisions available to small entities.

d. Collection Schedule

Registrations are received on a rolling basis, as updates may be sent in at any time and new parties may enter the regulated industry at any time. Reporting is as-needed, monthly, quarterly, and annual.

6. Estimating the Burden and Cost of Collection

a. Estimating the Respondent Universe

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

b. Estimating the Respondent Burden and Cost

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

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. For purchased services related to attest engagements and some items of registration, we have doubled this hourly cost to \$142 in order to more accurately reflect the cost of a certified public accountant's (CPA) or licensed professional engineer's (PE) services.

c. Estimating the Agency Burden and Cost

EPA must generate company and facility registration number(s) for new registrants and notify them of these numbers, which must appear on reports. Report formats and instructions/guidance must be prepared by Agency personnel. Reports will be processed by contractors and must be reviewed by Agency personnel. Reporting parties must be contacted if there is a problem with their submission.

We anticipate that many of our activities related to RFS2 will be similar to that of RFS1. We have not yet developed forms for RFS2, but have attached RFS1 forms which will be used in the first year of RFS2. The RFS2 reporting templates would not be very different, except that reporting would include four types, rather than one type, of RIN. We have provided RFS1 reporting templates as an attachment to this document.

This supporting statement considers costs associated with accepting new registrants and new reports associated with RFS2. Using the RFS1, and the RFG and anti-dumping ICR, and other recent fuels-related ICRs as a guide in developing these initial estimates for RFS, we anticipate that RFS2 may require the equivalent labor of one full time GS-13 technical employees for a total of \$161,000, and labor costs of \$76,000 in the clerical category and \$28,000 in the management category.¹ Since we are using the

¹ These estimates are derived from "OPM Salary Table 2006-DCB," effective January 2006. This table may be found at <http://www.opm.gov/oca/06tables/indexGS.asp>. The extreme of step 10 was assumed for all categories. We have assumed a half-time GS-7 clerical worker, one full-time GS-13 technical worker, and a GS-15 manager working one-eighth of his/her time managing this project (0.125). All values were multiplied by 1.6 (which is a common factor utilized in ICRs to account for overhead costs). We rounded the resulting dollar value to the nearest thousand. This cost is per year.

CDX, some costs incurred by the Agency will be tied to the number of registrants who send us reports. Specifically, there is an annual "subscription cost" associated with the use of CDX that is passed on to the EPA program office and we estimate that registrants due to RFS2 will cost our office approximately \$15,000 in 2010 and \$30,000 in 2011 and 2012.² We anticipate \$178,690 in annual contract costs related to registration and reporting activities. The total annual cost of operating the EPA-Moderated Trading System to the Agency is expected to be \$458,690 per year, starting with implementation of the EPA Moderated System in 2010. In 2011 and 2012, we estimated the annual Agency cost at \$473,690. The RFS2 program is expected to result in lower day-to-day operating costs in terms of employee and contractor costs related to registration and reporting, when compared to RFS1. This estimate does not include IT development costs associated with this reporting system. We anticipate IT development and testing over the first three years of the program at approximately \$333,333 per year (\$1,000,000 total, across three years.) As with all items in this supporting statement, we strongly encourage comment on the estimated Agency burden and on the Agency activities associated with this proposed information collection.

d. Estimating the Respondent Universe

We were able to estimate the number of regulated entities drawing upon experience regulating the same or similar entities.

e. Bottom Line Burden Hours and Costs

From the tables, we estimate the following totals:

TOTAL NO. OF RESPONDENTS:	20,216
TOTAL BURDEN HOURS:	323,922
TOTAL COST TO RESPONDENTS:	\$ 27,073,827

f. Reason for Change in Burden

The change in burden is due to regulations that give effect to the EISA provisions for RFS2.

g. Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to be 0.4 hours per response.³ Burden means the total time,

² This estimate is based upon recently negotiated first-year subscription costs for other fuels reporting programs of \$15,000 per year. In 2010, we anticipate some parties may begin to use the EPA Moderated Trading System. In years two and three (2011 and 2012), we anticipate doubled subscription costs.

³ The average respondent burden is the total number of hours divided by the total number of reports. In this case, 323,922 hours divided by 858,746 reports.

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-2005-0161, which is available for online viewing at www.regulations.gov, or in person viewing at the Air Docket in the EPA Docket Center in Washington, DC (EPA/DC). The docket is located in the EPA West Building, 1301 Constitution Avenue, NW, Room 3334, and is open from 8:30 a.m. to 4:30 p.m., Eastern Standard Time, Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

You may use www.regulations.gov 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 EPA-HQ-OAR-2005-0161. 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-2005-0161 and OMB Control Number 2060-NEW in any correspondence.

The attachments to this ICR are as follows:

- *“Registration, Recordkeeping and Reporting Requirements” (PPT) – includes RFS1 forms and templates.*
- *“Using CDX and the Exchange Network Services” (PPT) – explains how the exchange network works.*