

SUPPORTING STATEMENT FOR THE  
RENEWABLE FUELS STANDARD (RFS2) PROGRAM (FINAL RULE)

A. JUSTIFICATION

1. Identification of the Information Collection

a. Title: Renewable Fuels Standard (RFS2) Program, EPA ICR No. 2333.02, 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 new RFS program is referred to in this supporting statement as "RFS2." Under RFS2, the volume requirement and types of renewable fuels are 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 will implement an EPA-Moderating Transaction System (EMTS) for RINs. Additional parties will be required to register, keep records, and report. Please refer to the Final Rule (available in docket number EPA-HQ-OAR-2005-0161) for a detailed discussion of the RFS2 program.

For compliance purposes, under both RFS1 and 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, under RFS2, there are additional types of RINs and the volume of RINs traded is expected to be greater.

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 the tables containing our estimates carefully. The RFS2 program includes provisions for EMTS for RINs, which was not a feature of RFS1. It also includes third-party disclosure provisions applicable to biofuel feedstock producers, who were not covered by recordkeeping and reporting under RFS1.

The Regulatory Impact Analysis (RIA), which was prepared for the Final Rule, 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

EPA sought comment on reporting requirements via the NPRM. We also docketed a copy of our draft ICR supporting statement based upon the NPRM.

### 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. Under RFS2, 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).

Using the terminology associated with the RFS2 Final Rule, we have assumed the following classes of party, with the number of each in parenthesis:

- Producers of renewable fuels (1010, of which 310 are biodiesel producers)
- Importers (120)
- Obligated Parties (450, of which 400 are refineries and 50 exporters)
- Parties who own RINs (1500)
- Foreign Refiners (10)
- Foreign RIN Owners (5)

[Note: The above estimates are derived from the number of registered parties as of December 17, 2009, rounded up. The number of biodiesel producers is the number registered as of January 11, 2010, rounded up.]

For biofuel feedstock producers, we have assumed the following classes of party, with the number of each in parenthesis:

- 1,000,000 plantation and private forest owners

- 30,966 foreign biofuel feedstock producers

[Note: The above estimates are derived from the following sources: A presentation given by Brent Butler, United States Forest Service, entitled “Private Forest Owners: Past Present, and Future,” dated October 23-27, 2009 estimates a 10,000,000 population of plantation and private forest owners. We have assumed 10% participation in RFS2. We estimated the number of foreign biofuel feedstock producers to be 30,000, which is 3% of the total of domestic feedstock producers (i.e., 3% of 1,000,000.)]

This supporting statement includes estimates reporting involving biofuel feedstock producers, who must provide certain information about their feedstocks and source to biofuel producers and to EPA upon request. The RFS2 final rule contains provisions requiring recordkeeping/reporting and the mapping of certain plots of land (e.g. generating a Google map or similar representation), based upon an aggregate baseline approach. Although we expect that this could lead to future burden on the part of certain biofuel producers who use croplands (i.e., farmers), we do not expect that any party will be required to engage in recordkeeping and reporting activities under this provision until the fourth year of the program or later. Therefore, we have not provided an estimate related to this provision, since it is not expected to result in any cost during the three year period covered by this ICR. Estimates for future recordkeeping and reporting will be provided when the recordkeeping and reporting is expected to occur.

b. Information Requested

A) Reporting: The individual reports required from regulated parties are described in the preamble. The following reports are required by the Final Rule: annual compliance reports (obligated parties only), quarterly reports regarding generation and assignment of RINs (producers and importers only), quarterly RIN reports summarizing transactions and activity, and “real time” RIN transactional activity reporting within EMTS. 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.

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 Final Rule, we establish that “real time” reporting within EMTS will be construed as within five (5) 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 daily, resulting in 365

instances of reporting in EMTS per year. These estimates are reflected in the tables below.

Quarterly reports are due as follows:

#### Quarterly Reporting Schedule for RFS2 Program

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

Annual reports are due on February 28 for the preceding year.

For some reports, e.g. involving biofuel feedstock producers (see Table VII), the frequency of reporting is “on occasion” (i.e., when a transaction requiring disclosure occurs). As discussed above, for EMTS purpose, we have assumed one instance of reporting per day for each day of the year. (i.e., 365 instances of reporting).

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 (5) years.

B) **Recordkeeping:** Respondents must retain underlying records related to reports they file for five (5) 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 Final Rule 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.<sup>1</sup> Since we are using the 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 \$200,000 per year in 2010, 2011 and 2012. We anticipate \$266,666 in annual contract costs related to registration and reporting activities. We anticipate IT development and testing costs at \$2,200,000

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<sup>1</sup> 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.

divided by three years to yield an annual cost of \$733,333. Adding the following values results in an annual estimated Agency burden as follows:

One GS-13 technical employee (full time) =	\$161,000
One GS-7 clerical worker (half time) =	76,000
One GS-15 manager (1/8 time) =	28,000
Annual CDX subscription fee =	200,000
Annual contract costs =	266,666
Testing and development=	733,333
<b>TOTAL =</b>	<b>\$1,464,999</b>

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:

<b>TOTAL NO. OF RESPONDENTS:</b>	<b>1,059,326</b>
<b>TOTAL NO. OF RESPONSES:</b>	<b>4,525,626</b>
<b>TOTAL BURDEN HOURS:</b>	<b>1,421,133</b>
<b>TOTAL COST TO RESPONDENTS:</b>	<b>\$ 108,341,989</b>

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 0.3 hours per response. 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-2005-0161, which is available for online viewing at [www.regulations.gov](http://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](http://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.

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