

SUPPORTING STATEMENT
ENVIRONMENTAL PROTECTION AGENCY

Reformulated Gasoline Commingling Provisions (40CFR Part 80.78) (Renewal)

1. Identification of the Information Collection

1a Title of the Information Collection

Reformulated Gasoline Commingling Provisions (40CFR Part 80.78) (Renewal),
EPA ICR Number 2228.03, OMB Control Number 2060-0587

b. Short characterization:

With this information collection request (ICR), the Office of Air and Radiation (OAR) is seeking permission to accept notifications from gasoline retailers and wholesale purchaser-consumers related to commingling of ethanol blended and non-ethanol-blended reformulated gasoline (RFG) under §1513 of the Energy Policy Act of 2005 (EPAAct) and 40 CFR § 80.78(a)(8)(ii)(B); and to provide for a compliance option whereby a retailer or wholesale purchaser-consumer may demonstrate compliance via test results under § 80.78(a)(8)(iii)(A). These provisions are designed to grant compliance flexibility. Parties were first subject to this recordkeeping and reporting on June 1, 2006. We are requesting that the Office of Management and Budget (OMB) approve the renewal of this ICR and that it remain in effect 3 years from the approval date.

Section 1513 of the EPAAct addresses the combining of ethanol-blended RFG with non-ethanol-blended RFG. This provision amended the Clean Air Act (CAA) to add a new § 211(s) providing retail outlets two ten-day opportunities during a single VOC-control season to blend batches of ethanol-blended and non-ethanol-blended RFG. Under this new section, retail outlets are allowed to sell non-ethanol-blended RFG which has been combined with ethanol blended RFG under certain conditions:

- o First, each batch of gasoline to be blended must have been “individually certified as in compliance with subsections (h) and (k) [of CAA § 211] prior to being blended.”
- o Second, the retailer must notify EPA prior to combining the gasolines and identify the exact location of the retail outlet and specific tank in which the gasoline is to be combined.
- o Third, the retailer must retain, and, upon request by EPA, make available for inspection, certifications accounting for all gasoline at the retail outlet. [This information is normally kept in the normal course of business and we believe retaining it is a customary business practice (CBP).]

- o Fourth, retailers are prohibited from combining VOC-controlled gasoline with non-VOC-controlled gasoline between June 1 and September 15.

To provide assurance that gasoline is in compliance with the downstream VOC standard after the ten-day period, EPA issued a direct final rule that amended 40 CFR part 80 to address commingling (71 FR 8973, February 22, 2006). There are two options available for retailers and wholesale purchaser-consumers. Under the first option, the retailer may add both ethanol-blended RFG and non-ethanol-blended RFG to the same tank an unlimited number of times during the ten-day period, but must test the gasoline in the tank at the end of the ten-day period to make sure that the RFG is in compliance with the VOC standard. Under the second option, the retailer must draw the tank down as much as practicable at the start of the ten-day period, before RFG of another type is added to the tank, and add only RFG of one type to the tank during the ten-day period. Because there is a recordkeeping requirement associated with retail station test results under the first option, we have also calculated an estimated burden for that activity. We believe 5% or fewer of respondents will elect the testing option.

Retailers are also limited in the frequency with which batches of non-ethanol RFG may be combined with ethanol RFG. Retailers may combine such batches of RFG a maximum of two periods between May 1 and September 15. Each period may be no more than ten consecutive calendar days.

2. Need for and Use of the Collection

a. Authority for the Collection

Sections 114 and 208 of the 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. The relevant regulations are in 40 CFR Part 80, Regulation of Fuels and Fuel Additives. See §§ 80.78(a)(8)(ii)(B) and (iii)(A).

b. Practical Utility/Uses of the Data

The recordkeeping and reporting requirements of this regulation will allow EPA to monitor compliance with the commingling requirements of CAA § 211(s), as added by § 1531 of the EPA Act.

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

The requested recordkeeping and reporting are required under 40CFR part 80.78.

a. Non-duplication

Efforts have been made to eliminate duplication in this information collection. Where possible, information requirements from various organizations within the Agency have been combined to minimize the submittal of duplicate information in different formats. The information in this collection will not be available from another source.

b. Public Notice

EPA will provide opportunity for notice and comment regarding this ICR.

c. Consultations

We have drawn upon our experience with similar fuels regulations and have utilized information available from National Petroleum News to develop these estimates. Anne Pastorkovich of the Fuels Program Support Group (EPA) discussed these estimates with Timothy Columbus, counsel for the Society of Independent Gasoline Marketers (SIGMA) by telephone on March 11, 2010. No comments were received on these estimates.

d. Effects of Less Frequent Data Collection

We very likely have over-estimated the burden because we have used a conservative approach that assumes all parties may respond twice annually (i.e., we have assumed the maximum number of responses). With regard to the testing option and retention of those records, we anticipate that 5% or fewer of respondents will be affected annually. Less frequent collection of data would make it impossible to carry out the provisions of the CAA and EPA Act.

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 any or all of the information they submit. We do not believe that most respondents would characterize the information they submit to us under this information collection as the Confidentiality of Business Information (CBI) (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 17674, March 23, 1979. Because of this, we are permitting reporting via e-mail. However, 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 § part 2, subpart 203.

g. Sensitive Questions

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

4. The Respondents and the Information Requested

a. Respondents/SIC Codes

The respondents to this information collection are: Retailers (including wholesale purchaser-consumers)

Recordkeeping and reporting may be required by the following industries:
Gasoline stations (447)
Gasoline stations with convenience stores (447110)
Gasoline stations without convenience stores (447190)

b. Information Requested

i) Data Items

Reporting: Respondents who use the notification option will be sending a very simple report that could take the form of a short e-mail or similar communication. No form is to be developed, although we may consider developing a simple web based reporting interface for submission of the information, if that option is desired by the respondent community.

Recordkeeping: Under the testing option, respondents must retain underlying records related to results of any tests they perform for five years. We anticipate that 5% or fewer respondents will choose the testing option. The burden of retaining the testing results record is small.

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

a. Agency Activities

All notifications will be reviewed by EPA. (Test results will be shown to EPA field compliance and enforcement personnel upon request.)

- Notifications will be stored by EPA.

b. Collection Methodology and Management

Data will be collected by industry and reported to EPA in the form of a simple e-mail that identifies the service station and its address and identifies the tank where commingling will occur. As mentioned above, we do not anticipate that this information will come in under a CBI claim; however, that is a possibility and we will treat all such information in accordance with 40 CFR Part 2 and established Agency procedures for handling CBI. Information claimed as CBI will be stored in appropriately controlled areas.

c. Small Entity Flexibility

This collection will not adversely affect small entities. The whole purpose of the commingling provision of the EPA Act is to provide flexibility. The actual estimated annual burden for a typical respondent who submits up to two notifications per year is estimated to be \$16.00 and 0.50 hours (30 minutes) annually.

d. Collection Schedule

We anticipate that notifications will be submitted no more than twice per year.

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. We consulted the *National Petroleum News* to assist us in estimating the total number of retail stations. Since that publication contained a nationwide estimate, we assumed 30% of that number for stations in RFG areas (since 30% of the gasoline market nationwide is RFG). Although imperfect, we believe this is a reasonable estimate, and have applied similar logic in estimating the number of wholesale purchaser-consumers. We have estimated that there are 54,000 respondents.¹

(b) Estimating the Respondent Costs

(i) Estimating Labor Costs

We used the Bureau of Labor Statistics (BLS), *May 2008 National Industry-Specific Occupational Employment and Wage Estimates* applicable to “NAICS 44710 – Gasoline Stations,” as the basis for our estimates.² We used the mean hourly salary for a first-line supervisor/manager of retail sales workers (\$15.66), rounded this up to the next whole dollar amount (\$16.00), and doubled for company overhead beyond wages and benefits. This yields an estimated hourly cost of \$32.00.

(ii) Estimating Capital/Startup and Operation and Maintenance Costs

The type of industry costs associated with the information collection activities in the subject standard are labor costs which are addressed elsewhere in this ICR and the

¹ ² The *National Petroleum News* (Market Facts - July 2005) counts 168,987 retail stations in 2005. This number was multiplied by 0.30 to yield 50,696 and rounded up to 51,000 for ease of use. In our ICR for diesel fuel, “Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Diesel Fuel Sold in 2001 and Later Years; for Tax-exempt (Dyed) Highway Diesel Fuel; and for Nonroad Locomotive and Marine Diesel Fuel” (EPA ICR 1718.06), we estimated that there were 10,000 wholesale purchaser-consumer facilities handling petroleum product. For purposes of this ICR, we are multiplying this number by 0.30 to yield 3,000. Adding our estimate of the number of retailers (51,000) and the number of wholesale purchaser-consumers (3,000) yields 54,000 respondents. We believe this number to be on the high side in estimating actual respondents, but it does provide a reasonable benchmark.

costs associated with continuous monitoring. The capital/startup costs are one-time costs when a facility becomes subject to the regulation. The annual operation and maintenance costs are the ongoing costs to maintain the monitor and other costs such as photocopying and postage.

The total capital/startup costs for this ICR are 0.

The total operation and maintenance (O&M) costs for this ICR are 0.

© Estimating the Agency Burden and Cost

No response is required to notifications unless a potential violation is noted. This activity will present no significant, quantifiable burden to the Agency.

d. Estimating the Respondent Universe

We were able to estimate the number of regulated entities drawing upon experience regulating the same entities and through the use of an industry publication.

e. Bottom Line Burden Hours and Costs

From the Table on page 7 we estimate the following:

TOTAL NO. OF REPORTS:	110,700
TOTAL BURDEN HOURS:	27,675
TOTAL COST:	\$885,600

f. Reason for Change in Burden

The change in burden from the prior ICR in this series (2228.02) to this current one is due in part to a change in how the burden was calculated. In the prior ICR, we used a higher cost estimate, because we assumed a general mix of managerial, technical, and clerical work and considered estimates based upon general manufacturing (refining). As discussed above, these provisions are designed to grant flexibility to retailers and wholesale purchaser-consumers of gasoline and have used a more appropriate Bureau of Labor Statistics (BLS) table related specifically to gasoline stations in order to develop the estimates for this proposed ICR renewal.

g. Burden Statement

The average respondent burden in hours *per response* for this ICR is estimated at 0.25 hours (15 minutes).³ The average annual respondent burden in hours for this ICR is estimated at 0.50 hours (30 minutes).

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 the instructions; develop, acquire, install, and utilize technology and systems for the purpose 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 transit 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-OECA-2006-0745. An electronic version of the public docket is available at <http://www.regulations.gov/> which may be used to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the content of the docket, and to access those documents in the public docket that are available electronically. When in the system, select "search" than key in the docket ID number identified in this document. The documents are also available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, N.W., Washington, DC. 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 Enforcement and Compliance Docket and Information Center Docket is (202) 566-1752. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W., Washington, DC 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OECA-2006-0745 and OMB Control Number 2060-0587 in any correspondence.

³ "May 2008 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 44710 – Gasoline Stations;" Bureau of Labor Statistics, at http://www.bls.gov/oes/2008/may/naics4_447100.htm, accessed September 8, 2009.

³ The average respondent burden is the total number of hours divided by the total number of reports from the Table, rounded up for simplicity.

Part B of the Supporting Statement

This part is not applicable because no statistical methods were used in collecting this information.

Table 1: Annual Respondent Burden and Costs - Reformulated Gasoline Commingling Provisions (40CFR Part 80.78) (Renewal)

Collection Activity	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours per Response & Cost per Response	Total Hours & Total Cost @ \$32/hour
Prepare and Submit Notification	54,000	2	108,000	0.25 ----- \$8.00	27,000 hours ----- \$864,000
Maintain Test Results Documents (assumes 5% of respondents test)	2,700	1	2,700	0.25 ----- \$8.00	675 hours ----- \$21,600
Total	56,700 respondents	-----	110,700 responses	-----	27,675 hours ----- \$885,600