

**11SUPPORTING STATEMENT
ENVIRONMENTAL PROTECTION AGENCY**

Regulation of Fuels and Fuel Additives: Gasoline Volatility (40 CFR 80.27) (Renewal)

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection

Regulation of Fuels and Fuel Additives: Gasoline Volatility (40 CFR 80.27)
(Renewal) EPA ICR Number 1367.09, OMB Control Number 2060-0178

1(b) Short Characterization/Abstract

Gasoline volatility, as measured by Reid Vapor Pressure (RVP) in pounds per square inch (psi), is controlled in the spring and summer in order to minimize evaporative hydrocarbon emissions from motor vehicles. The standards, 7.8 psi or 9.0 psi, for each state (excluding Alaska and Hawaii) and the District of Columbia, are at 40 CFR 80.27(a). The addition of ethanol to gasoline increases the RVP by about one psi. Gasoline that contains at least nine volume percent ethanol, and no more than 10 volume percent ethanol, is subject to a standard that is 1.0 psi greater. As an aid to compliance and enforcement, the regulation at 40 CFR 80.27 (d)(3) requires that the Product Transfer Document (PTD) which accompanies a shipment of gasoline containing ethanol shall contain a legible and conspicuous statement that the gasoline contains ethanol and the percentage concentration of ethanol. This is intended to deter the mixing within the distribution system, particularly in retail storage tanks, of gasoline which contains ethanol in the 9-10 percent range with gasoline that does not contain ethanol in the 9-10 percent range. Such mixing would likely result in a gasoline with an ethanol concentration outside the 9-10 percent range, but with an RVP above the applicable standard of 7.8 or 9.0 psi. It is estimated that there are approximately 2,000 producers and importers (mostly blenders as opposed to refiners and importers) of gasoline blended with ethanol. These are the parties responsible for generating the PTDs. Parties wishing to conduct research or emissions certification on gasoline that does not meet the volatility standard are required to obtain a testing exemption in accordance with 40 CFR 80.27(e). The EPA receives approximately two requests per year for testing exemptions.

EPA has proposed additional PTD requirements for gasoline containing ethanol at 75 FR 68044 (November 4, 2010). Those requirements will be addressed in a separate ICR.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

Section 211(h) of the Clean Air Act (CAA) requires EPA to promulgate regulations prohibiting the sale or distribution of gasoline whose volatility, as measured by RVP, exceeds certain standards during the high ozone season. The CAA and

regulations at 40 C.F.R. 80.27 and 80.28 permit gasoline containing 9-10 percent ethanol to have an RVP that is one psi greater than the standard that would otherwise apply. Normally, the gasoline distribution system treats gasoline as a fungible product. That is, gasolines from numerous sources are mixed together (also known as commingling) in tanks at terminals and retail outlets. Therefore, without the required statement on the PTD, gasoline containing ethanol in the 9-10 percent range could easily be commingled with gasoline containing ethanol outside that range. This could result in gasoline that exceeds the applicable 7.8 psi or 9.0 psi standard, and not have ethanol in the 9-10 percent range to qualify for the one psi exemption allowed by the Act and regulations. Thus, it is imperative that gasoline marketers, shippers, and distributors know if a shipment of gasoline contains ethanol, and in what concentration. The required statement on the PTD of gasoline blended with ethanol will significantly aid industry compliance and EPA's ability to enforce the volatility standards.

Thus, the rule requires that the Customary Business Practice (CBP) PTD for a shipment of gasoline containing ethanol state that the gasoline contains ethanol and the percentage concentration of ethanol. The rule does not have a recordkeeping requirement. However, PTDs are usually retained in the normal course of business for five years. The PTD is generated by any party that produces or imports gasoline that contains ethanol.

As required by section 211(h) of the CAA, the Agency promulgated a final rule in 1991. The reporting requirement in 40 CFR 80.27(d)(3) was promulgated under authority of section 211(h) of the Act, 42 U.S.C. § 7545(h) and sections 114 and 208 of the CAA, 42 U.S.C. §§ 7414 and 7542, and provides:

"Each invoice, loading ticket, bill of lading, delivery ticket and other document which accompanies a shipment of gasoline containing ethanol shall contain a legible and conspicuous statement that the gasoline being shipped contains ethanol and the percentage concentration of ethanol."

These regulations provide for the enforcement of the standards for the maximum RVP that will be allowed during the high ozone portion of the year, extending from May 1 (suppliers) or June 1 (all other persons) through September 15. Regulatory control of volatility stems from a recognition of the major impact that increases in the RVP of gasoline have on the emissions of Volatile Organic Compounds (VOCs). Consequent to the excessive emission of VOCs is the formation of ozone in the ambient air, a major summertime health problem in many urban areas.

The reporting (actually labeling) requirement is necessary because the CAA gave certain ethanol blends a one pound per square inch (psi) allowance above the otherwise applicable RVP standard. The records regarding the shipment of ethanol blends to a retailer or to any "midstream" distribution point will assist Agency enforcement officials, when inspecting those shipments, in identifying those gasoline blends that qualify for the

one psi allowance, and those parties who may be liable for violations if the blend is not in compliance. The records are also necessary to assist regulated parties in avoiding violations when handling multiple shipments of gasoline during the high ozone season, and can be used by parties in establishing a legal defense.

Parties wishing to conduct research or emissions certification on gasoline that does not meet the volatility standard may obtain a testing exemption by providing the information specified at 40 CFR 80.27(e) to EPA. Thus, if a test facility was inspected by EPA, and gasoline was found that did not meet the standard, and the facility had an exemption, there would not be a violation.

2(b) Practical Utility/Users of the Data

The collection of information is necessary for the proper performance of the functions of the Agency and has practical utility. The information contained in the PTDs for gasoline blended with ethanol is used to identify those gasoline blends that may qualify for the one psi allowance, as provided by the Act and by the rule. The required record also helps prevent the commingling of gasoline containing the required amount of ethanol necessary to be eligible for the one psi waiver with gasoline that does not qualify. Such commingling would usually result in a violation. The testing exemption provides flexibility for research or emissions certification.

Agency enforcement officers need this information to assist in identifying violations and violating parties. There is no recordkeeping requirement under this rule. Industry entities, including blenders of ethanol and gasoline, and distributors of gasoline containing ethanol, as well as retailers (who ultimately receive the gasoline but have no recordkeeping requirements under the rule) need the information in order to prevent violations that can occur from commingling multiple gasoline shipments during the high ozone season.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Nonduplication

The information collection is not duplicative. The PTDs are the only records available to recipients of gasoline that document that ethanol has been blended into the gasoline. The reporting requirement for a testing exemption is the only practical approach.

3(b) Public Notice Required Prior to ICR Submission to OMB

In compliance with the Paperwork Reduction Act, a notice was published in the Federal Register (75 FR 74044, November 30, 2010). No comments were received.

3(c) Consultations

Based on discussions with industry representatives, the general consensus is that the burden is very small. The information is generally computer-generated, pre-printed, or hand stamped on the PTDs. The rule does not require that the PTDs be retained. Only about two requests for testing exemptions are received annually. Discussions were with:

Jeffrey Behrer	Exxon Mobil Pipeline Co.	540-297-3444
Bruce Heine	Magellan Midstream Partners	918-645-8989
Marilyn Herman	Herman and Associates	202-362-9520
James Holland	Kinder Morgan	713-369-9428
Bob Ricciuti	Sunoco Logistics	215-977-3828

3(d) Effects of Less Frequent Collection

This labeling activity is the minimum necessary to alert downstream distributors/marketers that a shipment of gasoline contains ethanol. The labeling requirement applies only to those producing or importing gasoline blended with ethanol. The Agency allows maximum flexibility in the form of the labeling. Neither record maintenance nor reporting to the Agency is required. No new documents are required since PTDs are routinely used in the gasoline distribution network. Testing exemptions are requested only as necessary.

3(e) General Guidelines

The collection is in compliance with OMB guidelines. To the extent that some affected companies may be relatively small businesses, their informational requirements do not change since the requirement is already the minimal possible in order to give other businesses and EPA information that is necessary for compliance.

3(f) Confidentiality

Information claimed as confidential is handled in accordance with EPA Freedom of Information Act regulations at 40 CFR 2.

3(g) Sensitive Questions

There are no sensitive questions.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents/SIC/NAICS Codes

The respondents are related to the following major group Standard Industrialization Classification (SIC) codes:

2869 - Denatured Alcohol Manufacturing

2911 - Petroleum Refineries

4212 - Gasoline Distributors

5171 - Gasoline Bulk Stations and Terminals

5172 - Gasoline Merchant Wholesalers (except bulk stations, terminals)

5541 - Retailers/Wholesale Purchaser-consumers

The respondents are related to the following major group NAICS codes:

324110 - Petroleum Refineries

325193 - Denatured Alcohol Manufacturing

424710 - Gasoline Bulk Stations and Terminals

424720 - Gasoline Merchant Wholesalers (except bulk stations, terminals)

4(b) Information Requested

(i) Data Items, Including Recordkeeping Requirements

This ICR covers the reporting/labeling requirement at 40 CFR 80.27(d)(3) for the PTDs for shipments of gasoline containing ethanol. Ethanol is generally splash-blended into a gasoline tanker truck at a terminal truck rack at ten volume percent. The blender creates a statement on the PTD that the product contains ten percent ethanol. The same is required for a refiner who produces gasoline blended with ethanol at a refinery and an importer of gasoline blended with ethanol. Each distributor/transferor transfers this PTD on to the next transferor and ultimately to the retail level. Many refiners/blenders/importers already included this information on the PTDs prior to the EPA regulatory requirement (also, some states already required this information), and for them this requirement represented no new burden. Even where it did represent a new burden, in just about all cases the information is now encoded automatically by computer or otherwise routinely stamped or entered on the PTD, resulting in an extremely small reporting burden. There is no burden for transferors, as they already had to transfer a PTD with each shipment of gasoline as a Customary

Business Practice (CBP). This rule has no recordkeeping requirement. Parties needing a testing exemption must submit the information specified at 40 CFR 80.27(e).

(ii) Respondent Activities

The following are required:

Read and comprehend the regulations.

Train personnel to meet the requirements.

Develop the information for the PTD and/or testing exemption.

Gather and organize the information.

Review the information, perform quality assurance, and take corrective action, if necessary, to meet the regulatory requirements.

Enter the information onto the PTD or submit the request for a testing exemption to EPA.

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

5(a) Agency Activities

The following are required:

Develop a thorough understanding of the regulatory requirements.

Convey the requirements and respond to inquiries in a clear manner.

Provide access to the regulations and guidance documents.

Timely process requests for testing exemptions.

Monitor compliance with the PTD requirement.

5(b) Collection Methodology and Management

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. Ethanol blender/distributors generally use computer-printed

language stating that the product contains ethanol and the amount (usually 10 percent). This information is printed on PTDs, and in many cases the information itself was already printed prior to the rule. EPA also allows the use of coded statements to reduce the space the statement requires on the PTD. EPA may examine these records during investigations regarding gasoline exceeding the applicable RVP standard. Requests for a testing exemption are routinely reviewed and granted by EPA.

5(c) Small Entity Flexibility

The information collection reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the Agency, including with respect to small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. § 601(6)), the use of such techniques as: (1) establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond; (2) the clarification, consolidation, or simplification of compliance and reporting requirements; or (3) an exemption from coverage of the collection of information, or any part thereof.

The approach of this information collection holds burdens to the irreducible minimum consistent with obtaining the required compliance levels. The labeling requirement applies only to those entities that produce or import gasoline blended with ethanol. It enables those parties, as well as retail level entities, to comply with the law. However, retail entities have no requirement to make or maintain records. Therefore, the smallest entities have no burden under this collection and for those small blenders and importers who do have a burden, the burden is minimal. The information required is not in any prescribed format, allowing for maximum flexibility in how to print the information, including the use of short codes, and does not necessitate any new records. Therefore, no further flexibility is needed.

5(d) Collection Schedule

There is no reporting requirement to EPA and there is no required maintenance period. There is no collection schedule; the statement is added to the CBP transfer document when the blend is produced or imported.

6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

It is estimated that there are 2,000 producers and importers of gasoline blended with ethanol. The vast majority is blended at terminals. Some ethanol is blended at a refinery or contained in imported gasoline

Based on information received from respondents and from EPA experience, for most respondents the required information is automatically computer-generated or preprinted on the PTDs. This means the reporting requirement is almost immeasurable for these parties. Other

parties may spend about ten seconds per transaction to stamp or otherwise enter the information on the PTDs. (Respondent estimates were: Exxon – less than 1 second, Kinder Morgan – one second, Magellan Pipeline – 1 second for automated PTDs, 10 seconds for hand-stamped PTDs, Sunoco – less than 1 second.) The average for all respondents is estimated to be about one second per transaction. There is no recordkeeping requirement. It is estimated to take four hours to prepare a request for a testing exemption.

Based on data from the U.S. Department of Labor, Bureau of Labor Statistics, (2008 data adjusted to 2011), EPA estimates that the hourly cost, including benefits and other employee costs, for this industry and for the period of this ICR, to be about \$110 per hour for a typical labor mix.

Almost all gasoline containing ethanol will be shipped by truck. Assume 95 percent of all gasoline contains ethanol. If 95 percent of the 140 billion gallons of gasoline that is consumed annually nationwide contains ethanol, this comes to 133 billion gallons of gasoline. If the average truck shipment is 3,000 gallons of gasoline, then about 44 million truckloads/shipments of gasoline with ethanol are produced/imported annually. Thus 44 million PTDs will receive the required statement on ethanol content annually.

6(a) Estimating Respondent Burden

For 44 million PTDs (responses), at an average burden of 1 second per PTD, the annual burden is 12,222 hours, or about six hours for each of the estimated 2,000 producers and importers. There is an additional hour of labor for each of the estimated 100 new producers or importers annually to implement the requirement, for a net annual burden for producers and importers of $12,222+100= 12,322$ hours. The two requests for testing exemptions, at 4 hours each, add 8 hours annually, for an annual total of 44,000,002 responses and $12,322+8= 12,330$ hours. There is no burden for transferors and recipients because the transmittal of PTDs is a customary business practice.

6(b) Estimating Respondent Costs

(i) Estimating Labor Costs

In discussions with industry, four labor categories were identified as having involvement: managerial, legal, professional/technical (prof/tech) and clerical. According to the Bureau of Labor Statistics, May 2008 National Industry-Specific Occupational Employment and Wage Estimates, mean wages were:

<u>Wages</u>	
Managerial	\$60.42 (+112%)
Legal	\$84.56 (+112%)
Prof/Tech	\$60.05 (+112%)
Clerical	\$17.34 (+112%)

Doubling for company overhead and employing a 2% annual inflation factor to bring the rates to the year 2011, and, for convenience, rounding to the nearest dollar, gives the following rates that will be used for this ICR:

<u>Total Employer Cost</u>	
Managerial	\$128
Legal	\$179
Prof/Tech	\$127
Clerical	\$ 36

The labor mix for each task is assumed to be about 0.05 hour managerial, 0.05 hour legal, 0.7 hour professional/technical, and 0.2 hour clerical. This gives an average labor cost of about \$110 per hour, which will be used in this ICR.

(ii) Estimating Capital and Operations and Maintenance Costs

There are no capital costs as the PTD is a CBP. There are operations and maintenance costs for copying and postage for the two exemption requests annually, and are estimated at \$10 each for a total of \$20.

(iii) Capital/Start-up Operating and Maintenance (O/M) Costs

There are no O&M costs.

(iv) Annualizing Capital Costs

There are no annualized capital costs.

6(c) Estimating Agency Burden and Cost

The labeling activity that is the subject of this ICR imposes no burden or costs on EPA. EPA would conduct inspections even without the requirement, but the required information on the PTD facilitates the investigation of possible violations. It is estimated that the Agency will spend 2 hours evaluating a request for a testing exemption at a cost of **\$80 per hour**. This is based on an annual cost to the agency for salary and benefits of \$166,000 for an employee of the appropriate level (GS-13) and divided by 2080 hours per annum.

6(d) Estimating the Respondent Universe and Total Burden and Costs

For producers and importers of gasoline containing ethanol, 12,222 hours at \$110 per hour gives a total of \$1,344,420, or about \$672 per respondent (2,000 respondents) annually to generate the required statement on PTDs. For the estimated 100 new

producers or importers each year, there is an additional hour of labor for each, \$110 per respondent, to implement the requirement, for a total of \$11,000. Thus, the total annual cost for producers and importers is \$1,344,420+\$11,000=\$1,355,420. For parties wishing a testing exemption, 8 hours at \$110 per hour gives a total of \$880, or \$440 per respondent (2 respondents). There are no costs for transferors and recipients.

There are no Purchased Services Costs. There are no Annualized Startup Costs. There are no Annualized Capital Costs. Thus, the only non-labor costs are Operating and Maintenance (O&M) costs are for copying and postage for the two exemption requests annually, and are estimated at \$10 each for a total of \$20.

6(e) Bottom Line Burden Hours and Cost Tables

(i) Respondent Tally

PTD Language	12,222 hours	\$1,344,420
New Programming	100	\$ 11,000
Testing Exemptions	8	\$ 880
Mailing of Exemptions	0	\$ 20

(ii) Agency Tally

Review of Testing Exemption Requests	4 hours	\$320
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(iii) Variations in the Annual Bottom Line

None.

6(f) Reasons for Change of Burden

The use of ethanol in gasoline has increased since the previous ICR from 60 percent of the market to 95 percent of the market. Also, the average shipment size has been reevaluated from 8,500 gallons to 3,000 gallons. Thus, the estimated annual number of PTDs that will contain the required language has increased from 10 million in the previous ICR to 44 million. Despite the increase in the number of responses, the total requested respondent burden has decreased by 1,667 hours because of an increase in computer-generated product transfer documents.

6(g) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average less than one minute 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-2007-0478, which is available for online viewing at www.regulations.gov, or in person viewing at the Office of Air and Radiation Docket 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 Regulation of Fuels and Fuel Additives: Gasoline Volatility Docket is (202) 566-1742. An electronic version of the public docket is available at 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-2007-0478 and OMB Control Number 2060-0178 in any correspondence.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

This section is not applicable because statistical methods are not used in this data collection associated with the Gasoline Volatility Rule.