

INFORMATION COLLECTION REQUEST (ICR)

SUPPORTING STATEMENT

ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF AIR & RADIATION

A. JUSTIFICATION

1. Identification of the Information Collection

a. Title: Recordkeeping and Reporting for Amended Heating Oil Definition under the Renewable Fuels Standard

EPA Number: 2462.01

OMB Control Number: 2060-NEW

b. Short characterization:

With this proposed information collection request (ICR), the Office of Air and Radiation (OAR) is seeking permission to require certain recordkeeping and reporting in connection with an amendment to the definition of “heating oil” under the renewable fuel standard (RFS2) program. The recordkeeping and reporting changes are expected to affect 11 non-Federal respondents, including ten producers and one importer.

EPA is issuing a proposed rule to amend the definition of heating oil in 40 CFR 80.1401 in the RFS2 program, under section 211(o) of the Clean Air Act. This amendment will expand the scope of renewable fuels that can generate Renewable Identification Numbers (RINs) as heating oil will be amended to include fuel oil produced from qualifying renewable biomass that will be used to generate heat to warm buildings or other facilities where people live, work, recreate, or conduct other activities. Fuel oils used to generate process heat, power, or other functions will not be included in the amended definition. Producers or importers of fuel oil that meets the amended definition of heating oil will be allowed to generate RINs, providing that the fuel oil meets the other requirements specified in the RFS regulations. This amendment will not modify or limit fuel included in the current definition of heating oil at §80.2(ccc). The proposed rule does include new recordkeeping and reporting items applicable to producers or importers of fuel oil that meet the amended definition. These are described below.

It is useful for parties commenting on this proposed ICR to review the existing, approved RFS2 information collections related to the RFS2 program, as identified by OMB Approval Number and expiration date:

- Renewable Fuels Standard Program: Petition and Registration, OMB Approval Number 2060-0637, Expires 03/31/2013
- Renewable Fuels Standard, OMB Approval Number 2060-0640, Expires 7/31/2012

## 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. The relevant regulations are in 40 CFR Part 80, Regulation of Fuels and Fuel Additives.

### b. Practical Utility/Uses of the Data

The information collected via registrations and reports is used by EPA to determine compliance with the RFS2 program. Records retained by regulated parties support compliance information submitted to EPA.

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

### 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

This supporting statement is being docketed in order to permit interested parties to fully comment upon the costs associated with the rule.

### c. Consultations

EPA is providing an opportunity for notice and comment regarding this proposed ICR. To date, we are aware of only one producer who would be subject to this direct rule. However, we reasonably anticipate that other RIN generators may also choose to engage in activities that may make them subject to the ICR for this rule. We encourage all interested parties to provide us with comments as to our burden estimates.

d. Effects of Less Frequent Data Collection

The frequency of response is controlled by the submitter of the information.

e. General Guidelines

This rule does not exceed any of the OMB guidelines.

f. Confidentiality

EPA informs respondents that they may assert claims of business confidentiality for any or all of the information they submit. 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 section is not applicable as this proposed ICR does not involve matters of a sensitive nature.

4. The Respondents and the Information Requested

The parties subject to RFS2 information collections 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 Proposed Rule and associated ICRs, we have assumed the following classes of party would have new recordkeeping and reporting covered by this supporting statement. The total universe of parties is derived from the existing approved RFS2 ICRs, cited above.

- Producers of renewable fuels - we anticipate that 10 of 1,010 producers, or .01%, will engage in activities that will make them subject to new information collection requirements outlined in this proposed ICR.

Importers - we anticipate that one of the approximately 120 importers will engage in activities that will make them subject to this ICR.

b. Information Requested

i. Registration

For the purpose of registration, EPA is requiring producers of the expanded fuel oil types to submit to EPA all existing contracts with their prospective clients for specified quantities of fuel oil that the prospective client intends to purchase from the producer for the purpose of heating homes or buildings. The submission of the contracts will help EPA to verify the potential volumes the producer is requesting to register under the program for RIN generation.

EPA recognizes that the producer may not have all contracts set up prior to registration that will equate to the facility's permitted capacity or actual peak capacity as defined in §80.1401 of the rule that is currently used by EPA to establish a facility's baseline volume for registration purposes. EPA also recognizes that it will not be practical for program implementation to require these producers to continually submit new and revised contracts for every client to the EPA to continually update the producer's registered baseline volume based on these contracts to reflect every gallon of fuel oil produced up to the facility's permitted capacity or actual peak capacity.

Therefore, EPA is allowing the producer of the expanded fuel oil types to establish their facility's baseline volume in the same manner as all other producers under the RFS program, e.g., based on the facility's permitted capacity or actual peak capacity. However, we are also adopting additional requirements for the submission of contracts executed prior to registration, as a means to verify the initial volumes that will be sold for heating purposes as defined in paragraph (2) of the amended definition of heating oil.

EPA is also requiring submissions of new and revised contracts that are executed after registration on an annual basis as part of the producer's update to their registration. Additionally, we are adopting new recordkeeping, PTD and reporting requirements discussed below that will be used as a means for verification of the remaining gallons up to the facility's registered baseline volume. The registration requirements are detailed in the registration section in §80.1450(b)(1)(ix).

ii. Recordkeeping, Product Transfer Documents and Reporting

For the purpose of continued verification after registration, EPA is adopting additional requirements for recordkeeping in §80.1454(b) (6) and (7), PTDs in §80.1453(d) and reporting requirements in §80.1451(b)(1)(ii)(T) for the expanded fuel oil types.

The recordkeeping, PTD and reporting requirements will ensure that the expanded fuel oil types that are used to generate RINs are actually used in a qualifying application. The regulations will require contracts between the fuel oil producer and the final end user for the legal transfer of title of a specific volume of fuel oil that is designated for use, and is actually used, only for the purpose of heating interior spaces of homes or buildings to

control ambient climate for human comfort. For instance, the additional recordkeeping requirements will stipulate that the producer of fuel oils maintain documents associated with each gallon of fuel oil that is under contract for sale and is sold to all of its clients, and affidavits from the client stipulating that they are using the fuel oil for purposes of heating interior spaces of buildings where people live, work, recreate, or conduct other activities to control ambient climate for human comfort. Additionally, producers are required to maintain all documents and records submitted for registration and registration updates as part of the producer's recordkeeping requirements for the expanded fuel oil types they register for RIN generation. EPA believes the producer's maintenance of these records will help to substantiate continued tracking and verification that the end use of the fuel oil is in compliance with the stipulations of the expanded definition of heating oil.

The additional PTD requirement stipulates that the PTD used to transfer ownership of the renewable fuel must contain the statement: "This volume of renewable fuel is designated and intended to be used to heat interior spaces of homes or buildings. Do not use for any other purpose." EPA believes that this PTD requirement would help to ensure that each gallon of fuel oil that is transferred from the producer to the end user is used for qualifying purposes under the expanded definition of heating oil.

The additional reporting requirements will stipulate that the producer of fuel oils report to EPA the total quantity of the fuel oils produced and sold to all its clients for qualifying purposes and the total volume produced or sold that did not qualify for RIN generation, including an explanation of why these volumes of fuel oil did not qualify and to what entity were the volumes eventually sold. EPA believes the additional requirement to report the total gallons sold by the producers of fuel oils as well as the total gallons produced or sold that did not qualify for RIN generation will enable EPA to verify that the producers are producing and selling RIN-generating fuel oil that falls within their allowable volume that is registered under the program and that it is used in a qualified application.

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

### a. Agency Activities

- All reported registration and compliance reports will be reviewed by EPA.
- EPA may discuss information received with parties or request further information.
- The data will be stored.

### b. Collection and Methodology and Management

Because of the subjective (i.e., produce specific) nature of the additional information requested, there can be no standard forms. However, EPA's regulations

guide the regulated parties in what to submit and retain. PTDs are standard formats and are customary business practice within the fuel industry.

c. Small Entity Flexibility

This collection will not adversely affect small entities. We expect this proposed ICR to affect very few parties, who elect to produce fuel subjected to the amended definition of heating oil.

d. Collection Schedule

The collection schedule is driven by the party. Therefore it is best described as “infrequent” or “episodic.”

6. Estimating the Burden and Cost of Collection

a. We drew upon experience implementing similar regulations among the same entities to develop estimates of the burden associated with this collection. The burden and cost of this collection is broken down by party, producers and importers. As described above, we anticipate that 10 producers of renewable fuel and one importer may be subject to the proposed recordkeeping and reporting.

We are estimating 10 producers to provide 1 report each under provisions 80.1450(b)(1)(ix)(A – E) as it relates to new registrations on existing contracts to the EPA, affidavits from the producer and end users, registration of client list and analysis and the analysis/specification for fuel by producer. We estimate the industry will take 4 hours per response to report in this collection. We are also assuming 10 producers will report at least 12 occurrences to affix the required statement for use of fuel oils on PTDs. This information is reported quarterly taking 8 minutes per response. Producer records from this collection will be kept on a monthly filing schedule for the 10 respondents under both 80.1454(b)(6) and (7) and expected to take 1 hour per response.

We are estimating 1 importer to provide 1 report each under provisions 80.1450(b)(1)(ix)(A – E) as it relates to new registrations on existing contracts to the EPA, affidavits from the producer and end users, registration of client list and analysis and the analysis/specification for fuel by importer. The collection will take 4 hours per response. We are also assuming 1 importer will report at least 12 occurrences to affix the required statement for use of fuel oil on PTDs. This information is reported quarterly taking 8 minutes per response. Importer records are kept on a monthly filing schedule for the 10 respondents under both 80.1454(b) (6) and (7) and expected to take 1 hour per response.

The total industry burden associated with this collection is 495 hours costing \$ 35,113 per year with 451 total responses and 11 respondents. These totals can be found in Table I –

Detailed Estimates –RIN Generators (10 producers, one importer) of Renewable Fuel Meeting the Amended Heating Oil Definition; broken down by party found below.

b. 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 proposed 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. There is no capitol or O&M cost associated with this collection. We estimate the following burden:

**Table I – Detailed Estimates –RIN Generators (10 producers, one importer) of Renewable Fuel Meeting the Amended Heating Oil Definition; broken down by party.**

*a. PRODUCERS*

Collection Activity	Total Number of Respondents	Number of Responses per Respondent	Total Number of Responses (All Respondents)	Hours Per Response	Total Hours (All Respondents)	Total Cost \$ (All Respondents)
New registration activity - provision of existing contracts to EPA under 80.1450(b)(1)(ix)(A)	10	1	10	4	40	\$2840
New registration activity – provision of affidavit from the producer under 80.1450(b)(1)(ix)(B)	10	1	10	4	40	\$2840
New registration activity – provision of affidavit from the end user under 80.1450(b)(1)(ix)(C)	10	1	10	4	40	\$2840
New registration activity – provision of list of clients under 80.1450(b)(1)(ix)(D)	10	1	10	4	40	\$2840
New registration activity – provision of analysis/specification for fuel by producer under 80.1450(b)(1)(ix)(E)	10	1	10	4	40	\$2840
Affixing of required statement for use on PTDs (note: codes	10	12 (assumes 3 customers	120	.08 (5 minutes per	9.6	\$681



are not appropriate, since statement must appear) under 80.1453		and 4 quarterly shipments per respondent)		response)		
<u>Retention of records</u> related to registration under 80.1454(b)(6)	10	12 (assumes a monthly filing schedule)	120	1	120	\$8520
<u>Retention of records</u> related to contracts, clients, certificate of analysis, under 80.1454(b)(7)	10	12 (assumes a monthly filing schedule)	120	1	120	\$8520
TOTAL			0		0	0

*b. IMPORTERS*

Collection Activity	Total Number of Respondents	Number of Responses per Respondent	Total Number of Responses (All Respondents)	Hours Per Response	Total Hours (All Respondents)	Total Cost \$ (All Respondents)
New registration activity - provision of existing contracts to EPA under 80.1450(b)(1)(ix)(A)	1	1	1	4	4	\$284
New registration activity – provision of affidavit from the producer under 80.1450(b)(1)(ix)(B)	1	1	1	4	4	\$284
New registration activity – provision of affidavit from the end user under 80.1450(b)(1)(ix)(C)	1	1	1	4	4	\$284
New registration activity – provision	1	1	1	4	4	\$284

of list of clients under 80.1450(b)(1)(ix)(D)						
New registration activity – provision of analysis/specification for fuel by producer under 80.1450(b)(1)(ix)(E)	1	1	1	4	4	\$284
Affixing of required statement for use on PTDs (note: codes are not appropriate, since statement must appear) under 80.1453	1	12 (assumes 3 customers and 4 quarterly shipments per respondent)	12	.08 (5 minutes per response)	0.96	\$68
Retention of records related to registration under 80.1454(b)(6)	1	12	12 (assumes a monthly filing schedule)	1	12	\$852
Retention of records related to contracts, clients, certificate of analysis, under 80.1454(b)(7)	1	12	12 (assumes a monthly filing schedule)	1	12	\$852
TOTAL			0		0	0

c. Estimating the Agency Burden and Cost

The Agency burden consists of 0.05 of one GS-13 engineer (estimated at \$161,000 including overhead to review/respond/store data, for a total of \$8,050.

d. Estimating the Respondent Universe

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

e. Bottom Line Annual Burden Hours and Costs

We estimate a total annual burden for all RIN generators (10 producers plus one importer) of 495 hours and \$35,113. There are a total of 11 respondents. Therefore, there is an annual burden per respondent of 45 hours and \$3,192 per respondent. Note that figures have been rounded up to the next whole hour or dollar.

f. Reason for Change in Burden

The burden covered by this ICR is associated with proposed rule that amends the definition of heating oil in 40 CFR 80.1401 in the RFS2 program, under section 211(o) of the Clean Air Act.

g. Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average one hour 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 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, EPA has established a public docket for this rule, which includes this ICR, under Docket ID Number EPA-HQ-OAR-2012-0223, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West Room 3334, 1301 Constitution Avenue, NW, Washington, DC. The 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 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 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, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2012-0223 and OMB Control Number 2060-NEW.

**Part B of the Supporting Statement**

This part of the supporting statement is not applicable.