

INFORMATION COLLECTION REQUEST (ICR)

SUPPORTING STATEMENT

ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF AIR & RADIATION

A. JUSTIFICATION

1. Identification of the Information Collection

A. Title: Performance-Based Measurement System for Fuels

EPA Number: 2459.01

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 collect applications from refiners' and importers' fuel testing laboratories, and from independent fuel testing laboratories, in order to permit them to use performance-based test methods for measuring various characteristics of fuels under 40 CFR Part 80 programs.

In the past, we would set up a designated test method for measuring compliance with various fuel parameters. Typically, this test method was an American Society for Testing and Materials (ASTM) procedure that our laboratory used. Regulated parties would have to use the same method for compliance purposes. In certain circumstances, alternative test methods were named in our regulations. If a regulated party used an alternative test method, all results would have to be correlated to the designated test method. Simply put, the party would have to develop and apply a correlation equation to all its results to bring them in line with the designated test method. A limited performance-based test method approach was adopted to address the measurement of sulfur in diesel fuel; however, outside of the diesel program, there was no real opportunity for laboratories to use test methods developed outside of voluntary consensus-based standards groups (i.e., "VCSB methods") or to choose VCSB test methods not designated in our regulations as recognized alternative test methods. The proposed regulation seeks to permit laboratories greater flexibility with respect to choosing test methods, while ensuring that adequate accuracy and precision, and the use of good laboratory practices.

The performance-based approach we are proposing sets up accuracy and precision criteria, but permits regulated parties to qualify their laboratories to use their own test methods. Industry supported our approach to diesel sulfur and welcomed it as a first step

to a more comprehensive performance-based approach to test method issues. This proposed rule seeks to implement the more comprehensive approach.

In order to be qualified to use a test method, a refiner's or importer's laboratory, or an independent laboratory, will have to submit certain information to us. The information submitted will depend upon the nature of the method. VCSB test methods will self-qualify provided they meet the performance based requirements for accuracy and precision. Non-VCSB test methods, those that are developed "in-house" will be required to submit certain information to us in order to get qualified. There will be recordkeeping and reporting burdens associated with qualifying laboratories on test methods. In addition, laboratories will have to engage in quality control activities that will have a recordkeeping component. Statistical quality control (SQC) activities are an industry standard practice, and we do not anticipate any real increase in that burden do to our proposal. However, since we propose to require retention of SQC records in order to demonstrate compliance, we have estimated that burden.

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 reported data will enable EPA to:

1) Qualify laboratories to use test methods based upon accuracy and precision criteria supported by industry.

2) Ensure that reformulated gasoline (RFG), conventional gasoline (CG) and diesel motor vehicle fuel programs meet the standards required under the regulations at 40 CFR Part 80 and that the associated benefits to human health and the environment are realized.

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

a. Non duplication

Efforts have been made to eliminate duplication in this information collection. The information collected is considered CBI and unique to the closed DCFUEL database.

EPA has provided instructions in PDF in which the parties submit data in the Unified Report Form (XLS) to the Agency's Central Data Exchange (CDX). VCSB test methods under PBMS will self-qualify where records will be maintained by the applicant for a five year time period. Non-VCSB test methods will need to provide CBI data in order to get EPA approval. Since these types of test methods have not undergone the peer review associated with VCSB test method The data relates to a respondent's lab results in testing of fuel parameters and not available from another source.

b. Public Notice

EPA will submit the ICR to OMB for review, along with the notice of proposed rulemaking. This proposed supporting statement is being docketed in order to permit interested parties to fully comment upon the performance-based approach and the recordkeeping and reporting costs associated with it.

c. Consultations

EPA is providing an opportunity for notice and comment regarding the proposed rule and this proposed supporting statement. We anticipate that the notice of proposed rulemaking and the proposed information collection will generate comments from interested parties. We will consider these comments in generating a supporting statement for submission to OMB in connection with the final rule.

d. Effects of Less Frequent Data Collection

The frequency of response is controlled by the submitter of the information – i.e., a laboratory would qualify based upon how many test methods it wishes to qualify and use. For most parties, this will be a one-time submission of information.

e. General Guidelines

EPA requests an exception to the OMB guidelines that agencies may only require records to be maintained for no more than three years. Records can be kept either electronically or on paper. EPA needs to make sure regulated parties keep records long enough to be evaluated for compliance during this time period. Section 40 CFR Part 80.1454(l) requires record retention for five years from the date the records were created. 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.

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. The template for qualification that we use for diesel sulfur permits a party to clearly assert a claim of business confidentiality on the actual submission. The in-use spreadsheets/forms for diesel sulfur may be viewed at: <http://www.epa.gov/otaq/fuels/reporting/diesel.htm> (accessed January 12, 2012.) We anticipate developing a similar form for this approach when it is finalized. 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/SIC Codes

The respondents to this information collection are:

- Refiners' testing laboratories (i.e., refiners)
- Importers' testing laboratories (i.e., importers)
- Independent fuel testing laboratories (i.e., laboratories)

Recordkeeping and reporting are required by the following industries, *with SIC Code/2002 NAICS Code indicated in parentheses*: refiners (2911/324110), importers (5172/424720), and laboratories (8734/541380).

According to the information found in the U.S. Department of Commerce, U.S. Census Bureau Economic Census, American FactFinder2 found at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_54SLLS1&prodType=table counted 522 laboratory establishments that provide engineering testing services. These service testing labs break down the composition of fuel from refiners and importers to test for measuring compliance with various fuel parameters. Fuel refiners and importers are required to hire independent certified public accountants or certified internal auditors to audit all fuel test results, volume reports, and other information that is submitted. EPA rules place liability on refiners, importers, distributors, carriers, resellers, retail and wholesale purchase-consumers to sell or use motor vehicle diesel fuel that meets the sulfur, benzene, volatility, toxics, and lead contamination standards. When a violation is found, not only the party in possession of the non-compliant fuel, but all upstream parties in the fuel distribution system as well, are presumed liable, unless they establish a credible defense. This leads many refiners and importers, whose brands appear at retail outlets, to often implement a downstream quality assurance program to ensure compliance. EPA can file

criminal charges against refiners, importers and independent labs should they be found to have falsified, or assisted in falsifying, test results.

b. Information Requested

In order to qualify a test method, the following information must be provided to the Agency

A) Reporting: Respondents must submit information that will establish that the test method to be used by the laboratory, in fact, meets the accuracy and precision requirements under the fuel regulations.

B) Recordkeeping: Respondents must retain underlying records related to qualifying test methods for five (5) years. This time period is consistent with the required record retention for all 40 CFR Part 80 fuels programs.

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

a. Agency Activities

- All reported data will be reviewed by EPA.
- EPA will use the data to determine if the test method meets the accuracy and precision criteria of the regulation and whether a correlation is necessary for the candidate alternative test method.
- EPA will prepare a written response to the respondent qualifying (or not qualifying) the laboratory to perform the test method.
- The data will be stored.

b. Collection and Methodology and Management

Data will be collected by industry and reported to EPA in the form of a template to be developed, typically submitted with an accompanying letter and contact information. We expect to use a form similar to those already approved for diesel sulfur. These in-use spreadsheets/forms may be viewed at: <http://www.epa.gov/otaq/fuels/reporting/diesel.htm> (accessed January 12, 2012.)

c. Small Entity Flexibility

This collection will not adversely affect small entities. The proposed regulation provides a means of qualifying test methods that we expect to be welcome by industry and may encourage development of new test methods by entities of all sizes.

d. Collection Schedule

Test methods are expected to be submitted on a one time basis by parties wishing to seek approval of non-VCSB test methods. The time of collection is driven by the respondent. We anticipate that the majority of non-VCSB test method applications will be received during the period after October 15, 2015 (the date that the PBMS requirements become effective), with applications dropping off substantially in future years. This expectation is based upon our experience with laboratory qualifications on test methods for the existing diesel sulfur program.

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. We estimated 522 laboratories would be impacted by the SQC requirements, based upon our experience with diesel sulfur qualifications. At present, there are a total of 11 fuel parameters, listed in Table I below, for which testing is conducted. We have assumed that the 52 laboratories or 10 percent of those impacted may submit up to 11 applications one for each of the 11 fuel parameters to qualify non-VCSB test methods.

b. Three labor categories are involved: managerial (includes legal and professional review), technical, and clerical. Estimates were derived from average wages reported in the Bureau of Labor Statistics - May 2012 National Industry-Specific Occupational Employment and Wage Estimates NAICS; 541380 – Testing Laboratories found at http://www.bls.gov/oes/current/naics5_541380.htm 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	\$58.51 per hour
Technical	\$40.12 per hour
Clerical	\$27.54 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	\$ 117 per hour
Technical	\$ 80 per hour
Clerical	\$ 55 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 \$79 per hour, which will be used in this ICR. For purchased services related to laboratory testing, third

party engineering review, we have doubled this hourly cost to \$158 in order to more accurately reflect the overhead cost associated with this service, but in this collection there is no O&M associated with the cost.

We estimate the following burden:

The annual estimates for hours and burden follow:

Table I - Parameters Tested under Current 40 CFR Part 80 Regulations
(as of January 12, 2012)

Fuel Parameters
Sulfur in gasoline
Sulfur in butane
Sulfur in diesel at 15 ppm
Sulfur in diesel at 500 ppm
Olefins
RVP
Distillation
Benzene
Aromatics in gasoline
Oxygen Content
Aromatics in diesel fuel

Table II - Laboratory Qualification Submissions

Assumes 52 laboratories (based upon our experience with diesel sulfur), each submitting one non-VCSB method.

Collection Activity 80.47(d) through 80.47(m)	Total Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours Per Response	Total Hours	Total Cost \$
Development of, and submission of, documentation for the non-VCSB method	52	1	52	1.33	69.16	5,463.64
Information describing the precision of the non- VCSB method	52	1	52	1.33	69,16	5,463.64
Information showing that method has been evaluated using ASTM D 6708	52	1	52	4.0	208	16,432
TOTAL	156	3	156	6.66	346.3 2	27,359.28

Table III – Recordkeeping associated with Statistical Quality Control (SQC)
Assumes that a SQC record must be generated every two weeks; and creating each record takes 1 hour.

Collection Activity 80.47(2)	Total Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours Per Response	Total Hours	Total Cost \$
Record-Keeping Associated w/ SQC	52	104	5408	1	5408	427,232

Table IV - Annual Recordkeeping Burden Associated with Establishing Reference Installations

Assumes that 52 laboratories (10% of total population) would apply as reference installations, and that preparing and submitting the appropriate records would take 24 hours.

Collection Activity 80.46(k)	Total Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours Per Response	Total Hours	Total Cost \$
Record-Keeping Associated w/ SQC	52	1	52	24	1,248	98,592

Table V - Annual Recordkeeping Burden Associated with Establishing Engineering Review for Qualification of Non-VCSB method defined test methods

Assumes that 52 third party engineering reviews (10% of total population of 522 test laboratories) would take place. Each visit to include site inspection and review of relevant documents with respect to the candidate non-VCSB method defined test method

facility as well as the candidate reference installation of the designated test method facility, and that preparing and submitting the appropriate records would take 48 hours.

Collection Activity 80.47(m) (13)	Total Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours Per Response	Total Hours	Total Cost \$
Record-Keeping third party engineering reviews (10% of total population of 522 test laboratories)	52	1	52	48	2,496	394,368

c. Estimating the Agency Burden and Cost

The Agency burden consist of one GS-13 chemist (estimated at \$117,592 including overhead); one GS-13 statistician (estimated at \$117,592 including overhead); a GS-7 clerical worker assisting 10% of time (\$55,753 including overhead), or \$5,575, yields a total Agency burden of \$240,759 per year for this collection request. We expect full use of these expenses to be utilized in the first year of the ICR when most applications are to be received. In the last two years of this collection, we expect the burden to decrease substantially.

GS-13 chemist (full-time)	\$117,592
GS-13 statistician (full-time)	\$117,592
GS-7 clerical worker (.10 of time)	\$ 5,575
TOTAL	\$ 240,759

These estimates are derived from "OPM Salary Table 2013-DCB," effective January 2013. This table may be found at <http://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2013/general-schedule/washington-baltimore-northern-virginia-dc-md-va-wv-pa-annual-rates-by-grade-and-step/>. The extreme of step 10 was assumed for all categories. We have assumed a full-time GS-13 statistician, one full-time GS-13 chemist, and one GS-7 clerical worker, working one-tenth of his/her time (0.10). All values were multiplied by 1.6 (which is a common factor utilized in ICRs to account for overhead costs). This cost is per year.

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

From the tables, we estimate the following annual totals:

TOTAL NO. OF RESPONDENTS:	52
TOTAL NO. OF RESPONSES:	5,668
TOTAL BURDEN HOURS:	9,498
TOTAL COST TO RESPONDENTS:	\$972,908

Importers and refiners with fuel testing laboratories and independent fuel testing laboratories have the burden to qualify by testing 11 fuel parameters describing the precision of a VCSB method or non-VCSB method to comply with the Performance-Based Measurement System for Fuels Rule. EPA has identified a laboratory party size of 52 respondents preparing 11 laboratory qualification submissions for each activity the agency is seeking information. The respondents will produce 156 reports describing VCSB methods precision and documentation on method evaluation as it relates to the comparability to ASTM D6708. The cost to industry to report in this collection is estimated to be \$27,359 and 346 total burden hours per year.

We estimate an annual recordkeeping associated with statistical quality control with one record generated every two weeks and taking one hour for each report to produce a burden of 5,408 hours and a cost to industry of \$427,232. For those laboratories that wish to be reference installations. With one response per respondent, we estimate 1,248 hours costing \$98,592. For third party engineering reviews EPA estimates one per respondent a year requiring 2496 hours costing industry 394,368. We estimate an annual recordkeeping burden of 1,248 hours and cost of \$ 98,592. The total recording keeping burden hours are 9,152 costing \$ 920,192 per year.

The total burden for this new collection is estimated to produce 5,668 responses and requiring 9498 burden hours costing the industry \$ 945,549 per year with 52 respondents.

f. Reason for Change in Burden

This proposed supporting statement has been prepared in anticipation of EPA's future submission of a proposed, new collection to OMB.

g. Burden Statement

We estimate an annual reporting burden of one hour per response. For those laboratories that elect to be reference installations, the annual reporting burden would be 1.7 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 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.

11Interested parties are urged to comment on the Agency's need for this information collection, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection technique.

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-2011-0135, which is available for online viewing at 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, 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 Air and Radiation 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-2011-0135 and OMB Control Number 2060-NEW in any correspondence.

Part B of the Supporting Statement

This part of the supporting statement is not applicable.