

INFORMATION COLLECTION REQUEST (ICR)  
ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF AIR & RADIATION

A. JUSTIFICATION

1. Identification of the Information Collection

1(a) Title: Reformulated Gasoline Commingling Provisions

EPA Number: 2228.04

1(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:

- 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.”
- 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.

- 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).)
- 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

### 1(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).

### 2(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 § 1513 of the EPA Act.

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

### 3(a) Non-duplication

1 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.

### 3(b) Public Notice

EPA sought comment on recordkeeping and reporting requirements via the Federal Register on April 3, 2013 (78 FR 20102). EPA received no public comments. The second Federal Register notice was published August 22, 2013 (78 FR 52191). This notice allowed for an additional 30 days of public comment.

### 3(c) Consultations

EPA has made an asserted effort to seek industry comment for this ICR. EPA contacted Mr. Lyle Beckwith of the Association for Convenience and Fuel Retailing and received no comment. Contact number for Mr. Beckwith 703-684-3600.

### 3(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.

### 3(e) General Guidelines

This rule does not exceed any of the OMB guidelines.

### 3(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 CBI. 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 § 2.203.

### 3(g) Sensitive Information

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

#### 4. The Respondents and the Information Requested

##### 4(a) Respondents with NAICS/SIC Codes

The respondents to this information collection are:

- Retailers (including wholesale purchaser-consumers)

Recordkeeping and reporting may be required by the following industries, *with 2002 NAICS Code indicated in parentheses*:

- Gasoline stations (447)
- Gasoline stations with convenience stores (447110)
- Gasoline stations without convenience stores (447190)

##### 4(b) Information Requested

4(i) 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.

4(ii) 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

##### 5(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.

##### 5(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.

#### 5(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 \$17.00 and 0.50 hours (30 minutes) annually.

#### 5(d) Collection Schedule

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

### 6. Estimating the Burden and Cost of Collection

#### 6(a) Estimating the Respondent Burden

We drew upon experience implementing similar regulations among the same entities to develop estimates of the burden associated with this collection. We consulted the 2008 Economic Census for Retail Trade to assist us in estimating the total number of retail stations. Since the Economic Census for Retail Trade provided a nationwide estimate of 115,223<sup>1</sup>, we assumed 30% of that number for stations in RFG areas (since 30% of the gasoline market nationwide is RFG). The number used for stations in the RFG area will be 34,566.9 rounded up for ease of use (35,000). Although imperfect, we believe this is a reasonable estimate, and have applied similar logic in estimating the number of wholesale purchaser-consumers. The 2007 Census Bureau Fact Finder<sup>2</sup> reported that there are 20,202 wholesale purchaser-consumer facilities handling petroleum product.<sup>2</sup> For purposes of this ICR, we are multiplying this number by 0.30 to yield 6060.9 facilities. Adding our estimate of the number of retailers (35,000) and the number of wholesale purchaser-consumers 6060.9 rounded to (6,000) for ease of use gives us a collection of 41,000 respondents. We believe this number to be on the high side in estimating actual respondents, but it does provide a reasonable benchmark.

#### 6(b) Estimating the Respondent Burden and Cost

We used the Bureau of Labor Statistics (BLS), *May 2011 National Industry-Specific Occupational Employment and Wage Estimates* applicable to “NAICS 44710 – Gasoline Stations,” as the basis for our estimates.<sup>3</sup> We used the mean hourly salary for a

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<sup>1</sup> 2007 Economic Census for retail trade at <http://www.census.gov/econ/industry/current/c4471.htm>

<sup>2</sup> 2007 U.S. Economic Census Bureau Fact Finder2  
[http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN\\_2007\\_US\\_00A1&prodType=table](http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_00A1&prodType=table)

<sup>3</sup> “May 2011 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 44710 – Gasoline Stations;” Bureau of Labor Statistics (BLS), under section sales and related occupations at [http://www.bls.gov/oes/2008/may/naics4\\_447100.htm](http://www.bls.gov/oes/2008/may/naics4_447100.htm), accessed March 13, 2013.

first-line supervisor/manager of retail sales workers (\$16.53), rounded this up to the next whole dollar amount (\$17.00), and doubled for company overhead beyond wages and benefits. This yields an estimated hourly cost of \$34.00. There is no capital and maintenance cost associated with this collection.

**Table 1. Respondent Burden Hours & Costs (Including Capital & Maintenance - O&M)**

Collection Activity	Number of Respondents	Number of Responses per Respondent	Total Number of Responses	Hours per Response & Cost per Response	Total Hours & Total Cost @ \$17/hour	Total O&M
Prepare and Submit Notification	41,000	2	82000	0.25 ----- \$4.25	20,500 hours ----- \$348,500	0
Maintain Test Results Documents (assumes 5% of respondents test)	2,050	1	2050	0.25 ----- \$4.25	513 hours ----- \$8712.50	0
<b>Total</b>	<b>43,050 respondents</b>	-----	<b>84,050 responses</b>	-----	<b>21,013 hours</b> ----- <b>\$357,221</b>	<b>0</b>

6(c) 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. We have drawn upon our experiences with the Reformulated Gasoline Commingling Provisions and estimate no more than 5 notifications with an annual burden of 1 hour. We have assumed a full -time GS-7 clerical worker, one full-time GS-13 technical worker, and a GS-15 manager all working one-eighth of his/her time managing this project (0.125). The Agency burden consist of a GS-13 technical worker (\$81.55 including overhead), or \$10.19; and a GS-7 clerical worker (\$38.66 including overhead) or \$4.83, and a GS-15 manager (\$ 113.36 including overhead) or \$14.17, for a total of \$29.20 per hour and an annual Agency burden of \$146.

These estimates are derived from "OPM Salary Table 2010-DCB," effective January 2010. This table may be found at <http://archive.opm.gov/oca/10tables/html/RUS-h.asp>. The extreme of step 10 was assumed for all categories. 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 tenth.

6(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 business and industry economic statistics. We consulted the 2008 Economic Census for Retail Trade to assist us in estimating the total number of retail stations and the 2008 Census Bureau Fact Finder2 to assist in estimating the number of wholesale purchaser-consumer facilities handling petroleum product.

6(e) Bottom Line Burden Hours and Costs

From Table 1 we estimate the following:

TOTAL NO. OF RESPONDENTS	43,050
TOTAL NO. OF REPORTS:	84,050
TOTAL BURDEN HOURS:	21,013
TOTAL COST:	\$357,221

#### 6(f) Reason for Change in Burden

The change in burden from the prior ICR is due in part to better numbers extracted from business and industry economic statistics that assisted in calculating the numbers of respondents. These better numbers reduced the party size by 13,650 members. The number of responses also declined from 110,700 to 84,050 a difference of 26,650 reports which reduced the industry burden hours from 27,675 to 21,013. We also found that the original cost per response was overstated by a factor of 2. With the decline of respondents, burden hours and responses, and revisit cost per response, the cost associated with this ICR is \$357,221 a difference of \$528,379 calculated from the prior collection approved by OMB.

#### 6(g) Burden Statement

The average respondent burden in hours per response for this ICR is estimated at 0.25 hours (15 minutes).<sup>4</sup>

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, the U.S. EPA has established a public docket for this ICR under Docket ID No. EPA-HQ-OAR-2006-0745, which is available for public viewing at the Air and Radiation Docket and Information Center Docket in the EPA Docket Center (EPA/DC), William Jefferson Clinton Federal Building West, Room 3334, 1301 Constitution Ave., NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through

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<sup>4</sup> The average respondent burden per response is the total number of hours divided by the total number of responses from Table 1, rounded up for simplicity.

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 and Information Center 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 to access those documents in the public docket that are available electronically. 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 No. EPA-HQ-OAR-2006-0745 and OMB control number 2060-0587 in any correspondence.