

Supporting Statement  
for  
Information Collection Request

**Recordkeeping and Reporting Requirements  
Regarding the Sulfur Content of Motor Vehicle  
Gasoline under the Tier 2 Rule**  
40 CFR Part 80, subpart H

EPA ICR 1907.065

January 27, 2014

Fuels Compliance Center  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency

## **1. IDENTIFICATION OF THE INFORMATION COLLECTION**

### **1(a) Title of the Information Collection**

Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline under the Tier 2 Rule; OMB Control Number: 2060-0437; EPA ICR 1907.05.

### **1(b) Short Characterization/Abstract**

The requirements covered under this Information Collection Request (ICR) are included in the final Tier 2 rule, published on the February 10, 2000 (65 FR 6698). A minor additional ICR requirement was added to the Tier 2 rule on June 12, 2002 (67 FR 40169).

The scope of the recordkeeping and reporting requirements for each type of party in the gasoline distribution system, and therefore the cost to that party, reflects the party's opportunity to create, control or alter the sulfur content of gasoline. As a result, refiners and importers have more significant requirements, which are necessary both for their own tracking and that of downstream parties, and for EPA enforcement, while parties downstream from the gasoline production or import point, such as distributors and pipelines, have minimal burdens under the rule. Many of the reporting and recordkeeping requirements for refiners and importers regarding the sulfur content of gasoline on which the Tier 2 sulfur program relies currently exist under EPA's reformulated gasoline (RFG) and conventional gasoline (CG) anti-dumping programs. The ICR for the RFG/CG programs covered the majority of the start-up costs associated with the reporting of gasoline sulfur content. Consequently, much of the cost associated with the sulfur-control requirements under the sulfur program has already been accounted for under the ICR for the RFG/CG programs.

The information under this ICR will be collected by EPA's Compliance and Innovative Strategies Division (CISD), Office of Transportation and Air Quality, Office of Air and Radiation (OAR), and by EPA's Air Enforcement Division, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance (OECA). The information collected will be used by EPA to evaluate compliance with the gasoline sulfur control requirements under the Tier 2 rule. This oversight by EPA is necessary to ensure attainment of the air quality goals of the Tier 2 program. Proprietary information may be submitted by refiners and importers for demonstrating compliance with the sulfur standards. Confidentiality is handled in accordance with EPA regulations at 40 CFR Part 2. and established Agency procedures.

In general terms, the recordkeeping and reporting requirements regarding the sulfur content of gasoline under the gasoline sulfur program consist of the following:

#### **(1) Sampling and Testing.**

*Refiners and importers.* Under the gasoline sulfur control program, refiners and importers are required to test every batch of gasoline produced or imported for its sulfur content. Although every batch sampling and testing is required under the RFG program for refiners and importers of RFG, it is a new requirement for refiners and importers of CG, who are allowed to collect

samples from multiple batches and test the composite sample under the RFG program. Refiners and importers also conduct quality assurance (QA) periodic sampling and testing for sulfur for defense purposes under the gasoline sulfur program.

*Blenders of Butane and Other Blendstocks into Previously Certified Gasoline.* Under certain circumstances, blenders who blend butane into previously certified gasoline (PCG) are allowed to comply with the gasoline sulfur standards based on data from the butane producer/supplier as an alternative to testing every batch testing. Blenders who blend other blendstocks into PCG are allowed to calculate the sulfur content of the blendstock by testing the PCG before blending and the gasoline produced after blending, and subtracting the volume and sulfur content of the PCG from the volume and sulfur content of the finished blend.

*Terminals and Pipelines.* Terminals and pipelines must sample and test gasoline designated as small refiner gasoline (SRGAS) (i.e., gasoline subject to the less stringent standards that apply to small refiners) for compliance with the applicable downstream small refiner standard subsequent to the most recent receipt of gasoline. Terminals and pipelines also conduct periodic QA testing for sulfur.

*Truck Importers.* Under certain circumstances, an importer that imports gasoline by truck is allowed to comply with the sulfur standards based on test records from the foreign terminal. To use this option, the truck importer must conduct quality assurance testing of the gasoline.

(2) Sample Retention. The gasoline sulfur program requires refiners and importers to retain sample portions from the most recent 20 samples collected or for each sample collected during the most recent 21-day period, whichever is greater, and annually certify that samples have been collected under required procedures. Independent sampling and testing is required for RFG under the RFG rule, and refiners and importers who meet the independent analysis requirements for RFG also meet the sample retention requirements under the sulfur rule. For CG, this was a new requirement. However, under the gasoline sulfur program, refiners are allowed to conduct their own testing rather than having it conducted at an independent laboratory.

(3) Recordkeeping. Under RFG program requirements, all parties in the distribution system are required to keep product transfer documents (PTDs) for RFG. For CG, however, PTDs must be transferred to all parties, but their retention is required only of refiners and importers since no downstream requirements for CG exist under the RFG program. The gasoline sulfur program has downstream requirements regarding the sulfur content of both RFG and CG. Therefore, the sulfur program requires that all parties keep PTDs for CG as well as RFG. The record retention time for most records is five years, which is the same as under the RFG program. The additional burden on downstream parties under the gasoline sulfur rule is minimal because all downstream parties already receive transfer documents as a customary business practice and maintain them for 4 or 5 years under state tax laws.

(4) Reporting. The gasoline sulfur program requires refiners and importers to submit an annual sulfur report which demonstrates compliance with the applicable sulfur standards and includes

ABT credit and/or allotment activity.<sup>1</sup> Reports are entered into an EPA Office of Air and Radiation, Office of Transportation and Air Quality computer database. Reporting entities currently have the option of electronic data interchange with EPA. EPA supplies paper forms to parties that elect to use them instead of reporting electronically.

(5) Attest Requirements. The gasoline sulfur program requires an annual review (called an attest engagement) of the company's records which form the basis for the annual sulfur compliance report. Attest engagements are required under the RFG program for both RFG and CG. There is a small incremental cost associated with including the information required under the sulfur program in the attest engagements for RFG and CG.

(6) ABT Credit Trading Provisions. The gasoline sulfur program's ABT credit trading provisions reduce the overall cost of compliance by providing refiners and importers flexibility in complying with the gasoline sulfur standards. Refiners and importers are required to report annually regarding the generation, transfer, and use of credits.

(7) Small refiners. The ICR's requirements for small entities were associated with alternate sulfur standards that were designed to lessen the overall burden of compliance for these entities during the phase-in of the program. These requirements have expired and small refiners who participated in the small refiner program are required to comply with the recordkeeping and reporting requirements applicable to all refiners. Small refiners are required to identify their gasoline as SRGAS on PTDs.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority for the Collection**

The gasoline sulfur requirements were promulgated under the authority granted by Section 211(c)(1) of the Clean Air Act (CAA).<sup>2</sup> Under Section 211(c)(1), EPA may adopt a fuel control if at least one of the following two criteria is met: (1) the emission products of the fuel cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, or (2) the emission products of the fuel will significantly impair emissions control systems in general use or which would be in general use were the fuel control to be adopted.

The gasoline sulfur program was promulgated based on both of these criteria. Under the first criterion, EPA believes that emissions products of sulfur in gasoline used in Tier 1 and low emission vehicle (LEV) technology vehicles contribute to ozone pollution, air toxics, and PM.

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<sup>1</sup> The report forms for the fuels programs may be found on the fuels reporting page of the Office of Transportation and Air Quality (OTAQ) web site, <http://www.epa.gov/otaq>.

<sup>2</sup> We currently have regulatory requirements for conventional and reformulated gasoline adopted under Sections 211(c) and 211(k) of the Act, in addition to the "substantially similar" requirements for fuel additives of Section 211(f). These requirements directly or indirectly control sulfur levels in gasoline. See the RIA for more details.

Under the second criterion, EPA believes that sulfur in gasoline that would be used in Tier 2 technology vehicles would significantly impair the emissions control systems of such vehicles. The Regulatory Impact Analysis (RIA) submitted with the Tier 2 rulemaking includes a more detailed discussion of EPA's authority to set gasoline sulfur standards, including a discussion of EPA's conclusions related to the factors that must be considered under Section 211(c).

This supporting statement describes the recordkeeping and reporting requirements and the associated costs to various parties (e.g., refiners, importers, distributors, and retailers of gasoline). These requirements are necessary to enable the Administrator to:

- (1) Identify the sources of gasoline and gasoline blendstocks; and
- (2) Ensure that these sources comply with the standards and limitations of the Tier 2 gasoline sulfur rule.

An effective enforcement scheme is necessary to ensure that the environmental goals of the proposed Tier 2 program are met, and that those complying with the requirements in good faith are not disadvantaged by non-complying parties. The gasoline sulfur program requirements create a significant economic incentive for noncompliance. Without the accompanying recordkeeping and reporting requirements, Congressional intent to improve air quality through the Tier 2 program would be thwarted because neither EPA nor industry would have sufficient information to monitor compliance. Non-complying fuel would likely be introduced into commerce on a widespread basis but for requirements that make it possible for EPA to cross-check records of various entities in order to determine compliance.

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. Relevant portions of the statutes referenced above can be found in the Attachment. The current regulations applicable to motor vehicle gasoline, including the regulations associated with this information collection, can be found in 40 CFR Part 80, Regulation of Fuels and Fuel Additives.

## **2(b) Practical Utility/Users of the Data**

EPA will use the information and test results (e.g., sulfur content and volume of each batch of gasoline) contained in the annual reports required by this information collection to evaluate the compliance of parties involved in the production and importation of gasoline with the gasoline sulfur control requirements. These reports will also be used by EPA to target compliance investigations. PTDs maintained by parties in the gasoline distribution system and records related to gasoline blending will be used to evaluate the compliance of parties that maintain the records, and to help evaluate upstream compliance.

## **3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

### **3(a) Non-duplication**

Efforts have been made to eliminate duplication in this information collection. Provisions included in the gasoline sulfur rule allow parties to consolidate reporting requirements and/or provide abbreviated reports where appropriate. For example, to reduce the reporting burden, reports specific to compliance with the sulfur standards and reports related to the sulfur ABT credit trading program are included in the annual reports already required to be submitted under the RFG program. 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 is not available from another source.

To minimize the information collection burden, refiners and importers who are registered under the RFG program (40 CFR 80.76) are considered to have satisfied the registration requirements under the sulfur rule.

Additionally, since California's state gasoline sulfur requirements are as stringent as those under the gasoline sulfur program for most of the remainder of the nation's gasoline, and since California has its own compliance and enforcement provisions, California gasoline is exempt from most of the requirements of the sulfur program.

### **3(b) Public Notice**

EPA sought public comment on the reporting requirements via Notice found in the Federal Register 78 FR [7267528957](#) December 3, 2013. EPA received no public comments.

### **3(c) Consultations**

EPA has made an asserted effort to seek industry comment for this ICR. EPA contacted Mr. Tim Hogan or the American Fuel and Petrochemical Manufacturers, who can be contacted on (202) 457-048. Mr. Hogan reviewed the ICR and had a comment on the small refiner's exemptions in which we had not noted of their expiration. The change was made in the small entity flexibility provisions for ICR clarity.

### **3(d) Effect of Less Frequent Collection**

The gasoline sulfur program requires refiners and importers to submit annual reports, which, by the information contained therein, demonstrates a party's compliance with the applicable sulfur standards. The information contained in such reports includes batch specific information regarding the sulfur content and volume of a refinery's or importer's gasoline. Less frequent submittal of such reports would severely hinder EPA's ability to monitor compliance, and would likely lead to noncompliance. Additionally, requiring less than every-batch sampling and testing, except for those few situations allowed by EPA, would make the sulfur cap requirement (i.e., the per gallon maximum sulfur content) meaningless, and would likely lead to extreme excursions in fuel sulfur content which could affect emission control systems and lead to increased emissions. This would be an unacceptable outcome given that the gasoline sulfur program is intended to lead to reduced emissions in part by compatible vehicle and fuel

interaction. Given that the reporting and sampling/testing requirements are similar to the requirements under the RFG program, and that the sulfur reports can be included in the reports for these programs, requiring less frequent collection would likely increase the reporting burden.

### **3(e) General Guidelines**

This information collection activity complies with the guidelines in 5 CFR 1320.6, except that respondents are required to keep certain records for longer than three years. Specifically, all parties are required to keep PTDs and records of quality assurance programs for five years, and refiners and importers are required to keep their compliance records for five years. With one exception, as discussed below, records related to the ABT credit trading program are also required to be retained for five years. The information required to be retained will facilitate EPA's identification of the source of any gasoline found to be in violation of the sulfur standard. Much of the information required under the gasoline sulfur rule is already required under the RFG program, and most records are required to be kept for five years under the RFG program. Therefore, the recordkeeping requirements under the gasoline sulfur rule impose little additional burden. Five years is the applicable statute of limitations for the RFG and other fuel programs. *See* 28 U.S.C. 2462.

Refiners and importers submit a limited amount of proprietary information, such as batch volume and sulfur content in their annual reports. EPA believes that requiring annual reports provides an appropriate and effective means of monitoring compliance with the standards under the sulfur program. This type of information has been collected in the past and will be safeguarded in the same manner as data required by other EPA directives. Pertinent information, whether kept by the respondent or by a contractor, is subject to auditing by EPA. Consequently, EPA officials will require voluntary entry and access to facilities.

### **3(f) Confidentiality**

As discussed in 3(e) above, proprietary information may be submitted by refiners and importers for demonstrating compliance with the sulfur standards. Such information is protected in accordance with the EPA regulations at 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.

### **3(g) Sensitive Questions**

No questions of a sensitive nature are asked in this information collection.

## **4. THE RESPONDENTS AND THE INFORMATION COLLECTED**

**4(a) Respondents/SIC Codes**

The respondents to this information collection are:

- Refiners (both domestic and foreign refiners who manufacture gasoline for use in the U.S.)
- Importers of gasoline into the U. S.
- Gasoline distributors, carriers, wholesale purchaser-consumers, and retailers
- Users of research and development gasoline (testing laboratories)

Table 4(a).1: Respondent Industry Classification Codes

Industry	NAICS <sup>1</sup> Codes	SIC <sup>2</sup> Codes	Defined by SBA as a Small Business If: <sup>3</sup>
Gasoline Refiners	32411	2911	< 1500 employees
Gasoline Importers	42272	5172	< 100 employees
Gasoline Terminals	42271	5171	< 100 employees
Gasoline Pipelines	48691	4613	< 100 employees
Truckers and Other Gasoline Distributors	48422	4212	< 18.5 million dollars
Gasoline Retailers and Wholesale Purchaser-Consumers	44711 44719	5541	< 6.5 million dollars
Testing Laboratories	54138	8734	< 5 million dollars

1) North American Industry Classification System

2) Standard Industrial Classification system

3) According to Small Business Administration’s (SBA) regulations (13 CFR 121), businesses with no more than the listed number of employees or dollars in annual receipts are considered “small entities” for purposes of conducting a regulatory flexibility analysis.

**4(b) Information Requested**

The recordkeeping and reporting requirements applicable to the regulated parties vary depending on their position in the gasoline production and distribution stream and their potential to influence the sulfur content of gasoline. The regulated parties are divided into groups (and sub-groups) as indicated in the list below, based on the applicable recordkeeping and reporting requirements.

- Gasoline Refiners and Importers
  - Additional and/or alternative requirements exist if:
    - Refiner qualifies and opts to use the small-refiner provisions
    - Refiner or importer participates in the ABT credit trading program



- Refiner (including parties who blend gasoline at a terminal facility) produces gasoline by blending butane or other blendstocks into previously certified gasoline
- Gasoline Distributors (Gasoline Terminals, Pipelines, and Truckers)
  - Additional requirements exist for distributors of gasoline subject to the small refinery standards (SRGAS).
- Gasoline retailers and wholesale purchaser-consumers (WPC)
  - Additional requirements exist for retailers and WPCs of exempted research and development (R&D) gasoline
- Users of R&D gasoline (testing laboratories)

(i) *Data items, including recordkeeping requirements*

The information collection requirements are categorized in the following lists according to which regulated parties they apply. Certain requirements, such as the PTD requirements, are broadly applicable to most parties who transfer gasoline. These more generally applicable requirements are discussed separately from the requirements that apply only to specific groups of regulated parties. Additional and/or alternative requirements applicable to subgroups of respondents are also discussed separately. Where a regulated party is not specifically mentioned, only the most broadly applicable requirements apply.

The presence of an “\*” in the following list of requirements indicates an explanatory note regarding the applicability of these requirements.

(A) *Broadly-Applicable Requirements*

The following requirements apply broadly to all of the regulated parties listed above. The responsibilities of gasoline distributors (gasoline terminals, pipelines, and carriers) and gasoline retailers and WPCs are primarily related to compliance with the following broadly applicable requirements. Some terminal or other facility operators blend butane or other blendstocks into previously certified gasoline. These gasoline producers are considered refiners under the sulfur program, and are discussed under the requirements for refiners. Unless specifically noted, the PTD requirements listed below do not result in any new activities for gasoline distributors, retailers, and WPCs.

- The gasoline sulfur rule requires persons who manufacture, import, sell, offer for sale,
  - PTDs that accompany the transfer of gasoline manufactured by small refiners and designated as SRGAS are required to identify the gasoline as SRGAS and designate the applicable downstream cap.

\* The small refiner provisions allow the production of special classifications of gasoline. The presence of these special classifications of gasoline in the distribution system necessitates the inclusion of additional information on gasoline PTDs. After January 1, 2011, gasoline which has these special classifications no longer enter the distribution system. When all of this gasoline has gone through the system and been used, the additional PTD requirements will no longer be applicable. The total number of gasoline batches is not increased due to the inclusion of these additional gasoline classifications. Therefore, this requirement does not result in an additional burden for industry due to the entry of a greater number of PTDs into the distribution system. Small refiners experience an additional burden associated with adding the required information to the PTDs. Parties in the gasoline distribution chain that handle PTDs are not required to undertake any new activities due to the additional information on the PTDs.

\* Except for transfers to truck carriers, retailers and wholesale purchaser-consumers, product codes can be used to convey the required information if such codes are clearly understood by each transferee. This allowance lessens the burden of compliance and is consistent with the requirements under the RFG program.

- Under the gasoline sulfur rule, any party required to conduct sampling and testing for sulfur content must retain records regarding:
  - The location, date, time, tank or storage tank identification for each sample collected
  - The name and title of the person who collected the sample and the person who performed the testing
  - The results of the test as originally printed or recorded, and any record which contains a result that is not identical to the originally printed or recorded test

\* With the exception of the last item in the list, the required records already are maintained under the RFG program.

- For purposes of establishing an affirmative defense to a violation, parties other than retailers or wholesale purchaser-consumers must be able to provide business records documenting the following:
  - A periodic sampling and testing program designed to ensure that the gasoline meets the applicable sulfur standard
  - On each occasion that gasoline is found not to be in compliance with the applicable sulfur standard, the actions taken to stop the sale or distribution of any gasoline found not to be in compliance, and the actions taken to remedy the violation and the factors that caused the violation (such as removing the non-complying gasoline from the distribution system and taking steps to prevent future violations)

\*Although periodic quality assurance sampling and testing is not new under the fuels regulations, quality assurance sampling and testing for sulfur is a new requirement under the sulfur program. The maintenance of business records establishing that steps were taken to prevent future violations is new under the sulfur program. However, no new activities for the regulated parties result from this new requirement, since such records typically are maintained as a customary business practice.

- Records are required to be maintained for five years from the date they were create with one exception, as noted below.

This requirement does not impose an additional burden because the required records are already maintained under other EPA fuels programs, or the records are maintained as a customary business practice. Distributors, retailers and WPCs of CG, they are required to maintain PTDs for five years under the gasoline sulfur program. In evaluating the burdens associated with the information collection requirements under the RFG program, EPA assumed that the requirement that retailers and WPCs retain PTDs associated with the transfer of RFG for five years did not result in a significant additional burden on these parties. The premise of this assumption was that most retailers and WPCs already retain gasoline PTDs as customary business practice. Based on this assumption, the burden of the requirement to retain PTDs for RFG for five years was estimated to be zero in the ICR document for the RFG program. EPA believes that the requirement that retailers and WPCs retain PTDs under the sulfur program also results in essentially no additional burden, since the PTDs are already maintained as a customary business practice or to comply with tax requirements.

\* Under the gasoline sulfur rule, records related to ABT credits must be kept for five years from the date of generation, except where credits are transferred. In such cases, records must be kept by the transferor for five years from the date of transfer, and by the transferee for five years from the date of transfer, use or termination, whichever is later. As a result, in certain circumstances, records related to credits may be required to be maintained for longer than five years from the date of origination. This potentially longer retention time is required to enable the Agency to determine the legitimacy of credit transfers in the context of an enforcement action

*(B) Requirements Specific to Gasoline Refiners and Importers:*

The following requirements apply to all refiners and importers:

- Register with EPA no later than three months in advance of the first date of production or importation of gasoline.

\*One-time start up requirement. Registration under RFG program is sufficient to satisfy this requirement. As a result, no additional burden is expected under the gasoline sulfur rule.

- Calculate the annual average sulfur level for each refinery or all imported gasoline.
- Submit annual sulfur averaging report to EPA for each refinery and importer by the last day of February following the previous year's averaging period.

\* A separate sulfur averaging report (in addition to the RFG/CG reports) is necessary since the sulfur program requires CG and RFG to be averaged together, whereas under

the RFG program, RFG and CG are reported separately. Except where indicated, this reporting requirement does not require the collection of information that is not currently required under the RFG program. The calculation for the annual average sulfur values is simple and straight forward.

- Include the following information in the refinery's or importer's annual average report:
  - EPA refiner and refinery facility, or importer registration numbers
  - Applicable annual average standard
  - Total volume of gasoline (RFG & CG) produced at the refinery or imported
  - Annual average gasoline sulfur content (RFG & CG) produced at the refinery or imported
  - Annual average sulfur level after inclusion of any credits
  - For each batch of gasoline produced or imported during the averaging period, the batch number assigned under the RFG program, the date the batch was produced, and the volume and sulfur content of the batch.

\* The requirement is to determine the sulfur content of each batch of CG, rather than a composite sample of multiple batches.

- Arrange to have an attest engagement report submitted to EPA by May 30th of each annual averaging period
  - The attest engagement must be performed on the underlying documentation that forms the basis of any required report
  - The attest engagement must be prepared in accordance with the procedures established under the RFG program
  - The attest engagement must be performed by an independent certified public accountant (CPA)
  - Internal auditors may assist the CPA pursuant to the Standards for Attestation Engagements

\* No new data is needed to be collected to satisfy this requirement. Data collected to comply with the RFG program is reviewed to find the relevant information, which is then used to determine whether the refiner or importer evaluated their compliance with the sulfur program requirements correctly.

*(C) Additional and/or Alternate Requirements for Refiners and Importers that Participate in the ABT Credit Trading Program*

The following recordkeeping and reporting requirements apply to refiners and importers who utilize the ABT credit trading provisions under the sulfur program:

- Calculate ABT credits generated
- Include in the refinery or importer annual sulfur compliance report (in addition to the information required for all refiners and importers) the number of credits:
  - Carried over from the prior averaging period

- Generated
  - Used
  - Obtained from or transferred to another party, and the name and EPA refiner or importer registration number of the other party to the transaction
  - Expired at the end of the averaging period
  - Carried over to the subsequent averaging period
- Retain the following records (in addition to records required to be kept by all refiners and importers), separately by year of creation and pertaining to the number of credits:
    - Carried over from the prior averaging period
    - Generated
    - Used
    - Obtained from or transferred to another party, and the name and EPA registration number of the other party to the transaction
    - Expired at the end of the averaging period
  - Retain records related to credits for five years from the date of generation; if transferred, the transferor must retain records for five years from the date of transfer and the transferee must retain records for five years from the date of transfer, use or termination, whichever is later

\* As discussed above, these requirements could result in records being required to be retained for longer than five years in some cases.

*(D) Alternative Requirements for Importers who Import Gasoline by Truck*

- Importers who import gasoline into the U. S. by truck may use the test results from the foreign terminal to satisfy the sampling and testing requirements that are otherwise required if the importer fulfills the following alternative requirements:
  - Obtain records from the foreign terminal at which the gasoline was loaded for importation into the U.S. which shows the sulfur content of each truck load of gasoline imported into the U.S.
  - Conduct a QA program for each truck loading terminal. QA samples must be taken from the truck-loading terminal for testing by the importer, or as an alternative, by an independent laboratory, to determine the sulfur content. The sampling and testing must be performed using the regulatory methods. The frequency of the sampling and testing must be at least one sample for each fifty of an importer's trucks that are loaded at the terminal, or one sample per month, whichever is more frequent.
  - Treat each truck load of imported gasoline as a separate batch for purposes of assigning batch numbers, maintaining records, and reporting

\* These requirements only apply if the importer elects to use this alternative way of demonstrating compliance.

- For a truck importer to use the alternative sampling and testing procedures, the foreign terminal must agree to fulfill the following requirements:
  - Sample and test the gasoline contained in the storage tank from which the trucks used to transport gasoline are loaded, to demonstrate that a sulfur content does not exceed the applicable per-gallon standard. This sampling and testing must be performed after each receipt of gasoline into the storage tank, or immediately before each transfer of gasoline into the importer's truck.

\* These requirements apply only if the importer elects to use the alternative procedures to demonstrate compliance with the every batch sampling and testing requirement. These additional requirements are not applicable if the importer has an independent third party conduct the required testing at the foreign terminal facility. This is generally the case because of the cost savings that result for the importer as well as the foreign terminal operator. Terminal testing conducted by a third party satisfies the testing requirements that are otherwise applicable to the importer. Therefore, EPA expects that these requirements will not result in additional activities for foreign terminal operators.

*(E) Alternative Requirements for Refiners, Pipelines, and Terminals that Produce Gasoline by Blending Butane or Other Blendstocks into Previously Certified Gasoline (PCG)*

- As an alternative to the every batch sampling and testing requirements, refiner-blenders who blend butane into PCG may meet the sampling and testing requirements by using sulfur test results from the butane supplier provided that the refiner-blender:
  - Obtains a copy of the test results from the butane supplier which shows that the sulfur content of each load of butane in the storage tank from which the blendstock was drawn does not exceed the applicable per-gallon standard and that the tests were performed using the regulatory method
  - Treats the butane as a batch (re: sulfur content and volume) for the purpose of calculating compliance with the applicable sulfur averaging standard
  - Conducts a quality assurance program including sampling and testing from each butane supplier to demonstrate that butane sulfur content is below the applicable per-gallon standard. The frequency of butane sampling and testing from each supplier must be one sample for every 500,000 gallons of butane received, or one sample every 3 months, whichever results in more frequent sampling
- As an alternative to the every batch sampling testing requirements, refiner-blenders who blend other blendstocks into PCG may:
  - Sample and test the PCG for sulfur content prior to blending and subsequent to blending and calculate the volume and sulfur content of the blendstock by subtracting the volume and sulfur content of the PCG from the volume and sulfur content of the gasoline subsequent to blending, or If every batch of blendstock used during an averaging period has a sulfur content that is equal to or less than the applicable per-gallon standard, sample and test each batch of blendstock for volume and sulfur

content when received and treat each blendstock receipt as a separate batch for purposes of compliance calculations

*(F) Requirements for Pipelines and Terminals*

Pipelines and terminals that receive SRGAS must:

- Fulfill testing requirements to assure that gasoline designated as SRGAS has the applicable sulfur content to qualify as SRGAS.

*(G) Requirements for Gasoline Retailers and Wholesale Purchaser-Consumers:*

- If research and development (R&D) gasoline is to be stored by a retailer or wholesale purchaser-consumer (WPC), records must be kept to demonstrate that the retailer or WPC is associated with the facility that will be using the R&D gasoline. Documents associated with R&D gasoline are required to be retained for five years.

\* Records associated with R&D gasoline must be kept for five years under the gasoline sulfur program. As discussed above, in evaluating the burdens associated with the information collection requirements under the RFG program, EPA assumed that the requirement that retailers and WPCs retain PTDs associated with the transfer of RFG for five years did not result in a significant additional burden on these parties, since most retailers and WPCs retain such records as customary business practice. Similarly, EPA believes that the requirement that retailers and WPCs retain documents relating to R&D gasoline no additional burden, since they are normally maintained as a customary business practice.

*(H) Requirements for Users of R&D Gasoline.*

Users of R&D gasoline must submit an application to EPA prior to initial use of the R&D gasoline. The application must contain the following:

- Statement of purpose
- Description of the R& D program, including the sulfur level of the gasoline expected to be used
- Expected start and completion dates of the R&D program
- Estimation of the number of vehicles or engines in which the fuel will be used and mileage to be accumulated
- Locations where gasoline will be stored and used
- Volume of gasoline to be used.
- Identification of the gasoline distributor or other source of the R&D gasoline
- Explanation of why sulfur-compliant gasoline can't be used
- Provisions to ensure EPA monitoring capability

\* A report must be submitted to obtain an exemption for R&D gasoline under EPA's gasoline detergent program. A similar requirement exists under EPA's fuel volatility program. The application under the sulfur program may be combined with the report

already submitted to gain an exemption under these existing EPA programs. Therefore, the R&D gasoline exemption application under the sulfur program does not result in additional reports/applications being submitted to EPA. The requirement to provide an explanation of why sulfur-compliant gasoline cannot be used represents a new information collection requirement under the sulfur program. However, this information will be readily available, and the additional activity required to include it in the application is minimal.

- R&D gasoline must be identified on PTDs as gasoline to be used only for this purpose

\* This requirement already exists to establish an exemption from EPA's gasoline detergent program. Since manufacturers of R&D gasoline are likely to seek an exemption under both the gasoline detergent and sulfur programs, this PTD requirement should not result in a new activity.

#### *(ii) Respondent Activities*

As noted above, much of the information needed for compliance with the recordkeeping requirements under the gasoline sulfur rule is being retained either to comply with the requirements of the RFG program or as a customary business practice. In addition, much of the information required to be reported is being reported to EPA to demonstrate compliance under the RFG program. The Agency made efforts to ensure that the requirements under the sulfur program are consistent with, and do not duplicate the requirements under the RFG program or other EPA fuels programs. To the extent possible, EPA has ensured that information collected and reported under the RFG program can also be used to demonstrate compliance with the sulfur program without necessitating additional activities by the regulated parties. Only in cases where it is essential to ensure the realization of the projected benefits of the sulfur program, is EPA requiring testing, recordkeeping, and reporting beyond that already required under the RFG program.

The activities arising out of the testing, recordkeeping, and reporting requirements outlined in the preceding section are listed below according to the respondent class to which they apply. Activities that apply to a broad class of respondents (such as refiners and importers) are also applicable to respondent subclasses (such as small refiners) unless otherwise noted.

The burdens and costs included in this ICR are those which are expected to be incurred during the next three years, the period of time covered by this ICR.

The following lists detail the activities of the various regulated parties:

#### *(A) Activities of Gasoline Refiners and Importers*

- Test each batch of gasoline for its sulfur content, retain samples from the most recent 20 samples collected or for each sample collected during the most recent 21 day period, whichever is greater, and retain records of the testing for five years. As discussed above, the RFG program allows testing on composite samples taken from multiple CG batches.



Therefore, this activity requires testing of additional batches of CG for their sulfur content (and the retention of additional test reports and CG batch samples), but does not require additional samples to be taken.

- Conduct a QA periodic sampling and testing program for sulfur content for defense purposes.
- Calculate the average annual sulfur level of each refinery, or all imported gasoline, using batch test reports.
- Submit refinery and importer annual averaging reports to EPA by the last day of February of the year following the prior year's averaging period.
- Arrange to have an independent third party submit to EPA an attest engagement report by May 31 of each year for the prior calendar year averaging period.

\* Data collected to comply with the RFG program will be reviewed to find the relevant information, which will then be used to determine whether the refiner or importer had evaluated their compliance with the requirements of the sulfur program correctly.

*(B) Activities of Gasoline Refiners That Utilize the Small Refiner Provisions:*

- For transfers of gasoline with a small refiner designation, identify the gasoline as small refiner gasoline (SRGAS) and indicate the downstream small refiner sulfur standard on PTDs.
- Notify EPA if refiner wishes to withdrawal small refiner status. Upon notice to EPA, effective on January 1 of the year following such notification, the small refiner will become subject to the non-small refiner sulfur standards.

*(C) Activities of Refiners and Importers Who are Exempt from Requirements for Extreme Hardship*

- Submit annual sulfur averaging reports to EPA under the terms of the hardship application.

*(D) Activities of Refiners and Importers Who Participate in the ABT Credit Trading Program*

- Include in the annual sulfur averaging report to EPA.
  - The credits carried over from prior averaging period, generated, used, terminated, transferred or carried over to the next averaging period.
  - The identity of the refiners/refineries and importers (including EPA registration numbers) involved in credit transactions.
- Retain records related to ABT credit activity.

\*These activities are required only if a refiner or importer elects to participate in the ABT credit trading program.

*(E) Alternate Activities for Importers that Import Gasoline by Truck*

- Use the following alternative requirements to satisfy the requirement to sample and test every batch of gasoline:
  - Obtain test results from the foreign terminal at which the gasoline was loaded which shows the sulfur content of each truck load of gasoline imported into the U.S.
  - Satisfy the program requirement for each truck loading terminal

\*Samples from the truck-loading terminal may be taken for testing either by the importer or an independent third party. The frequency of the sampling and testing must be at least one sample for each fifty of an importer's trucks that are loaded at the terminal, or one sample per month, whichever is more frequent.

\* These alternative requirements only apply if the importer elects to use this alternative way of demonstrating compliance.

*(F) Alternative Activities for Refiners, Terminals, and Pipelines That Produce Gasoline by Blending Butane or Other Blendstocks into Previously Certified Gasoline*

- For butane blenders, use the test results from the butane supplier to satisfy the requirement to sample and test each batch of gasoline, provides that:
  - The butane blender obtains a copy of the test results from the butane supplier which shows that the butane in the storage tank from which the butane was drawn does not exceed the applicable per-gallon standard.
  - The butane is treated as a batch regarding sulfur content and volume for the purpose of calculating compliance with the applicable sulfur averaging standard.
  - The refiner conducts a QA program including sampling and testing from each butane supplier to demonstrate that butane sulfur content does not exceed the applicable per-gallon standard. The frequency of butane sampling and testing from each supplier must be one sample for every 500,000 gallons of butane received, or one sample every 3 months, whichever results in more frequent sampling.
- For blenders who blend other blendstocks into PCG, calculate the volume and sulfur content of the blendstock by subtracting the volume and sulfur content of the PCG from the volume and sulfur content of the finished blend, or
  - If every batch of blendstock used during the averaging period has a sulfur content that is equal to, or less than, the applicable per-gallon cap standard, sample and test each batch of blendstock received and treat each receipt as a separate batch for purposes of compliance calculations

(G) *Activities of Pipelines and Terminals*

- Conduct sampling and testing of gasoline designated as SRGAS.
- Conduct periodic QA assurance testing for sulfur content for defense purposes.

(H) *Activities of Users of Research and Development Gasoline:*

- Prior to initial use of R&D gasoline, submit an application to EPA  
\* As discussed above, the application for an R&D exemption under the gasoline sulfur program may be combined with the report already submitted to gain exemptions under other EPA programs. This requirement, therefore, is not expected to result in additional reports or applications being submitted to EPA.

(I) *Activities of Distributors, Retailers, and WPCs*

- WPCs identify and keep records of any R&D gasoline.  
  
\*As discussed above, this activity should not result in any additional burden since the documents are kept as a customary business practice.

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

**5(a) Agency Activities**

Agency activities associated with the *annual reporting requirements* of this information collection consist of the following:

- 1) Review submitted reports (includes associated Agency inspections and investigations);
- 2) Enter data from the reports into the database;
- 3) Analyze requests for confidentiality and provide appropriate protection;
- 4) Store the data and archive according to a record retention schedule conforming to EPA policy.

Agency activities associated with the *attest engagement requirements* of this information collection consist of the following:

- 1) Review submitted reports (includes associated Agency inspections and investigations);
- 2) Store the data and archive according to a record retention schedule conforming to EPA policy.

## **5(b) Collection Methodology and Management**

The collection methodology and management of the information collected is similar to the process used for the RFG program. The information can be reported in a standard format. Additionally, submitters may tailor their reports for efficient utilization of their individual software systems, subject to acceptance by the Administrator. The information requested is amenable to electronic transfer.

When the submittal is received, EPA reviews it for completeness and, as appropriate, enters the data into a database which is incorporated into the existing database for the RFG program. EPA may also review respondents' records as a part of its enforcement effort to ensure the accuracy and validity of the data submitted. Non-confidential data will be made available to the public upon request.

## **5(c) Small Entity Flexibility**

As discussed in Section 3(c) above, as part of its effort to comply with the Small Business Regulatory Enforcement Fairness Act (SBREFA) requirements, EPA met several times with small entity representatives. Additionally, EPA convened an intergovernmental panel, in accordance with the SBREFA, which also met with small entity representatives and which then made specific recommendations to EPA regarding the impact of sulfur control on small businesses. A copy of the panel's report is available in the docket for this regulatory action. The report contains a list of the fuel industry's participating small entity representatives, and provides a summary of their comments.

The panel's recommendations were carefully considered by EPA in developing the gasoline sulfur rule and the specific provisions for small refiners. The panel did not recommend a wholesale exemption for small refiners, but rather that they be provided additional time to comply. As a result, the gasoline sulfur rule provides for less stringent sulfur standards for qualifying small refiners until 2008, with a possible extension until 2010, to be determined on a case-by-case basis. An extension of the gasoline small refiner standards may also be granted under certain provisions of the diesel sulfur rule until 2011.

In addition, the gasoline sulfur rule provided temporary relief from the sulfur requirements for refiners who demonstrated that extreme hardship would result in the absence of such relief.

All of the information collection requirements associated with the temporary flexibilities described above (e.g., small refiner applications) were required in the early years of the program and are no longer applicable. With the expiration of the flexibilities, small refiners are subject to the recordkeeping and reporting requirements like any other refiner. As a result, they are not covered in this ICR.

A Regulatory Impact Analysis (RIA) which further discusses the measures taken to minimize the impact on small business entities is included in the docket for the gasoline sulfur rulemaking.

## 5(d) Collection Schedule

The collection schedule of the sulfur program reporting requirements is shown in Table 5(d).

**Table 5(d). Collection Schedule**

Item	Due Date
Refinery and importer annual averaging reports, including ABT information	Last day of February following the previous year's averaging period
Attest reports	May 31 following the previous year's averaging period

## 6. ESTIMATING THE ANNUAL BURDEN AND COST OF THE COLLECTION

### 6(a) Estimating Respondent Burden

The estimated hourly burdens for this ICR are contained in Tables 6(a)1 and 6(a)2. The accounting assumptions made in making the estimates of annual hourly burden and cost are summarized after the following tables on respondent hourly burdens.

**Table 6(a)1: Annual Hourly Burden for Gasoline Refiners and Importers**

Collection Activity	Annual Burden Hours per Response				Number of Responses per Respondent per Year	Total Annual Burden Hours (per respondent)
	Managerial	Technical	Clerical	Contractor Equivalent		
1) Annual refinery/importer averaging report:						
Refiners	0.083	0	0.25	0	3*	0.99
Importers	0.083	0	0.25	0	1	0.33
2) ABT credit and/or allotment trading report	0.25	0.25	0.25	0	1	0.75
3) Additional batch reports for CG:						
Refs (own equip)	0.1	0.7	0.2	0	400	400
Refs (lab \$79/hr)	0	0	0	1.0	400	400
Importers (lab \$79/hr)	0	0	0	1.0	27	27
4) Alternative sampling/testing:						
PCG	0	0.5	0.5	0	40	40
Butane	0	0.25	0.5	0	5	3.75
5) Small refineries:						
PTDs	0	1.0	1.0	0	1	2.0
Reporting	0	0	0.5	0	1	0.5
7) Separate annual averaging report for temporary hardship	0	0	0.5	0	1	0.5
8) Alternative sampling/testing for truck importers	0	0.25	0.75	0	12	12

9) Attest engagements: Refineries Importers	0 0	5 5	0 0	0 0	3 1	15 5
10) Refiner Q/A periodic sampling/testing for defense (field test \$40)	0	0	0	1.0	10	10

\*This estimate is based on an average of 3 refineries per refiner. In reality, larger refiners may own several refineries, while smaller refiners may own only one refinery.

**Table 6(a)2: Annual Hourly Burden for Gasoline Terminals, Pipelines and Users of Research and Development (R&D) Gasoline**

Collection Activity	Annual Burden Hours per Respondent				Number of Responses per Respondent per Year	Total Annual Burden Hours (per Respondent)
	Managerial	Technical	Clerical	Contractor Equivalent (\$40/hr - field test)		
Sampling and Testing for S-RGAS						
Terminals	0	0	0	1.0	2	2.0
Pipelines	0	0	0	1.0	2	2.0
Q/A Periodic Sampling and Testing for Defense						
Terminals	0	0	0	1.0	10	10
Pipelines	0	0	0	1.0	10	10
R&D Applications	0	0	0.5	0	1	0.5

*Accounting Assumptions:*

The discussion of the requirements under the sulfur program (Section 4(b) (i) contains notes on the extent to which these requirements could be satisfied without necessitating additional activities by using information that is already collected and submitted to EPA under other EPA fuels programs. This discussion helps to support the selection of the activities that were newly required under the sulfur rule (Section 4(b)(ii)), the selection of the respondent classes (Section 6(a)), and the following accounting assumptions.

*Accounting Assumptions that Pertain to Labor Costs:*

Three labor categories are involved: managerial (includes legal and professional review), technical, and clerical. The estimates used the Bureau of Labor Statistics figures from "National Industry-Specific Occupational Employment & Wage Estimate "Petroleum and Coal Products Manufacturing" (May 2011), 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:

b.      Estimating the Respondent Burden and Cost

Wages and Benefits

Managerial	\$67.44	per hour
Technical	\$65.56	per hour
Clerical	\$22.17	per hour

Doubling for company overhead beyond wages and benefits, and for convenience, rounding up to the dollar, gives the following rates for this ICR:

Total Employer Cost

Managerial	\$135.00	per hour
Technical	\$131.00	per hour
Clerical	\$ 44.00	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 \$114 per hour, which will be used in this ICR. For purchased services related to attest engagements and some items of registration, we have doubled this hourly cost to \$228 in order to more accurately reflect the cost of a certified public accountant (CPA) or licensed professional engineer's (PE) services.

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](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 field testing of sulfur we have assumed that the cost is half of laboratory testing cost in the amount of \$40. For purchased services related to laboratory testing, we have doubled this hourly cost to \$158 in order to more accurately reflect the overhead cost associated with this service. In this collection there is no O&M associated with the cost.

### *Accounting Assumptions that Pertain to Activities:*

- 1) The following assumptions were made in estimating the burden to refiners and importers of submitting refinery or importer averaging reports to EPA:
  - There are currently about 80 refiners and 39 importers of gasoline. There are approximately 245 active refineries.
  - Preparing the report in the proper format and submitting it to EPA will require 0.25 hour of a clerical employee's time and 0.083 hour of a manager's time. Sampling and testing that provides the basis for these reports is already being conducted for purposes of compliance with the RFG/anti-dumping requirements, except for the additional testing required for CG refiners as discussed below.
  - Reporting associated with ABT credit and/or allotment activity is estimated to be 0.25 hour of managerial time, 0.25 technical time and 0.25 clerical time.
  
- 2) The following assumptions were used to estimate the additional burden for refiners and importers associated with testing the sulfur content of each batch of CG rather than testing composite samples.
  - There are approximately 75 domestic refiners that produce CG and 30 importers that import CG



- The number of additional sulfur tests required on batches of CG will be approximately 400 for each refiner and 27 for each importer
  - Composite samples on which tests for the sulfur content of CG have been performed are made up of samples from approximately 10 separate batches of CG
  - Refiners of CG produce an average of approximately 440 batches of CG a year, and importers import an average of 30 batches a year of CG
  - Thus, each refiner conducted approximately 44 tests of sulfur content on composite samples, and each importer conducted approximately 3 tests of sulfur content on composite samples
  - 2/3 of refiners will perform their own sulfur testing; 1/3 will have the testing done by an independent third party laboratory
  - Importers will have testing done by an independent third party laboratory
  - A sulfur test conducted at a private laboratory will cost a refiner or importer \$79 to perform. (this assumes that the cost of the employee to transport the sample and handle the associated administrative duties) takes one hour to perform the task)
  - An annual cost of the additional testing of gasoline sulfur content for refiners who conduct their own testing was calculated using the following assumptions:
    - The hourly burden associated with batch reports for the additional testing for sulfur is 0.1 hour for managerial time, 0.7 hour for technical time, and 0.2 hour for clerical time. Since the average CG refiner will need to test 400 additional batches, the hourly burden for this additional testing is 400 hours.
  - The annual cost of the additional testing of gasoline sulfur content for refiners and importers who use an independent third party laboratory was estimated using the following assumptions:
    - Since the average CG refiner will need to test 400 additional batches, and the cost of a test conducted at a private laboratory is \$79 per test, the annual cost of the additional testing for those refiners that use a private laboratory is \$31,600/year
    - Since the average importer will need to test 27 additional batches of CG per year, and the cost of a test conducted at a private laboratory is \$79 per test, the annual cost of the testing for such parties is \$2,133/year
    - There are no additional costs associated with storing the CG batch samples for 30 days beyond those considered above
- 3) The following assumptions were made in estimating the burden that would result from the use of the alternate provisions to satisfy the CG batch test requirement by refiners that blend blendstocks (other than butane) into previously certified gasoline:
- These alternate provisions will be used to the fullest extent possible by all refiners who blend blendstocks into previously certified gasoline, since their use will result in a significant savings in the overall cost of compliance

- The refiner already tests each blendstock upon receipt to determine its sulfur content in order to comply with the requirements of the RFG program or as a customary business practice
  - Fifteen refiners blend blendstocks other than butane into CG -- on average, each of these refiners produces 40 batches of gasoline by blendstock addition
  - The costs related to the use of this alternate provision will be related to performing calculations using existing data and of keeping records regarding compliance – these tasks could be accomplished using 0.5 hour of technical time and 0.5 hour of clerical time
- 4) The following assumptions were made in estimating the burden associated with the use of the alternate provisions to satisfy the CG batch test requirement by refiners who blend butane into previously certified gasoline:
- Due to gasoline volatility requirements, butane is blended only during the winter season (from September 16 through February 28)
  - Refiner/blenders at eight terminals, eight pipelines, and four refiners blend butane into previously-certified gasoline during the winter season.
  - On average, each blender blends butane into five batches of gasoline during the winter season
  - On average, each blender is supplied butane by two suppliers
  - All tests will be conducted by an independent laboratory at a cost of \$79 per test
  - The administrative duties associated with the alternative requirements could be accomplished using 0.5 hour of clerical time, and 0.25 hour of technical time
- 5) The following additional assumptions were made in estimating the burden to refiners of participating in the small refiner program:
- Only minor changes to the format of the PTDs that are currently used are required to accommodate the addition of the new information required regarding the small refiner status of the gasoline -- this task could be accomplished using 0.5 hour of technical time and 0.5 hour of clerical time
  - Administrative duties associated with recording, maintaining, and reporting the information required during the participation in the small refiner program (such as on the annual sulfur averaging report) could be accomplished with an additional 0.5 hour clerical time
- 6) The following additional assumptions were made in estimating the burden to refiners who are granted temporary hardship relief:
- Administrative duties associated with recording, maintaining, and reporting the information required during the period of temporary relief (such as on the annual sulfur averaging report) could be accomplished with an additional 0.1 hour clerical time

- 7) The following assumptions were made in estimating the burden associated with the use by importers that import gasoline by truck of the alternate provisions to satisfy the requirement to test every batch of CG:
- All importers that import by truck will utilize the alternate provisions, since this will result in a significant reduction in the overall cost of compliance
  - Foreign terminal operators currently have sampling and testing conducted by an independent third party as a customary business practice, and will continue to do so -- this will release the terminal operator from additional activities which would otherwise be required
  - To minimize the number of tests required, samples are already drawn after the receipt of each batch of gasoline into the storage tank at the terminal as a customary business practice
  - All importers will contract with the independent third party that performs sampling and testing at the terminal(s) from which the importer receives gasoline to keep records of the required data and report it to the importer -- by making this arrangement directly, the importer can demonstrate compliance with the requirement to conduct testing at the terminal facility without the need to undertake additional sampling and testing
  - On average, two importers draw gasoline from the same terminal facility for importation into the U.S. – in such cases, the importers will split the cost of the third party’s services.
  - Twenty five percent of importers use trucks (10 importers)
  - The following costs will be billed to importers by the independent third party for services related to testing conducted at one terminal: Independent third party will use an additional 1 hour of clerical employee time and 0.7 hour of technician time to complete the task (an additional 10 % of this base cost could be added to account for overhead cost and to provide a profit margin)
- 8) The following assumptions were made in estimating the burden to refiners and importers of having an independent third party prepare an attest engagement report for submission to EPA:
- The main cost of preparing the attest engagement will be associated with reviewing existing records on gasoline sulfur content
  - It is estimated this task will require an extra 5 hours of technical employee time (to account for other costs and to provide a profit margin an additional 10% could be added to the cost derived using the assumptions under the previous bullet)
- 9) The following assumptions were made in estimating the burden to refiners, terminals and pipelines who conduct periodic QA testing for sulfur for defense purposes:
- 60 pipelines and 120 terminals will conduct downstream QA testing for sulfur in addition to many refiners (RFG refiners typically conduct downstream QA testing). Assume \$40 cost per periodic test, based on availability of field test equipment. Assume 10 samples per year for QA testing per respondent.

- 10) The following assumptions were made in estimating the burden to terminal and pipelines that are required to test SRGAS batches for sulfur content:
  - 1200 terminals and 60 pipelines will test 2 batches of SRGAS for sulfur annually (many terminals and pipelines will test none and others more than 2). Assume cost of testing per batch is approximately \$40, based on availability of field test equipment.
  
- 11) The following assumptions were made in estimating the burden to users of research and development gasoline of adding the required information to the application submitted to EPA to obtain an exemption:
  - Adding the information on why sulfur compliant gasoline could not be used will require 0.5 hours of clerical time
  - This information is already available as a customary business practice

\*Data reported to EPA under the RFG program and the initial phase of the gasoline sulfur program was used in formulating these assumptions.

#### **6(b) Estimating Respondent Costs**

The estimation of the hourly managerial, technical and clerical employee pay rates for the various regulated parties as well as the accounting assumptions used are discussed in the previous section on respondent burdens. The estimated costs for the various regulated parties for this ICR are contained in Tables 6(b) 1 and 6(b) 2.

**Table 6(b) 1: Annual Hourly Costs for Gasoline Refiners and Importers**

Information Collection Burden by Type of Party							
Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (Dollars)	Total Hours	Total Cost (Dollars)
<b>1) Annual refiner/importer averaging report:</b>							
Refiners	80	3	240	0.33	37.62	79.2	9028.8
Importers	39	1	39	0.33	\$38	12.87	\$1,467
<b>2) ABT Credit and/or allotment report</b>							
	70	1	70	0.75	\$86	52.5	\$5,985
<b>3) Test add'l batches of Conventional Gasoline - \$79 per hour:</b>							
Refiners (own equipment)	50	400	20000	1	\$79	20000	\$1,580,000
Refiners (lab)	25	400	10000	1	\$79	10000	\$790,000
Importers (lab)	30	27	810	1	\$79	810	\$63,990
<b>4) Alternative sampling and testing:</b>							
PGC	15	40	600	1	\$114	600	\$68,400
Butane	20	5	100	0.75	\$86	75	\$8,550
<b>5) Small refineries:</b>							
PTD's	12	1	12	2	\$228	24	\$2,736
Reporting	12	1	12	0.5	\$57	6	\$684
<b>6) GPA refineries</b>							
PTD's	30	1	30	2	\$228	60	\$6,840
Reporting	30	1	30	0.5	\$57	15	\$1,710
<b>7) Separate Annual averaging report for temporary hardship</b>							
	2	1	2	0.5	\$57	1	\$114
<b>8) Alternative sampling/testing for truck imports</b>							
	10	12	120	1	\$114	120	\$13,680
<b>9) Attest Engagement - \$228 per hour:</b>							
Refiners	80	3	240	5	\$1,140	1200	\$273,600
Importers	39	1	39	5	\$1,140	195	\$44,460
<b>10) Refiner Q/A testing for defense</b>							
	100	10	1000	1	\$114	1000	\$114,000
<b>TOTALS</b>	<b>644</b>	<b>108</b>	<b>33344</b>	<b>23.66</b>	<b>\$3,732</b>	<b>34250.57</b>	<b>\$2,985,245</b>

\* This estimate is based on an average of 3 refineries per refiner. In reality, larger refiners may own more refineries, while smaller refiners may own only one refinery.

**Table 6(b) 2: Annual Costs for Gasoline Terminals, Pipelines, Truckers and Users of Research and Development (R&D) Gasoline**

Information Collection Burden by Type of Party							
Collection Activity	Number of Respondents	Number of Responses per Party	Total Number of Responses	Time per Response	Cost per Response (Dollars)	Total Hours	Total Cost (Dollars)
<b>Sampling/testing for S-RGAS</b>							
Terminals	1200	2	2400	1	\$40.00	2400	\$96,000.00
Pipelines	60	2	120	1	\$40	120	\$4,800
<b>Q/A periodic sampling/testing for defense:</b>							
Terminals	120	10	1200	1	\$40	1200	\$48,000
Pipelines	60	10	600	1	\$40	600	\$24,000
<b>R&amp;D Applications</b>							
	1	1	1	0.5	\$20	0.5	\$20
<b>TOTALS</b>	<b>1441</b>	<b>108</b>	<b>4321</b>	<b>4.5</b>	<b>\$180</b>	<b>4320.5</b>	<b>\$172,820</b>

**6(c) Estimating Agency Burden**

Gasoline sulfur reports are handled as part of other fuels reporting, including items accounted for in the reformulated gasoline (RFG) and anti-dumping ICR. This estimate is restricted only to the reporting of sulfur values to EPA. The Agency burden consist of 0.10 of a GS-13 technical worker (\$ 115,000 including overhead), or \$11,500; and 0.10 of a GS-7 clerical worker (\$ 54,875 including overhead), or \$5,488, for a total of \$16,987.50.

These estimates are derived from "OPM Salary Table 2006-DCB," effective January 2006. This table may be found at <http://www.opm.gov/oca/06tables/indexGS.asp>. The extreme of step 10 was assumed for all categories. We have assumed a half-time GS-7 clerical worker, one full-time GS-13 technical worker, and a GS-15 manager working one-eighth of his/her time managing this project (0.125). 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 thousand. This cost is per year.

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

*Gasoline Refiners and Importers:*

Number of respondents (80 refiners/39 importers)	119
Number of responses:	33,344

Annual burden hours, all refiners and importers*:	34,250
Annual cost, all refiners and importers*:	\$2,985,245

*Gasoline Terminal and Pipeline Operators:*

Number of respondents (1200 terminals/60 pipelines):	1,260
Number of responses:	4,321
Annual burden hours, all terminal/pipeline operators:	4,321
Annual cost, all terminal operators:	\$172,820

*Research and Development Applications:*

Number of respondents:		1
Number of responses:		1
Annual burden, all R&D gasoline users:	0.5	
Annual cost, all R&D gasoline users:		\$24

**6(e) Bottom Line Burden Hours and Cost Tables**

(i) Respondent Tally

From the tables, we estimate the following totals:

<b>TOTAL NO. OF RESPONDENTS:</b>	<b>1,380</b>
<b>TOTAL NO. OF RESPONSES:</b>	<b>37,665</b>
<b>TOTAL BURDEN HOURS:</b>	<b>38,571</b>
<b>TOTAL COST TO RESPONDENTS:</b>	<b>\$ 3,158,089</b>

(ii) Variations in the Annual Bottom Line

No annual variations in the respondent reporting/recordkeeping burden or cost over the course of this clearance period are expected.

**6(f) Reasons for Change in Burden**

This collection has 1,380 respondents. The total annual hourly burden and cost for this ICR is estimated to be 38,571 hours and \$3,158,089, respectively. The total number of responses for this ICR is estimated to be 37,665. The cost of this ICR compared with the currently approved OMB collection increased by \$584,132 due to better numbers used to calculate burden. The number of respondents, responses and burden hours has not changed in this renewal.

## **6(g) Burden Statement**

Because the universe of respondents to the sulfur program is quite diverse, there is no “typical” respondent. The annual burden is estimated to average between 12 and 500 hours per respondent, depending on the information collection requirements of the particular party. The average number of hours per response is estimated to be approximately 1 hour.

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-2010-0258, which is available for online viewing at [www.regulations.gov](http://www.regulations.gov), or in person viewing at the Air and Radiation Docket and Information Center 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 and Information Center 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. 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-2010-0258 and OMB Control Number 2060-0437 in any correspondence.

### **C. Attachments**

Citations regarding the legal authority for the information collection requirements related to the control of gasoline sulfur content under the sulfur program are contained in the attachment. Due to the length and complex technical nature of the regulations under



the sulfur program, they are not contained in the attachment. These sulfur regulations are located in subpart H of 40 CFR part 80.

Attachment

Legal Authority Citations

Clean Air Act

42 U.S.C. 7414.

Section 114: Inspection, Monitoring, and Entry

(a) For the purpose:

(i) of developing or assisting in the development of any implementation plan under Section 110 or 111(d), any standard of performance under Section 111, any emission standard under Section 112, [, or any regulation of solid waste combustion under Section 129,] [or any regulation under section 129 (relating to solid waste combustion),]1

(ii) of determining whether any person is in violation of any such standard or any requirement of such a plan, or

(iii) carrying out any provision of this Act (except a provision of title II with respect to a manufacturer of new motor vehicles or new motor vehicle engines):

(1) the Administrator may require any person who owns or operates any emission source, who manufactures emission control equipment or process equipment, who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this Act (other than a manufacturer subject to the provisions of Section 206(c) or 208 with respect to a provision of title II) on a one-time, periodic or continuous basis to -

(A) establish and maintain such records;

(B) make such reports;

(C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods;

(D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Administrator shall prescribe);

(E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;

(F) submit compliance certifications in accordance with Section 114(a)(3); and

(G) provide such other information as the Administrator may reasonably require; and

(2) the Administrator or his authorized representative, upon presentation of his credentials -

(A) shall have a right of entry to, upon, or through any premises of such person or in which any records required to be maintained under paragraph (1) of this section are located, and B) may at reasonable times have access to and copy any records, inspect any monitoring equipment and method required under paragraph (1), and sample any emissions which such person is required to sample under paragraph (1).

45 U.S.C. 7542.

Section 208: Information Collection:

(a) Manufacturers responsibility.

"Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this part and the regulations thereunder and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to and copy such records."