

SUPPORTING STATEMENT PART A

1) **Identification of the Information Collection**

- a) Title: Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations (Proposed Rule), EPA ICR No. 2592.01; OMB Control Number: 2060-NEW.
- b) Short characterization: This Information Collection Request (ICR) includes all additional Renewable Fuel Standard (RFS) related information collection activities resulting from the Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations proposed rulemaking. These information collection activities include new recordkeeping and reporting requirements proposed under 40 CFR Part 80, subpart M. All other RFS-related information collection will continue to be conducted under EPA ICR No. 2546.01, OMB Control Number 2060-NEW.

The NPRM proposes reforms to the RFS RIN market in an effort to improve market functioning and transparency. The proposed reforms include:

- Requiring public disclosure when RIN holdings exceed a certain threshold.
- Increasing the RFS compliance frequency to quarterly.
- Limiting which parties can purchase RINs.
- Limiting the duration of RIN holdings by non-obligated parties.
- Taking additional steps to improve EPA's market monitoring capabilities.

Taken together, these proposed reforms seek to discourage manipulative behavior in the RIN market including instances of RIN hoarding and false price reporting while offering EPA better insight into how the RIN market operates.

2) **Need for and Use of the Collection**

- a) Authority for the Collection: Sections 114 and 208 of the Clean Air Act (CAA), 42 U.S.C. §§ 7414 and 7542, authorize EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the CAA.
- b) Practical Utility/Uses of the Data: The recordkeeping and reporting requirements of this proposed rulemaking will allow EPA to monitor compliance with the proposed modifications to the RFS program and provide EPA the opportunity to provide the market with greater transparency.

3) **Non-duplication, Consultation, and other Collection Criteria**

- a) Non-duplication: Efforts have been made to eliminate unnecessary duplication. Although other agencies are involved in aspects of RFS (DOE and USDA), all compliance reports related to this program are submitted to EPA. Although EPA

implements other fuels programs that include recordkeeping and reporting requirements, EPA does not require the same information to be submitted more than one time, and parties who are registered under other fuels programs do not have to initiate any new registration to participate in RFS.

- b) Public Notice: In compliance with the Paperwork Reduction Act of 1995, EPA will open a public comment period for the ICR at the time that this proposed rule is published in the Federal Register. At the end of the comment period, EPA will review public comments received in response to the notice and will address comments received, as appropriate. A discussion of the comments received, and the associated response will be included in the ICR for the final rule.
- c) Consultations: During the development of the proposed rule, EPA has engaged with affected stakeholders to better understand how the proposed information collection will affect them and their business activities. We intend to stay engaged with the regulated community throughout the development of the final rule, including through in-person consultation. Additionally, EPA sought comment in the proposed 2019 RFS RVO rule (83 FR 32024) on ways to prevent RIN market manipulation which also helped inform the proposed rule and subsequent information collection request.
- d) Effects of Less Frequent Data Collection: EPA has designed the reporting schedule to coincide with existing reporting deadlines applicable to many of the same parties under other fuels programs. The reporting deadlines have been synchronized with other deadlines applicable under 40 CFR Part 80 for reformulated and conventional gasoline, gasoline sulfur, benzene, and other collections under the RFS. A less frequent collection would compromise our ability to meet the requirements of the CAA, EPCRA, and EISA.
- e) General Guidelines: This rule requires that records be kept for five (5) years is longer than the typical OMB guideline for record retention, which is three (3) years. EPA believes the five (5) year retention period is necessary for this program, to ensure proper compliance oversight. EPA has a five (5) year record retention for other fuels regulations in 40 CFR Part 80 and this record retention period is familiar to the regulated community.
- f) Confidentiality: EPA inform respondents that they may assert claims of business confidentiality (CBI) for much of the information they submit. Any information claimed as CBI will be treated in accordance with 40 CFR Part 2 and established Agency procedures. Information that is received without a claim of confidentiality may be made available to the public without further notice to the submitter under 40 CFR § 2.203.
- g) Sensitive Information: This information collection does not require submission of any sensitive or personally identifiable information (PII).

4) The Respondents and the Information Requested

- a) Respondents/with NAICS and SIC Codes: The respondents to this information collection fall into the following general industry categories: petroleum refineries

(324110/2911), ethyl alcohol manufacturers (325193/2869), other basic organic chemical manufacturing (325110/2869), chemical and allied products merchant wholesalers (426990/5169), petroleum bulk stations and terminals (422710/5171), petroleum and petroleum products merchant wholesalers (422720/5172), gasoline service stations (454319/5989), and marine service stations (447190/5541).

b) Information Requested: EPA believes the information requested will affect two general categories of respondents that participate in the RIN market.

(1) Non-obligated parties: The rule proposes to increase the frequency to quarterly the RFS010# activity report that RIN generators (producers and importers of renewable fuels), RIN owners, and exporters currently submit to EPA on an annual basis. In addition to changing the frequency, parties would be required to report their RINs owned at the end of each quarter, compliance with the primary RIN holdings threshold (requiring daily calculation of RIN holdings), and the reason the non-obligated party purchased separated RINs, if applicable. Additionally, for transactions of separated RINs, we are proposing to require that parties report in EMTS the mechanism for the transaction (e.g., spot market vs. futures contract) and a non-zero price. There is also additional burden imposed as parties would be required to submit documents to an attest auditor on an annual basis who would attest to the party's compliance with the applicable RIN holdings threshold.

These proposed modifications will impose additional burden on non-obligated parties by requiring them to report to EPA the additional data fields and maintain records of the data and any calculations used to derived it. We recognize that additional burden is associated with reporting it to EPA and that not all parties currently maintain this information. We also expect additional burden as affected parties may need to modify their existing internal systems to accommodate and/or calculate this data, as well as potentially developing new processes for acquiring the necessary inputs to produce the data.

As a result of these proposed additional recordkeeping and reporting requirements, we estimate an industry-wide annual increase of 58,543 hours equating to \$5,519,896 for RIN generators, 70,464 hours equating to \$6,643,892 for RIN owners, and 12,492 hours equating to \$1,177,886 for exporters. For a quantitative breakdown of the burden imposed by information collected, refer to Appendix Tables I-IV.

(2) Obligated Parties: Obligated parties under the RFS (refiners and importers of non-renewable gasoline and diesel fuel) would also be affected by additional recordkeeping and reporting activities. In addition to all the proposed activities that affect non-obligated parties, obligated parties would be required to calculate daily RIN holdings and report compliance with the primary and if needed, secondary RIN holdings thresholds. Additionally, obligated parties would be required to report on the RFS010# quarterly RFS activity report their RVO

installment requirement, any cumulative shortfalls and overages, and the resulting RIN balance. We anticipate there is additional burden to perform these calculations and report them to EPA.

We recognize that additional burden is associated with reporting it to EPA and that not all parties currently maintain this information. We also expect additional burden as the affected parties may need to modify their existing internal systems to accommodate and/or calculate this data, as well as potentially develop new processes for acquiring the necessary inputs to produce the data.

As a result of these proposed additional recordkeeping and reporting requirements, we estimate an industry-wide annual increase of 75,391 hours equating to \$7,103,777 for obligated parties. For a quantitative breakdown of the burden imposed by information collected, refer to Appendix Tables I-IV.

5) **The Information Collected, Agency Activities, Collection Methodology, and Information Management**

- a) **Agency Activities:** All reports and registrations will be reviewed by EPA for completeness and for potential violations.
 - Potential violations will be referred to enforcement personnel.
 - EPA will contact reporting parties if there is a problem with their submission.
- b) **Collection Methodology and Management:** EPA receives data in a simplified and secure fashion via EMTS and CDX (via its DCFUEL system). Information claimed as CBI will be stored in appropriately controlled areas.
- c) **Small Entity Flexibility:** Based on our analysis of the potential impacts of the proposed rule on small businesses, we do not believe that Reforms One, Three, or Four will affect regulated small entities. For Reform Two, we believe that the existing regulations provide sufficient compliance flexibility for small refiners.
- d) **Collection Schedule:**

Reporting varies by the type of information collected but is generally quarterly or annually.

6) **Estimating the Burden and Cost of Collection**

- a) **Estimating the Respondent Universe:** EPA drew upon experience with implementing the RFS program and the actual number of respondents registered as of February 2019 to develop estimates of the burden associated with this collection. For more detail see Appendix Tables I-IV.

- b) Estimating the Respondent Burden and Cost: EPA has provided detailed estimates, described as recordkeeping and reporting in Tables I-IV for each type of affected respondent. These tables provided citations to the appropriate sections in 40 CFR Part 80 and reference each form or reporting template, as appropriate. To ensure parties may review all information relevant to this collection, EPA has docketed all draft forms and templates. EPA has utilized the Bureau of Labor Statistics, National Industry-Specific Occupational Employment and Wage Estimate - Petroleum and Coal Products" (May 2017), the most current estimates available for development of the Federal Register notice announcing our intention to submit this information collection to OMB. In developing the estimates in the Tables, we assumed a standard industry mix to develop a typical respondent. We based our assumption upon our experience with the regulated community. Specifically, we assume a typical respondent who is 5% managerial, 70% technical/professional, 20% clerical, and 5% legal. For purchased services, we have doubled the labor cost to allow for overhead. For the type of purchased services under this ICR (i.e., professional engineer, accountant), this method yields a figure that is consistent with the hourly rates for these professions. Please refer to Tables I-IV for more detail and a breakdown of the estimates by respondent type, section, and form.
- c) Estimating the Agency Burden and Cost: EPA must develop report formats and instructions/guidance must be prepared and occasionally updated. Reports are processed by EPA contractors and must be reviewed for compliance purposes by EPA personnel. Reporting parties must be contacted if there is a problem with their submission.

Using the RFS and other recent fuels-related ICRs as a guide in developing these initial estimates, EPA anticipates that it may require the additional 1/2 of one GS-13 professional employee's time (\$101,000), 1/4 of one GS-7 clerical employee's time (\$24,000), and 1/8 of one GS-15 manager's time (\$33,000).¹

All other costs related to systems (CDX, EMTS) subscriptions, systems operations & maintenance, and contractor support are being excluded from these calculations in an effort to prevent double counting of costs. These are existing costs that are accounted for in EPA ICR No. 2546.01, OMB Control Number 2060-NEW and the additional information collections in this proposed rule will not substantially alter these costs.

Adding the following values results in an annual estimated Agency burden as follows:

One GS-13 technical employee (1/2 time)	=	\$ 101,000
One GS-7 clerical worker (1/4 time)	=	\$ 24,000
One GS-15 manager (1/8 time)	=	\$ 33,000
TOTAL AGENCY COST	=	\$ 158,000

¹ These estimates are derived from "OPM Salary Table 2019-DCB," effective January 2019. This table may be found at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2019/DCB.pdf>. 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). EPA rounded the resulting dollar value to the nearest thousand. This FTE cost of \$158,000 is per year.

d) Estimating the Respondent Universe: The number of regulated entities used in this ICR have been estimated based upon EPA's previous experience managing the RFS program. For Tables I-IV, EPA used the actual number of active, registered parties as of February 2019. EPA expects these number to remain relatively stable for the term of this information collection.

e) Bottom Line Burden Hours and Costs: From the tables, EPA estimate the following totals:

TOTAL NO. OF RESPONDENTS:	22,119
TOTAL NO. OF RESPONSES:	2,814,476
TOTAL BURDEN HOURS:	<u>216,891</u>
TOTAL COST TO RESPONDENTS:	\$ 20,445,451

f) Reasons for Change in Burden: The extent and direction of burden changes expected from the proposed rulemaking have been outlined in section 4 and in Appendix Tables I-IV. Once the rule is finalized, EPA intends to merge this ICR into the consolidated RFS ICR (EPA ICR No. 2546.01, OMB Control Number 2060-NEW) and modify the burden levels recorded there accordingly.

g) Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 0.09 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review 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-2018-0775, which is available for online viewing at www.regulations.gov, or in person viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742. An electronic version of the public docket is

available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select “search,” then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2018-0775 and OMB Control Number 2060-NEW in any correspondence.

6) APPENDIX – Detailed Burden Estimates, Tables I-IV