

Supporting Statement
For
Information Collection Request
for
Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel Ethanol and
Other Oxygenates, Certified Ethanol Denaturant, and Blender-Grade Pentane (40 CFR Part 80,
Subparts H and O)

EPA ICR 1907.10

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

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection

Sulfur Content of Motor Vehicle Gasoline, Gasoline Additives, Denatured Fuel Ethanol and Other Oxygenates, Certified Ethanol Denaturant, and Blender-Grade Pentane (40 CFR part 80, Subparts H and O); The current OMB Control Number is 2060-0437. The EPA number for this information collection request (ICR) renewal is 1907.10.

1(b) Short Characterization/Abstract

The requirements covered under this ICR are included in the Tier 3 Final Rule (79 FR 23414, April 28, 2014) and the regulations specified at 40 CFR Part 80, Subparts H and O. In general, information collected under the Tier 3 national gasoline sulfur program is used to ensure that gasoline on average contains no more than 10.00 parts per million sulfur to ensure that motor vehicles continue to operate and meet applicable emissions standards throughout their full useful lives.

The scope of the recordkeeping and reporting requirements for each party in the gasoline, gasoline additive, oxygenate, certified ethanol denaturant, and blender-grade pentane distribution systems, and therefore the cost to that party, reflects the party's opportunity to create, control or alter the product's sulfur content. As a result, parties that directly control the amount of sulfur in gasoline (i.e. petroleum refiners/importers, gasoline additive producers/importers, oxygenate producers/importers, certified ethanol denaturant producers/importers, and blender-grade pentane producers and importers) have more significant periodic reporting and recordkeeping requirements, which are necessary both for their own tracking and for EPA oversight. At the same time, parties with less control over the sulfur content of gasoline (i.e. downstream parties that simply transport or store fuel such as fuel distributors) have fewer reporting requirements and typically keep records to demonstrate that the downstream party did not alter the sulfur content of the gasoline that controlled.

The recordkeeping and reporting requirements for refiners and importers of motor vehicle gasoline under the Tier 3 program are the same requirements that have existed under the Tier 2 sulfur program for over 10 years.¹ Petroleum refiners/importers also use reported information to generate credits that can be traded between refiners/importers to allow these parties to more efficiently comply with the Tier 3 national gasoline sulfur standards. While the Tier 3 regulations contain new recordkeeping and reporting requirements that apply to gasoline additive manufacturers, oxygenate producers/importers, blender-grade pentane producers/importers, and producers/importers of certified ethanol denaturants that are used to produce denatured fuel ethanol, in large part these requirements are consistent with common business practices (CBP). Therefore, the costs associated with these requirements are expected to be small. The allowance for blender-grade pentane to be added gasoline downstream of the refinery will provide additional flexibility to industry.

¹ 65 FR 6698, February 10, 2000; OMB Control Number: 2060-0437; EPA ICR 1907.

The information under this ICR will be used by the EPA's Compliance Division, within the Office of Transportation and Air Quality, Office of Air and Radiation, and by the EPA's Air Enforcement Division, within the Office of Civil Enforcement, Office of Enforcement and Compliance Assurance. The information collected will be used by the EPA to evaluate compliance with the fuel quality requirements under the Tier 3 regulations. This oversight by the EPA is necessary to ensure attainment of the air quality goals of the Tier 3 program. Proprietary information may be submitted by regulated parties for demonstrating compliance with the Tier 3 standards. Confidentiality will be handled in accordance with EPA regulations at 40 CFR Part 2 and established Agency procedures.

Parties that must report information to EPA must register through EPA's Central Data Exchange (CDX) and submit annual reports on the sulfur content of gasoline and its constituents (oxygenates, gasoline additives, etc.) through CDX. Refiners/importers must use EPA's Moderated Transaction System (EMTS) to generate, trade, and use sulfur credits.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

The Tier 3 gasoline sulfur requirements were established under the authority granted by Section 211(c)(1) of the Clean Air Act (CAA).² Under Section 211(c)(1), the 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 will be in general use were the fuel control to be adopted. The Tier 3 final rule was based on both criteria.

This supporting statement describes the recordkeeping and reporting requirements and the associated costs to various regulated parties (e.g., gasoline refiners/importers, oxygenate producers/importers, gasoline additive producers/importers, certified ethanol denaturant producers/importers, blender-grade pentane producers/importers, fuel distributors, and retailers of gasoline). These requirements will be necessary to enable the Administrator to:

(1) Identify the sources of gasoline, gasoline additives, denatured fuel ethanol and other oxygenates, certified ethanol denaturant, and gasoline blendstocks; and

(2) Ensure that these sources comply with the standards and limitations of the Tier 3 regulations.

An effective oversight scheme is necessary to ensure that the environmental goals of the Tier 3 program are met, and that those complying with the requirements in good faith are not disadvantaged by non-complying parties. The Tier 3 program's requirements create a significant economic incentive for noncompliance. Without the accompanying recordkeeping and reporting

² 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.

requirements, Congressional intent to improve air quality through the Tier 3 program will be thwarted because neither the EPA nor industry will have sufficient information to monitor compliance. Non-complying gasoline, gasoline blendstocks, gasoline additives, certified ethanol denaturants, denatured fuel ethanol and other oxygenate will likely be introduced into commerce on a widespread basis but for requirements that make it possible for the EPA to cross-check records of various entities to determine compliance.

Sections 114 and 208 of the CAA, 42 U.S.C. §§ 7414 and 7542, authorize the EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the CAA. 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

The EPA uses the information and test results (e.g., sulfur content and volume of each batch of gasoline) contained in the annual compliance reports to evaluate the compliance of regulated parties involved in the production and importation of gasoline, gasoline blendstocks, denatured fuel ethanol and other oxygenates with the Tier 3 gasoline sulfur control requirements. These reports will also be used by the EPA to target compliance investigations. Product transfer documents maintained by parties in the gasoline distribution system and records related to gasoline blending will be used to evaluate the compliance of regulated 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 Tier 3 regulations 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 gasoline sulfur standards and reports related to the gasoline sulfur averaging, banking, and 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.

Additionally, since California's state gasoline sulfur requirements are as stringent as those under the Tier 3 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 gasoline sulfur program.

3(b) Public Notice

In compliance with the 1995 Paperwork Reduction Act, EPA solicited comments for sixty (60) days on this ICR prior to submitting this ICR to OMB. During this public comment period EPA received seven (7) public comments, none of which were within the scope of the proposed information collection request. These comments are available in docket EPA-HQ-OAR-2011-0135. EPA published a second notice in the Federal Register which announced submittal of this ICR to OMB and initiated a thirty (30) day public comment period.

3(c) Consultations

The Tier 3 regulations, including the cost analysis that is reflected in this ICR, were developed based on experience implementing the Tier 2 gasoline sulfur program and in close consultation with the affected industries.

EPA has made a concerted effort to seek industry comment on this ICR. EPA contacted Don Gilstrap of Chevron Products Company who can be contacted at (925) 842-8903 and by email at DGilstrap@chevron.com. EPA also contacted Vance Kopp of Weaver Associates who can be contacted at (720) 279-3011 and by email at vance.kopp@weaver.com. Both Mr. Gilstrap and Mr. Kopp reviewed EPA's burden analysis and did not object to EPA's calculated adjusted burden.

3(d) Effect of Less Frequent Collection

The Tier 3 gasoline sulfur program requires gasoline refiners and importers and oxygenate producers and importers to submit annual reports to the Agency which demonstrate compliance with the applicable sulfur standards by the information contained within. The information contained in such reports includes information regarding the sulfur content and volume of a refinery's or importer's gasoline or denatured fuel ethanol or other oxygenate. Less frequent submittal of such reports will severely hinder EPA's ability to monitor compliance and make it impossible to administer the sulfur ABT program since credits are generated and used on an annual basis, which would make it much more expensive for industry to comply. Additionally, requiring less than every-batch sampling and testing, where applicable, would make the sulfur cap requirement (i.e., the per gallon maximum sulfur content) meaningless, and would likely lead to extreme excursions in gasoline sulfur content which could, in turn, damage emission control systems leading to increased emissions and costly repairs for consumers. This would be an unacceptable outcome given that the Tier 3 sulfur program is intended to lead to reduced emissions in part by compatible vehicle and fuel interaction.

3(e) General Guidelines

This information collection activity complies with 5 CFR 1320.6, except that respondents must keep certain records for longer than three years. Specifically, all parties will be required to keep PTDs and records of quality assurance programs for five years, and refiners and importers as well as denatured fuel ethanol and other oxygenate producers and importers will be required to keep their compliance records for five years. Records related to the gasoline sulfur ABT program must also 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 gasoline sulfur standards. Much of the information required under the Tier 3 final rule was been

required under the Tier 2 program and other EPA fuels programs for decades resulting in the 5-year retention period being the industry standard. Therefore, the recordkeeping requirements under the Tier 3 regulations impose little additional burden. Five years is the applicable statute of limitations for the Tier 2 gasoline sulfur and other fuel programs. *See* 28 U.S.C. 2462.

Gasoline refiners/importers and oxygenate producers/importers must 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 gasoline refiners/importers and oxygenate producers/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.

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 will be:

- 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 (R&D) gasoline (testing laboratories)
- Producers of gasoline additives
- Importers of gasoline additives into the U.S.
- Bulk distributors and blenders of gasoline additives
- Oxygenate producers
- Importers of oxygenate into the U.S.
- Oxygenate distributors and blenders
- Certified ethanol denaturant producers
- Importers of certified ethanol denaturant into the U.S.
- Certified ethanol denaturant distributors
- Producers of blender-grade pentane
- Importers of blender-grade pentane into the U.S.
- Distributors of blender-grade pentane

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

Industry Category	NAICS ¹ Code	SIC ² Code
Petroleum refineries (including importers and butane/pentane blenders)	324110	2911
Butane and pentane manufacturers	325110	2869
Ethyl alcohol and other oxygenate manufacturing	325193	2869
Natural gas liquids extraction and fractionation	211112	1321
Other basic organic chemical manufacturing	325199	2869
Natural gas liquids pipelines, refined petroleum products pipelines.	486910	4613
Chemical and allied products merchant wholesalers	424690	5169
Manufacturers of gasoline additives	325199	2869
Petroleum bulk stations and terminals.	424710	5171
Other warehousing and storage-bulk petroleum storage	493190	4226
Gasoline Retailers and Wholesale Purchaser-Consumers	44711 44719	5541
Testing Laboratories	54138	8734

1) North American Industry Classification System

2) Standard Industrial Classification system

4(b) Information Requested

The recordkeeping and reporting requirements applicable to the regulated parties vary depending on their position in the gasoline production, blending 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 gasoline sulfur ABT program
 - Refiner (including parties who blend gasoline at a terminal facility) produces gasoline by blending pentane or other blendstocks into previously certified gasoline
- Users of R&D gasoline (testing laboratories)
- Denatured fuel ethanol and other oxygenate producers and importers
- Gasoline additive manufacturers

- Distributors of gasoline, gasoline blendstocks, gasoline additives, oxygenates, and certified ethanol denaturants (gasoline terminals, pipelines, rail carriers, and truckers)
- Gasoline retailers and wholesale purchaser-consumers (WPC)
- Additional requirements exist for retailers and WPCs of exempted R&D gasoline

(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, gasoline blendstocks, gasoline additives, oxygenates, and certified ethanol denaturants. 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.

(A) *Broadly-Applicable Requirements*

The following requirements apply broadly to all the regulated parties listed above. The responsibilities of fuel 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 produce gasoline by blending butane, pentane 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 fuel distributors, retailers, and WPCs.

- Product transfer documents (PTDs). The Tier 3 regulations require persons who manufacture, import, sell, offer for sale, dispense, distribute, supply, offer for supply, store, or transport gasoline, gasoline blendstocks, gasoline additives, oxygenates, or certified ethanol denaturants to provide a PTDs to accompany each transfer of the product.²
- Sampling and testing. Under the Tier 3 regulations, any party that is 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; and
 - 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.

² Except for transfers to truck carriers, retailers and wholesale purchaser-consumers, product codes can be used on PTDs 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.

- Affirmative defenses. For purposes of establishing an affirmative defense to a violation, parties other than retailers or wholesale purchaser-consumers will be required to provide business records documenting the following:
 - A periodic sampling and testing program designed to ensure that the gasoline meets the applicable sulfur standard; and
 - On each occasion that the gasoline is found not to comply with the applicable sulfur standard, the actions taken to stop the sale or distribution of any gasoline found to be noncompliant, 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).
- Record retention period. Records will be required to be maintained for five years from the date they were create with one exception. Records related to ABT credits will be required to be kept for five years from the date of generation, except where credits are transferred. In such cases, records will be required to 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 necessary to enable the Agency to determine the legitimacy of credit transfers in the context of an enforcement action.³

(B) Requirements Specific to Gasoline Refiners and Importers

The following requirements apply to all refiners and importers:

- Registration. Register with the EPA by December 1, 2016 or at least 30 days in advance of producing or importing gasoline meeting the Tier 3 standards and/or participating in the ABT credit program. (40 CFR 80.1650(b)).⁴
- Annual sulfur average calculation. Calculate the annual average sulfur level for each refinery's gasoline production or all imported gasoline. (40 CFR 80.1603(c)).
- Annual compliance reporting. Submit annual sulfur averaging report to the EPA for each refinery and importer by March 31 for the previous calendar year's averaging period. The annual compliance reports include the following information (40 CFR 80.1652(a)):
 - EPA refiner and refinery facility, or importer registration numbers
 - Applicable annual average standard;
 - Total volume of gasoline produced at the refinery or imported;
 - Annual average gasoline sulfur content produced at the refinery or imported;
 - Annual average sulfur level after inclusion of any credits; and
 - For each batch of gasoline produced or imported during the averaging period, the assigned batch number, the date the batch was produced, the volume of the batch, and the sulfur content of the batch.

³ In most cases, this requirement does not impose an additional burden because the required records are already maintained under other 40 CFR Part 80 fuels programs, or the records are maintained as a customary business practice.

⁴ This is a one-time requirement. Registration under other 40 CFR Part 80 fuel programs is sufficient to satisfy this requirement. As a result, no additional burden is expected under the Tier 3 final rule as both the December 1, 2016 date has passed and refiners will have been registered under other EPA fuels programs for some time.

- Annual attest engagements.⁵ Arrange to have an attest engagement report submitted to EPA by June 1 for the previous year's annual averaging period (40 CFR 80.1667).
 - The attest engagement is required to be performed on the underlying documentation that forms the basis of required reports.
 - The attest engagement is required to be prepared in accordance with established procedures.
 - The attest engagement will be required to be performed by an independent certified public accountant (CPA).
 - Internal auditors may assist the CPA pursuant to the Standards for Attestation Engagements.
 - Refiners/importers submit the reports prepared by the CPA.
 - The attest engagement report lists any discrepancies identified by the CPA.

(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 (40 CFR 80.1615(b))
- 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: (40 CFR 80.1652(a))
 - 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; and
 - 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: (40 CFR 80.1653 (b))⁶
 - 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; and
 - Expired at the end of the averaging period.

⁵ Attest engagements are annual audits of reports submitted to EPA and the underlying records which support the reported information. These reports are required under the RFG/Antidumping program (40 CFR Part 80 Subparts D, E, and F) and were also required under the Tier 2 sulfur program (40 CFR Part 80 Subpart H). Therefore, there is little additional costs associated with the Tier 3 attest engagement requirement.

⁶ Since the sulfur ABT program has been integrated into the EPA Moderated Transaction System, the production and storage of these records are automated and not expected to impose much burden on refiners/importers that choose to participate in the sulfur ABT program.

- 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.⁷

(D) *Alternative Requirements for Importers Who Import Gasoline by Truck (40 CFR 80.1641)*

- 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:⁸
 - 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 will be required to 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 will be required to be performed using the regulatory methods. The frequency of the sampling and testing will be required to be at least one sample for each 50 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.

(E) *Alternative Requirements for Refiners, Pipelines, and Terminals that Produce Gasoline by Blending Butane, Pentane or Other Blendstocks into Previously Certified Gasoline (PCG) (40 CFR 80.1640)*

- As an alternative to the by batch sampling and testing requirements, refiners who blend butane into PCG to make a new batch of gasoline may meet the sampling and testing requirements by using sulfur test results from the butane supplier provided that the refiner:
 - 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 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 will be required to be one sample for every 500,000 gallons of butane received, or one sample every three months, which ever results in more frequent sampling

⁷ As discussed above, these requirements could result in records being required to be retained for longer than five years in some cases. As mention in FN6, since information and records related to credits are now stored in EMTS, any additional cost for maintaining credit related information is expected to be minimal.

⁸ These requirements only apply if the importer elects to use this alternative way of demonstrating compliance.

- As an alternative to by batch sampling and testing requirements, refiners who blend pentane into PCG to make a new batch of gasoline may meet the sampling and testing requirements by using sulfur test results from the butane supplier provided that the refiner-blender: (40 CFR 80.85).
 - Obtains a copy of the test results from the pentane 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 pentane as a batch (re: sulfur content and volume) for calculating compliance with the applicable sulfur averaging standard.
 - Conducts a quality assurance program including sampling and testing from each pentane supplier to demonstrate that pentane sulfur content is below the applicable per-gallon standard. For commercial-grade pentane, the frequency sampling and testing from each supplier will be required to be one sample for every 350,000 gallons of pentane received, or one sample every three months, whichever results in more frequent sampling. For non-commercial-grade pentane, the frequency sampling and testing from each supplier will be required to be one sample for every 250,000 gallons of pentane received, or one sample every three months, whichever results in more frequent sampling.
 - Enters into a contract with all parties who transport or store pentane for use by the refiner to assure that an adequate quality assurance program is implemented to ensure that such pentane will not be contaminated in transit to the refinery.
- As an alternative to the by batch sampling testing requirements, refiners who blend other blendstocks into PCG may: (40 CFR 1640(b))
 - Sample and test the PCG for sulfur content prior 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 after 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 Gasoline Retailers and Wholesale Purchaser-Consumers: (40 CFR 80.1656 (d))

- If R&D gasoline is to be stored by a retailer or wholesale purchaser-consumer (WPC), records will be required to 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.

(G) Requirements for Users of R&D Gasoline. (40 CFR 80.1656)

- Users of R&D gasoline must submit an application to EPA prior to initial use of the R&D gasoline.⁹ 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 cannot be used
 - Provisions to ensure EPA monitoring capability
- R&D gasoline will be required to be identified on PTDs as gasoline to be used only for this purpose.

(H) Requirements for Gasoline Additive Manufacturers (40 CFR 80.1613)

- PTDs that state the maximum registered concentration for the additive and the corresponding maximum allowed treatment rate.
- Additive production quality control records to demonstrate that the sulfur content of each production batch is consistent with the maximum allowed treatment rate.

(I) Requirements for Denatured Fuel Ethanol and Other Oxygenate Producers and Importers.

- Register with EPA prior to November 1, 2016, or at least 60 days prior to producing or importing oxygenate subject to the Tier 3 program 10 ppm sulfur cap (40 CFR 80.1650(b)(2))
- Submit annual report to EPA for each oxygenate production and import facility by March 31 for the previous calendar year. (40 CFR 80.1652(d))
- Include the following information in the oxygenate producer or importer's annual report: (40 CFR 80.1652(c))
 - EPA oxygenate producer and oxygenate production facility, or oxygenate importer registration numbers.
 - Total volume of each type of oxygenate produced or imported
 - Annual average gasoline sulfur content produced at the refinery or imported
 - For each batch of oxygenate produced or imported during the calendar year, the assigned batch number, the date the batch was produced, and the volume and sulfur content of the batch.
 - For oxygenates other than denatured fuel ethanol, the identification of the test method used to determine the sulfur content of the batch.

⁹ A report will be required to be submitted to obtain an exemption for R&D gasoline under EPA's Tier 3 final rule. The application under the Tier 3 sulfur program may be combined with the report already submitted to gain an exemption under other 40 CFR Part 80 fuel programs. Therefore, the R&D gasoline exemption application under the Tier 3 sulfur program will not result in additional reports/applications being submitted to EPA.

- For denatured fuel ethanol, either the identification of the test method used to determine the sulfur content of the batch, or the information used to calculate the sulfur content.
- PTDs with the applicable statement for either denatured fuel ethanol or oxygenates other than denatured fuel ethanol. (40 CFR 80.1651)

(J) Producers and Importers of Certified Ethanol Denaturants

- Register with EPA prior to November 1, 2016, or at least 60 days prior to producing or importing certified ethanol denaturant. (40 CFR 80.1650(b)(4))
- Generate PTDs for each batch of certified ethanol denaturant. (40 CFR 80.1651(d))
- Sample and test each batch of certified ethanol denaturant for sulfur content
- Maintain the per-batch sulfur test records for a period of 5 years. (40 CFR 80.1653(d))

(K) Producers and Importers of Blender-Grade Pentane (40 CFR 80.86)

- Register with EPA at least 30 days prior to producing or importing blender-grade pentane.
- Sample and test each batch of pentane for sulfur, olefins, aromatics, and benzene content.
- Maintain the per-batch sulfur test records on the sulfur, olefin, aromatics, and benzene content.
- For blender-commercial-grade pentane, maintain any test results on the purity of the pentane.
- Generate PTDs for each batch of pentane to be used to produce gasoline by blending with PCG.

(ii) Respondent Activities

As noted above, much of the information needed for compliance with the recordkeeping requirements under the Tier 3 regulations is already being retained either to comply with the requirements of other 40 CFR Part 80 fuel programs or as a customary business practice. To the extent possible, information collected and reported under other 40 CFR Part 80 fuel programs such as the RFG program may also be used to demonstrate compliance with the Tier 3 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 the EPA requiring additional testing, recordkeeping, and reporting.

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 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. (40 CFR 80.1630 and 80.1631)
- Conduct a QA periodic sampling and testing program for sulfur content for defense purposes. (40 CFR 80.1663(d))
- Calculate the average annual sulfur level of each refinery, or all imported gasoline, using batch test reports. (40 CFR 80.1603)
- Submit refinery and importer annual averaging reports to EPA by the March 31 of the year following the prior year's averaging period. (40 CFR 80.1652(a))
- Arrange to have an independent third party submit to EPA an attest engagement report by June 1 of each year for the prior calendar year averaging period. (40 CFR 80.1667)

(B) Activities of Gasoline Refiners That Utilize the Small Refiner and Small Volume Refinery Provisions: (40 CFR 80.1622)

- Notify the EPA if the small refiner or small volume refinery fails to meet the qualifying criteria.

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

- Submit annual sulfur averaging reports to the 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 report to EPA. (40 CFR 80.1652(a))
 - 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. (40 CFR 80.1653(b)(2))

(E) Alternate Activities for Importers that Import Gasoline by Truck (40 CFR 80.1641)

- 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

(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 provided that: (40 CFR 80.1640)
 - 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 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 will be required to be one sample for every 500,000 gallons of butane received, or one sample every three months, which ever results in more frequent sampling.
- For pentane blenders, use the test results from the pentane supplier to satisfy the requirement to sample and test each batch of gasoline provided that: (40 CFR 80.85)
 - 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 pentane is treated as a batch regarding sulfur content and volume for calculating compliance with the applicable sulfur averaging standard
 - The refiner conducts a quality assurance program including sampling and testing from each pentane supplier to demonstrate that pentane sulfur content is below the applicable per-gallon standard. For commercial-grade pentane, the frequency sampling and testing from each supplier will be required to be one sample for every 350,000 gallons of pentane received, or one sample every three months, which ever results in more frequent sampling. For non-commercial-grade pentane, the frequency sampling and testing from each supplier will be required to be one sample for every 250,000 gallons of pentane received, or one sample every three months, which ever results in more frequent sampling.
 - Enters into a contract with all parties who transport or store pentane for use by the refiner to assure that an adequate quality assurance program is implemented to ensure that such pentane will not be contaminated in transit to the refinery.
- 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 (40 CFR 1640(b))
 - 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 periodic QA assurance testing for sulfur content for defense purposes. (40 CFR 80.1663(d))

(H) Activities of Users of R&D Gasoline:

- Prior to initial use of R&D gasoline, submit an application to EPA (40 CFR 80.1656)

(I) Activities of Distributors, Retailers, and WPCs

- WPCs identify and keep records of any R&D gasoline. (40 CFR 80.1656(d))

(I) Activities of Gasoline Additive Manufacturers (40 CFR 80.1653(h))

- Maintain records of its additive production quality control activities and make records available upon request.

(J) Activities of Denatured Fuel Ethanol and Other Oxygenate Producers.

- Test each batch of denatured fuel ethanol or other oxygenate 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. For DFE, as an alternative to per-batch sulfur testing, the sulfur content of each batch may be calculated using PTD(s) from the denaturant(s) used, quality control records for the neat (un-denatured) ethanol used, and blend records. (40 CFR 80.1631(a))
- Conduct a QA periodic sampling and testing program for sulfur content for defense purposes. (40 CFR 80.1663(d))
- For DFE producers, conduct a periodic QA program to assure the accuracy of the denaturant blending equipment for defense purposes.
- Submit annual reports to EPA by March 31 of the year following the prior calendar year. (40 CFR 80.1652(c))

(K) Activities of Producers of Certified Ethanol Denaturants.

- Register with EPA by November 1, 2016, or 60 days prior to producing certified ethanol denaturant. (40 CFR 80.1650(e))
- Test each batch of certified ethanol denaturant 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. (40 CFR 80.1630(a)(2))
- Conduct a QA periodic sampling and testing program for sulfur content for defense purposes. (40 CFR 80.1663(d))

(L) Activities of Producers of Blender-Grade Pentane.

- Register with EPA 30 days prior to producing blender-grade pentane. (40 CFR 80.86)
- Test each batch of blender-grade for its sulfur, olefin, aromatics, and benzene content. Test blender-commercial-grade 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. (40 CFR 80.1631(a))
- Conduct a QA periodic sampling and testing program for sulfur content for defense purposes. (40 CFR 80.1663(d))

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) Analyze requests for confidentiality and provide appropriate protection;
- 3) 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 report 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 other 40 CFR Part 80 fuel programs. The information should be reported electronically via a format specified by the Administrator.

When the submittal is received, EPA will review it for completeness 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 Refiner/Small Volume Refinery and Temporary Relief Flexibilities

As part of its effort to comply with the Small Business Regulatory Enforcement Fairness Act (SBREFA) requirements during the Tier 3 rulemaking process, 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 Tier 3 final rule and the specific provisions for small refiners. The panel did not recommend a wholesale exemption for small refiners and small volume refineries, 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 2020. Several refiners and refineries have taken advantage of these temporary relief flexibilities and the EPA anticipates that they will continue to do so until they phase out in 2020.

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

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
Gasoline refinery and importer annual averaging reports, including ABT information	March 31 following the previous year’s averaging period
Gasoline refiner and importer attest reports	June 1 following the previous year’s averaging period
Blender-grade pentane producer and importer annual batch reports	March 31 following the previous calendar year
Oxygenate producer and importer annual batch reports	March 31 following the previous calendar year

6. ESTIMATING THE ANNUAL BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Universe

Drawing upon experience with the Tier 3 program, the actual number of registered respondents as of December 2017, and respondent-specific assumptions as detailed in Tables I-VII, we have estimated the following respondent universe, as summarized in Table 6(a).

Table 6(a). Estimating Respondent Universe

Type of Respondent	Estimated Number of Respondents
Refiners	886
Oxygenate Producers	1,717
Oxygenate Blenders	856
R&D Applicants	1
Additive Manufacturers	20
CED Producers	267
Pentane Producers	206

6(b) Estimating Respondent Burden and Cost

Detailed estimates, described as registration, recordkeeping, and reporting activities are provided in Tables I-VII for each type of 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, we have docketed all forms and templates. We have assumed an industry standard mix, based upon available Bureau of Labor Statistics estimates¹⁰. Table 6(b) summarizes the total estimated burden by type of respondent.

Table 6(b). Estimating Respondent Burden and Cost

Type of Respondent	Total Responses per Year	Total Hours per Year	Total Cost per Year
Refiners	92,730	10,493	\$1,063,641
Oxygenate Producers	390,217	39,109	\$2,857,091
Oxygenate Blenders	856	428	\$39,804
R&D Applicants	1	8	\$744
Additive Manufacturers	880	196	\$11,028
CED Producers	29,967	4,204	\$311,726
Pentane Producers	5,366	1,219	\$70,167

¹⁰ Data retrieved from BLS May 2016 National Industry-Specific Occupational Employment and Wage Estimates statistics available at: <https://www.bls.gov/oes/current/oesrci.htm>

6(c) Estimating Agency Burden and Cost

Gasoline sulfur reports are handled as part of other 40 CFR Part 80 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 consists of 0.10 of a GS-13 technical worker (\$202,000 including overhead), or \$20,200; and 0.10 of a GS-7 clerical worker (\$96,000 including overhead), or \$9,600, for a total of \$29,800.¹¹

6(d) Bottom Line Burden Hours and Cost

Per Tables I-VII, we estimate the following totals:

TOTAL NO. OF RESPONDENTS:	3,953
TOTAL NO. OF RESPONSES:	520,017
TOTAL BURDEN HOURS:	55,656
TOTAL COST TO RESPONDENTS:	\$ 4,354,200

6(e) Reason for Change in Burden

The cost burden has remained nearly unchanged since the previous renewal of this ICR. There is an increase in responses due to a better understanding of the size of the oxygenate industry. When this ICR was developed for the first time in 2015, oxygenate producers/importers, oxygenate blenders, and certified denaturant producers/importers, were not required to be registered under any EPA fuels program. They were not required to register under the Tier 3 program until December 2016 and therefore when the original version of this ICR was developed in 2015, there was no comprehensive list to base estimates of the size of the industry upon. The total burden hours decreased due to experience gained in implementing the Tier 3 program.

6(f) Burden Statement

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

¹¹ These estimates are derived from "OPM Salary Table 2018-DCB," effective January 2018. This table may be found at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2018/DCB.pdf>. The extreme of step 10 was assumed for all categories. We have assumed one full-time GS-7 clerical worker and one full-time GS-13 professional workers, both working one tenth of their time. All values were multiplied by 1.6 (which is a common factor utilized in ICRs to account for overhead costs) and the resulting dollar value was rounded to the nearest thousand.

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-2011-0135, which is available for online viewing at 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. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID Number identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2011-0135 and OMB Control Number 2060-0437 in any correspondence.

7. APPENDIX – Detailed Burden Estimates, Excel Tables I-VII