

SUPPORTING STATEMENT PART A

1) Identification of the Information Collection

- a) Title: Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes. (Final Rule), EPA ICR No.2595.02; 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 proposed regulations clarifying diesel renewable volume obligation (RVO) calculations and proposed regulations related to pathway petition conditions; esterification pathway, distillers corn and sorghum oil pathways; and certified non-transportation 15 ppm distillate fuel ("certified NTDF"). These information collection activities include new recordkeeping and reporting requirements proposed under 40 CFR Part 80, subpart M. Please note that these estimates supplement "Recordkeeping and Reporting for the Renewable Fuel Standard Program," EPA ICR No. 2546.01, OMB Control Number 2060-NEW ("the existing RFS ICR"), which is currently under OMB review.¹

Abstract:

The background information regarding the RFS program, its history, and existing recordkeeping and reporting requirements are included in the existing RFS ICR. This supporting statement is focused upon the additional recordkeeping and reporting provisions being proposed in the NPRM.

Who are the Respondents for this ICR?

The main categories of respondents are discussed below. Respondents register according to their business activity or activities, which means that a party may be registered under multiple business activities. For ease of understanding, we have grouped the parties in this ICR according to the following activities:

Table I - RIN Generators

¹ The public docket for the existing RFS ICR is under Docket ID Number EPA-HQ-2017-0599 and it is available for online viewing at www.regulations.gov. The docket is also available for in person viewing. Information about accessing public dockets is provided on pages 7-8 of this supporting statement.

The information collection activities for RIN Generators under the RFS program are designed to properly characterize and credit the type of renewable fuel being produced or imported, and to properly account for that fuel in terms of associated RINs and RIN transactions. There are currently 717 RIN Generators, including 595 producers and 122 importers of renewable fuel. We do not anticipate any change for existing registrants. For the NPRM, we anticipated up to five (5) new registrants per year. The final rule includes a previously proposed provision that was not included in those estimates, and that may result in an additional one (1) respondent per year. These respondents are typically producers of renewable fuels, as described generally below and in detail on Table I. Information collection activities for these parties include: program registration (to receive EPA-issued company and facility identification numbers), transactional and compliance reporting system registration (to engage in on-line trading of RINs and to submit compliance reports), submission of RIN transactions and period compliance reports and attest engagements; and recordkeeping. Although registration is typically a one-time process, parties are responsible for keeping their information current and for initiating updates as needed.

EPA is finalizing modifications to Table 1 to 40 CFR 80.1426 ("pathways"). We believe the modifications to Table 1 should have no impact upon the number of actual pathways petitions or the burden associated with petitions - but may indirectly lead in an increase of approximately six (6) registrations per year. The recordkeeping and reporting burden associated with pathways petitions is already accounted for in the existing RFS ICR.

- Registration: We anticipate up to six (6) new registrants per year. It is also possible for one item that there will be six (6) new and five (5) updates, for a total of 11. These items are laid out in the table.
- Recordkeeping and Reporting: We have provided recordkeeping and reporting estimates for these six (6) new parties and, where appropriate, the 11 new and updated parties.

Table II - Obligated Parties

The information collection activities for Obligated Parties are designed to ensure and document compliance with the annual RFS standard, and to properly account for that fuel in terms of associated RINs and RIN transactions. Obligated parties are typically refiners and importers, and Table II distinguishes between them as appropriate and by activity. There are currently 723 obligated parties registered with EPA, including 460 refiners and 263 importers. The number of existing and new parties affected is described generally below and in detail on Table II. Information collection activities for these parties include: program registration (to receive EPA-issued company and facility identification numbers), EMTS and compliance reporting system registration (to engage in on-line trading of RINs and to submit compliance reports), submission of RIN transactions and period compliance reports and attest engagements; and recordkeeping. Although registration is typically a one-time process, parties are responsible for keeping their information current and for initiating updates as needed.

- Registration: A refiner or importer who re-designates certified NTDF as MVNRLM diesel fuel would be a refiner for purposes of the RFS program and would be required to register as a refiner. We have estimated that there are approximately 272 companies with up to 613 facilities that may engage in this activity and be required to add "refiner" to their registration. We also anticipate an additional 20 parties who are new registrants, as well. We have laid out the items and number of affected parties in Table II.
- Recordkeeping:
 - To exclude certified NTDF from their RVO calculations, an obligated party must have a reasonable expectation that it will be used for a non-transportation purpose. Records may be consulted to establish that reasonable expectation.
 - Parties who re-designate certified NTDF as MVNRLM diesel fuel would need to ensure that their running balance of MVNRLM diesel fuel that they deliver each quarter does not exceed the volume of MVRNLM diesel fuel that they receive during the quarter.
 - Parties would be required to program new codes for use by upstream parties and would need to program the specified PTD statement that will be applied to PTDs.
 - Parties would have to retain all records related to their compliance, and that support reports submitted to EPA and the additional provisions proposed for attest engagements.
 - Many of the records required to be kept are already kept under customary business practices (CBP). These items are marked in the tables.
- Reporting:
 - The NPRM included quarterly reporting that has been dropped in favor of annual in the final rule. Table II reflects this change. In addition, we have developed two new forms for the final rule; the RFS0304 - Renewable Fuel Standard Compliance Report (this is an update of the same form name, RFS0303, which is currently approved under OMB control number 2060-0725) and RFS0500 - Redesignation of NTDF to MVNRLM Diesel Fuel (no prior, corresponding form). The hourly estimates have been adjusted upward in order to reflect these forms and the learning curve for new parties and new reporting fields.
 - Additional records and reports would be reviewed as part of the attest engagements for obligated parties; therefore, we have adjusted the burden vis-à-vis the existing RFS ICR upward to reflect the additional burden posed by this final rule.

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.

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. EPA is aware that EIA may also collect information about MVNRLM diesel fuel from refineries; however, the EPA definition of refiner applies to a broader range of fuel manufacturing activities.
- b) Public Notice: EPA has published a Notice of Proposed Rulemaking (NPRM) in the *Federal Register*. EPA encourages all interested parties to review and provide feedback on all elements of the NPRM, including the information collection items discussed in this ICR. Supporting materials related to this ICR have been placed in the public docket for the rulemaking.
- c) Consultations: EPA draws upon its experience in implementing the RFS program in estimating the number of parties that may be affected by the NPRM. We anticipate receiving comments from affected respondents on both the NPRM and this ICR. We have utilized the estimates used by the Bureau of Labor Statistics figures from “National Industry-Specific Occupational Employment & Wage Estimate” – “Petroleum and Coal Products Manufacturing” (May 2017) to calculate the industry cost burden associated with this ICR.
- d) Effects of Less Frequent Data Collection: EPA has designed recordkeeping and reporting to work within the framework and deadlines already established for RFS. A less frequent collection would compromise our ability to meet the requirements of the CAA.
- 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: The items of information requested are listed in detail in the Appendix Tables.

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 registration and reporting data in a simplified and secure fashion via OTAQReg, EMTS and CDX (via its DCFUEL system). Information claimed as CBI will be stored in appropriately controlled areas.
- c) Small Entity Flexibility: Today's proposed rule and the associated information collection is not expected to have any adverse effect upon small entities. No special flexibility for small entities is needed.
- d) Collection Schedule:
Reporting varies by the type of information collected by is generally occasional, quarterly, or annual.

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.
- b) Estimating the Respondent Burden and Cost: EPA has provided detailed estimates, described as recordkeeping and reporting in the Tables, 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 the Tables for more detail and a breakdown of the estimates by respondent type, section, and form.

Change in Burden from NPRM to Final Rule: Please note that there is a change in the burden estimates from the NPRM compared to the final rule. The number of respondents has decreased by 281 and the number of responses has decreased by 314, mostly due to quarterly reporting that was proposed, but not finalized. There is an increase in burden of 3,646 hours and \$349,492. This is mostly due to feedback on the proposed rule as to recordkeeping and reporting burden and due to the development of the final forms. Since we have developed two new forms that are applicable to obligated parties, we have adjusted the hourly burden upward for utilizing these forms and the overall cost in dollars has increased accordingly. And, although a change that has very little effect on the overall numbers, we have added one (1) additional RIN generator to the universe of respondents.

- 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 1/10 of one GS-13 professional employee's time (\$20,200) and an additional 1/10 of one GS-15 manager's time (\$26,400).²

² 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.

All other costs related to systems (CDX, EMTS) subscriptions, systems operations & maintenance, and contractor support are being excluded from these calculations to prevent double counting of costs. These are existing costs that are accounted for in the existing RFS ICR 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 (1/10 time)	=	\$ 20,200
One GS-15 manager (1/10 time)	=	\$ 26,400
TOTAL AGENCY COST	=	\$ 46,600

- 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. We estimate six (6) new registrants due to the pathways provisions and 20 new registrants due to the certified NTDF provisions and have carried the estimates through associated recordkeeping and reporting.
- e) Bottom Line Burden Hours and Costs: From the tables, EPA estimate the following totals:

TOTAL NO. OF RESPONDENTS:	6,042
TOTAL NO. OF RESPONSES:	357,512
TOTAL BURDEN HOURS:	32,548
TOTAL COST TO RESPONDENTS:	\$ 3,511,813

- f) Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to be 0.1 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-2019-0136, 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-2019-0136 and OMB Control Number 2060-NEW in any correspondence.

APPENDICES A&B

- A- Detailed Burden Estimate Tables
- B- Reporting Forms & Instructions