

**SUPPORTING STATEMENT FOR
EPA INFORMATION COLLECTION REQUEST FOR E15 FUEL
DISPENSER LABELING AND COMPATABILITY WITH UNDERGROUND
STORAGE TANKS (Proposed Rule)
(EPA NO. 2655.01, OMB NO. 2060-NEW)”**

October 23, 2020

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) *Title and Number of the Information Collection*

Information Collection Request for Underground Storage Tanks (Proposed Rule): EPA No.2655.01, OMB No. 2060-NEW.

1(b) *Short Characterization*

Underground Storage Tank Systems (USTs)

Subchapter IX of the Solid Waste Disposal Act (SWDA), as amended, requires the U.S. Environmental Protection Agency (EPA) to develop standards for underground storage tank systems (USTs), as may be necessary, to protect human health and the environment, and procedures for approving state programs in lieu of the federal program. In 2015, EPA revised the technical requirements for owners and operators of USTs in Title 40 of the Code of Federal Regulations (40 CFR) Part 280. In August 2019 EPA submitted ICR 1360.17 to OMB for review. ICR 1360.17 combined the UST renewal ICR and the ICR for the 2015 final rules. In today's proposed rulemaking to facilitate the proper storage of E15 in underground storage tank systems (USTs), EPA is proposing compatibility requirements for future UST installations or component replacements that would ensure compatibility with higher blends of ethanol.

This ICR examines the UST information collection requirements for this proposed rule. The baseline paperwork burden of 40 CFR Part 280 without the revisions is described in the current ICR which is at OMB for review and approval (EPA No. 1360.17, OMB No. 2050-0068). After the publication of the final revisions to 40 CFR Part 280, the ICR will be updated to reflect the total burden imposed by the regulation. The ICR presents all the requirements of the 40 CFR Part 280 from today's proposed rule that apply to owners and operators under the heading "Owner and Operator Respondents." This ICR does not include the burden on UST facilities owned by the federal government, in keeping with the Paperwork Reduction Act.

The type of information to be collected as a result of the revisions includes records at new UST installations and replacements storing motor fuels used in over the road transportation to demonstrate that USTs are compatible with the substances stored. This new requirement is only intended for UST systems storing motor fuel used in over-the-road transportation, not for UST systems fueling emergency power generators nor other UST systems used for off-road purposes such as construction equipment. In the existing-regulation owners and operators of USTs storing product containing more than 10 percent ethanol or more than 20 percent biodiesel are required to maintain records to demonstrate compatibility with the product stored. This action proposes to grant certain allowances for this current UST system compatibility demonstration requirement, which reduces information collection burden for some UST systems. Most records will be maintained at UST facilities. EPA estimates the annual

respondent burden to be approximately 2799 hours and \$65,515. The revisions and their associated information collection requirements are discussed briefly below.

E15 Labeling (E15)

This ICR also includes the recordkeeping and reporting associated with the proposed provisions affecting E15 labeling under 40 CFR Part 80. Existing E15 labels are approved under OMB Control Number 2060-0675. The proposed rule associated with this information collection would alternatively specify a new E15 label or eliminate the E15 label altogether. EPA has estimated the annual burden associated with the proposed new label at 37 hours and \$3,785 (per year), which includes \$ 2,952 annualized capital or operation & maintenance costs. Should the E15 labeling requirement be removed entirely, then there would no longer be any E15 label required and we would anticipate a cost savings to industry.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need and Authority for the Collection

This section describes the need and authority for each type of information collection analyzed in this ICR. The ICR covers proposed revisions regarding ensuring compatibility with the substance stored in the UST system and related to the labeling of E15 dispenser. This data collection is needed to ensure the future national UST infrastructure is compatible with a broad range of biofuels that come to market so service station owners can offer more choices to consumers. The fuel supply in the U.S. is constantly evolving; because future needs are somewhat unknown, we see value in promoting UST systems that can safely store a broad range of potential emerging fuels such as higher-level ethanol blends.

(1) Owner and Operator Respondents

SWDA Section 6991b, as amended, directs EPA to promulgate technical regulations for all USTs. EPA requires this reporting and recordkeeping to prevent future releases of regulated substances into the environment. EPA is revising the regulations to ensure equipment is compatible with future fuels and will further prevent releases and protect human health and the environment.

(2) State Agency Respondents

SWDA Subtitle I allows state UST programs approved by EPA to operate in lieu of the federal program. Owners and operators in states that have an approved UST program do not have to deal with two sets of statutes and regulations (state and federal) that may be conflicting. Even for states without state program approval, EPA enters into grant/cooperative agreements with state programs, and the state program is designated as the primary implementing agency.

(3) Respondents Specific to E15 Labeling

EPA regulated fuels and fuel additives under the authority of Title II of the Clean Air Act. The respondents for the E15 labeling provisions are retailers and wholesale purchaser-consumers who dispense E15. These respondents would need to affix new labels to pumps.

2(b) *Practical Utility and Users of the Data*

(1) Owner and Operator Respondents

Owners, operators, and implementing agencies will use the data collected about new and existing UST system operations. Data maintained in records are used to demonstrate compliance with regulations and ensure compatibility with the substance stored.

(2) State Agency Respondents

Implementing agencies use the submitted information to monitor compliance with UST regulations.

(3) Respondents Specific to E15 Labeling

The purpose of the E15 pump label would be to provide information to the party dispensing and using the fuel.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) *Nonduplication*

Information required by the revisions will not be available from any source but the respondents.

3(b) *Public Notice*

As part of the Federal Register notice on the proposed revisions to the demonstration of compatibility of new UST systems for owners and operators of USTs in 40 CFR Part 280, EPA is soliciting comments on this information collection and the estimates in this ICR, as described below:

- 1) Whether the collection of information is necessary for the proper performance of the functions of the Agency;
- 2) Whether the Agency's burden estimate is accurate;

3) How to minimize the burden on respondents.

Because the Proposed Rule ICR is a request for clearance for a proposed initial collection rather than for renewal of clearance for an existing collection, the EPA is soliciting public comment on the ICR as part of the same notice in which the EPA proposes to revise the subject rule. EPA will address any comments received in the ICR for the subsequent final rule.

3(c) Consultations

USTs

The underlying assumptions in this ICR (e.g., burden-hour estimates) are based on the ICR Number 1360.17 “Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures” as a basis for assumptions which is awaiting review and approval at OMB

In addition, EPA used information and assumptions from the *Assessment of the Potential Costs, Benefits, and Other Impacts of the Proposed Revisions to EPA's Underground Storage Tank Regulations* prepared for the final revisions to the 2015 UST regulations. In addition, EPA consulted industry experts and used best professional judgment to determine the burden estimates as well as the cost estimates. In the proposed rulemaking we are asking for comments on the cost estimates and with this ICR we are asking for comments on the burden estimates and costs to owners and operators of maintaining the additional records of compatibility.

E15

The underlying assumptions in this ICR (e.g. burden-hour estimates) are based upon our experience regulating these entities under 40 CFR part 80. We have considered a subset of the existing universe of retail and wholesale-purchaser consumer respondents. There are approximately 115,000 service stations in the United States,¹ and industry sources indicate that 18,000 will sell E15.²

3(d) Effects of Less Frequent Collection

EPA has carefully considered the burden imposed upon the regulated community by the information collection requirements covered in this ICR and is taking public comment on the burden as well as potential costs of this proposed rulemaking. EPA is confident that those activities required of respondents are necessary; to the extent possible, the Agency has attempted

¹ * Source: MarketWatch: "How Many Gas Stations are there in the U.S.? How Many Will There Be in 10 Years?," at <https://www.marketwatch.com/story/how-many-gas-stations-are-in-us-how-many-will-there-be-in-10-years-2020-02-16> (Accessed September 16, 2020).

² ** Source: Email from Growth Energy to EPA, October 9, 2019, “Growth Energy Higher Blend Infrastructure.” Available in the docket for this action.

to minimize the burden imposed. If the minimum information collection requirements specified under the revisions are not met, neither the facilities nor EPA can ensure that UST systems are being managed in a manner protective of human health and the environment.

3(e) General Guidelines

This ICR adheres to 5 CFR 1320.5(d)(2)). There are no instances in which UST owner or operators would be required to provide a written response in fewer than 30 days

3(f) Confidentiality

Section 3007(b) of the Resource Conservation and Recovery Act and 40 CFR Part 2, Subpart B, which define EPA's general policy on public disclosure of information, contain provisions for confidentiality. However, the Agency does not anticipate that businesses will assert a claim of confidentiality for all or part of the requirements covered in this ICR. If such a claim were asserted, EPA must and will treat the information in accordance with the regulations cited above. EPA will also ensure that this information collection complies with the Privacy Act of 1974 and OMB Circular A-130.

3(g) Sensitive Questions

No questions of a sensitive nature are included in any of the UST or E15 labeling information collection requirements.

4. THE RESPONDENTS AND THE INFORMATION REQUESTED

4(a) Respondents and NAICS Codes

Table 2 lists the North American Industry Classification System (NAICS) sectors associated with industries most likely affected by the information collection requirements associated with the revisions covered in this ICR. Other sectors anticipated to be affected by the information collection requirements in the revisions not shown in Table 2 include local, state, and federal governments. This ICR does not include the burden on UST facilities owned by the federal government, in keeping with the Paperwork Reduction Act.

Table 2
NAICS Sectors of Affected Industries

NAICS Sector	NAICS Sector Description
111	Crop Production
112	Animal Production and Aquaculture
2211	Electric Power Generation, Transmission, and Distribution
31-33	Manufacturing
42	Wholesale Trade

NAICS Sector	NAICS Sector Description
44-45	Retail Trade
447	Gasoline Stations
452910	Warehouse Clubs and Supercenters
481	Air Transportation
483	Water Transportation
484	Truck Transportation
485	Transit and Ground Passenger Transportation
486	Pipeline Transportation
48811	Airport Operations
5171	Wired Telecommunications Carriers
622	Hospitals
72	Accommodation and Food Services

4(b) Information Requested

In the following paragraphs, this ICR describes the information collection requirements for owner and operator respondents.

(1) Owner and Operator Respondents

Regulations in 40 CFR Part 280 contain technical and financial responsibility requirements for owners and operators of USTs. This ICR summarizes the information collection requirements of the revisions regarding compatibility to Part 280, and associated data items and respondent activities. The following Part 280 subparts are applicable:

Subpart C: General Operating Requirements - *Compatibility*

The revisions would require that owners and operators maintain records to demonstrate compatibility of newly installed and replaced UST systems that store motor fuels used in over the road transportation. This means this requirement will not be imposed on UST systems fueling emergency power generators nor other UST systems used for other UST systems used for off road purposes such as construction equipment. Owners and operators must maintain these records for as long as the UST system is used to store the regulated substance. In addition, this proposed regulation would provide a burden reduction for certain owners and operators. In the existing-regulation owners and operators of USTs storing product containing more than 10 percent ethanol or more than 20 percent biodiesel are required to maintain records to demonstrate compatibility with the product stored. This action proposes to grant certain allowances for this current UST system compatibility demonstration requirement, which reduces information collection burden for some UST systems.

(i) Data Items:

- Records that demonstrate compatibility of newly installed UST system storing motor fuels used in over the road transportation with higher blends of ethanol.

(ii) Respondent Activities:

- For newly installed or replaced UST systems storing motor fuels used in over the road transportation demonstrate compatibility with an independent testing laboratory certification or listing; a manufacturer's approval of the compatibility of UST system components; or another method determined by the implementing agency;
- Maintain records for the life of the UST system

(2) State Agency Respondents

Regulations at 40 CFR Part 281 contain state program approval procedures for states that wish to administer their own UST programs in lieu of the federal program. A state must obtain approval for its program from EPA. As a result of the revisions, states (and territories) will need to apply for state program approval or revise a previously approved state program application. This ICR does not include the burden on states and territories for applying for state program approval or revising their applications, because submittal of the applications is not required during this three-year ICR period.

(3) Respondents Specific to E15 Labeling

The respondents for E15 labeling would be retailers and wholesale purchaser-consumer who dispense E15. They already label dispensers under OMB Control Number 2060-0675. The proposed rule associated with this ICR would alternatively change the label or eliminate it. If the label is changed, then this ICR would require parties to acquire and affix new labels. There are also provisions that allow parties to request an alternative label. We expect alternative label requests to be rare, but we have included them in our estimates. If the final rule eliminates the E15 label altogether, then there will no longer be any burden associated with labeling dispensers. This supporting statement addresses the alternative that would change the label.

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

This section discusses how the implementing agency will collect and manage the information received from respondents. This section also includes a discussion of how EPA has taken steps to ensure that the information collections are not overly burdensome on small entities.

5(a) Agency Activities

(1) Owner and Operator Respondents

Most information required of UST owners and operators is maintained in records at the facilities and is only formally submitted to the implementing agency if requested. This analysis assumes that the implementing agency will spend a minimal amount of time reviewing these data during facility inspections.

(2) State Agency Respondents

Implementing agencies use the submitted information to monitor compliance with UST regulations.

(3) Respondents Specific to E15 Labeling

Labels affixed to dispensers would identify the product being dispensed. EPA would review any alternative labels submitted for compliance with regulatory requirements. We expect few, if any, requests for alternative labels.

5(b) Collection Methodology and Management

In collecting and analyzing the information associated with this ICR, the implementing agency uses electronic equipment such as personal computers and database and modeling software, as applicable. The implementing agency ensures the accuracy and completeness of the collected information by reviewing during an inspection.

5(c) Small Entity Flexibility

In the revisions covered under this ICR, EPA attempted to minimize the reporting and recordkeeping burden for small businesses.

5(d) Collection Schedule

The implementing agency will collect information from UST owners and operators on a one-time or occasional basis. The implementing agency collects various types of data according to the following schedules:

- *One-time Records* to demonstrate compatibility with higher blends of biofuels.:
- *Occasional: Records* to demonstrate compatibility with higher blends of biofuels.

Similarly, E15 labels will be affixed as needed on a one-time or occasional basis, and requests for alternative labels would be submitted as needed/desired by the respondent.

6. ESTIMATING THE HOUR AND COST BURDEN OF THE COLLECTION

6(a) Estimating Respondent Hours

EPA estimates 10,331 respondents for this proposed rule. This includes owners and operators who install new UST systems (EPA estimates 6338 per year) and replace equipment and components of UST systems (EPA estimates 21,660 per year).

For each respondent EPA estimates it will take a clerical staff 0.1 hour to maintain records of compatibility. This means for the 10,331 UST systems or components that are new or replaced each year there will be a total of increased 2799 burden hours.

This proposed rulemaking also includes an allowance for some owners and operators who are not able to demonstrate compatibility. For these owners and operators there will be a decrease in burden hours. EPA is taking comments on how many owners will choose this allowance and therefore how many burden hours will be saved.

In addition, EPA estimates 18,001 respondents specific to the E15 labeling proposal. This includes retailers and wholesale purchaser-consumers. We estimate 37 hours per year associated with this collection for E15 labeling.

6(b) Estimating Respondent Costs

EPA estimates increased costs for respondents to be approximately \$65,515. According to our current ICR 1360.17 the costs for the clerical staff to maintain the record is \$2.34 so this burden at the 10,331 UST systems will total \$65,515.

These total increased costs are an overestimate for the total for this proposed rule because it includes an allowance for some owners and operators who are not able to demonstrate compatibility. For these owners and operators there will be a decrease in costs. EPA is taking comments on how many owners will choose this allowance and therefore what the cost savings will be.

In addition, EPA estimates \$3,785 in costs associated with the E15 labeling proposal. This includes \$2,952 in capital or O&M costs.

6(c) Estimating Agency Hour and Cost Burden

This ICR assumes that the revised regulations will impose no additional burden on EPA.

6(d) Estimating the Respondent Universe and Total Hour and Cost Burden

(1) Respondent Universe

The Paperwork Reduction Act of 1995 requires that federal agencies prepare an ICR to explain and justify any activity that involves collecting information from 10 or more non-federal respondents. This ICR does not include the burden on federally owned facilities, in keeping with the Paperwork Reduction Act. EPA estimates that the respondent universe for this proposed rule is 10,331 for USTs. This includes owners and operators who install new UST systems as well as who replace existing equipment and components of UST systems and must maintain records that the new installations and equipment is compatible with higher ethanol blends. EPA estimates the respondent universe for the E15 labeling at 18,001, and this includes retailers and wholesale purchaser-consumers who dispense E15. The detailed burden table for the E15 labeling proposal is included in Appendix A to this supporting statement as a spreadsheet.

This total number of respondents is an overestimate for the total for this proposed rule because it includes an allowance for some owners and operators who are not able to demonstrate compatibility. For these owners and operators there will be a decrease in burden and costs as they will not have to maintain records of compatibility. EPA is taking comments on how many owners will choose this allowance and therefore what the cost savings will be.

(2) Total Hour and Cost Burden

General Operating Requirements – UST Compatibility

Under the proposed revised regulations, the owners and operators of new UST system installations and replacements storing motor fuels used in over the road transportation will be required to maintain records to demonstrate compatibility with higher blends of ethanol. EPA estimates 10,331 respondents will have to maintain records for 2799 additional burden hours at a cost of \$65,515.

E15 Labeling

For E15, EPA estimates 18,001 respondents, 37 hours, and \$3,785 (of which \$2,952 is capital/O&M), annually under this ICR.

These total increased burden hours and costs are an overestimate for the total for this proposed rule because it includes an allowance for some owners and operators who are not able to demonstrate compatibility. For these owners and operators there will be a decrease in burden hours and costs. EPA is taking comments on how many owners will choose this allowance and therefore what the cost savings will be.

6(e) Bottom Line Hour and Cost Burden

(1) Respondent Tally

For USTs, EPA estimates 10,331 respondents will have to maintain records of compatibility with higher blends of ethanol.

This total number of respondents is an overestimate for the total for this proposed rule because it includes an allowance for some owners and operators who are not able to demonstrate compatibility. For these owners and operators there will be a decrease in burden and costs. EPA is taking comments on how many owners will choose this allowance and therefore what the cost savings will be.

For E15, EPA estimates 18,000 respondents to acquire/affix new labels. Although our experience is that such requests are rare, respondents may request alternative label language and we anticipate one (1) such respondent per year, for a total of 18,001 respondents.

(2) Agency Tally

This ICR assumes that the revised regulations will impose no additional burden on EPA.

6(f) Reasons for Change in Burden

This ICR presents a description of the total annual respondent and regulatory burden for all information collection activities related to the revisions to 40 CFR Part 280. The total increase in burden for the UST portion is 2799 hours and \$65,515. The increase in burden results from revisions to the existing UST regulation regarding maintaining records of compatibility with higher blends of ethanol. For the E15 labeling portion, the total burden is 37 hours and \$3,785, of which \$2,952 is capital /O&M.

6(g) Burden Statement

EPA estimates that under this proposed rule, 10,331 respondents will have to maintain records for a total of 2799 additional burden hours at a cost of \$65,515.

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 the EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, the EPA has established a public docket for this ICR under Docket ID Number EPA-HQ-OAR-2020-0448. An electronic version of the public docket is available at <http://www.regulations.gov/> which may be used to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the content of the docket and to access those documents in the public docket that are available electronically. When in the system, select "search" than key in the docket ID number identified in this document. The documents are also available for public viewing at the EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue, NW, Washington, DC. 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 docket center is (202) 566-1742. Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: 12 Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503. Please include the EPA Docket ID Number EPA-HQ-OAR-2020-0448 in any correspondence.

Appendix A - E15 Label Burden Estimates (detailed burden spreadsheet)