

REQUEST FOR NON-SUBSTANTIVE REVISION TO FUELS REGULATORY STREAMLINING ICR

PART A

1. IDENTIFICATION OF THE INFORMATION COLLECTION

1(a) Title of the Information Collection

Recordkeeping and Reporting Requirements for Fuels Regulatory Streamlining, OMB Control Number 2060-0731, expires January 31, 2024. (This is a request for a non-substantive revision to add a job aid consisting of recordkeeping templates for use by fuels testing laboratories, as described below.)

1(b) Short Characterization/Abstract

Background

The final rule, entitled "Fuels Regulatory Streamlining," established a new 40 CFR part 1090, replaced a patchwork of fuels regulations under 40 CFR part 80, and permitted several potentially cost-saving improvements, including:

- Promoting the fungibility of fuels, which will reduce distribution and storage costs;
- Reducing the regulated number of fuels characteristics to be tested and reported from 13 to four, which reduces reporting burdens;
- Leveraging the part 80 registration system so that parties who are already registered will remain registered under the new part 1090;
- Reducing the required frequency of batch reporting;
- Providing better formats and procedures for reporting and reducing the actual number of forms; and
- Consolidating existing survey programs.

The information under the approved ICR is collected 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 is used by the EPA to evaluate compliance with the fuel quality requirements under the final rule.

Reason for this Request

This request for a non-substantive revision is related to sampling, testing, and record retention requirements related to fuels testing. The specific regulatory requirements are under subpart M of 40 CFR part 1090 for performance-based measurement systems (PBMS). The PBMS laboratory recordkeeping and reporting is included in the Detailed Burden Estimates, Appendix A, Tab 1 – Fuel Manufacturers (lines 20-21). We had described the informational

items clearly in the regulation and had described and estimated the burden associated with these items as “CBP, in accordance with industry practice and regulatory requirements.” However, after issuing the final rule, and after holding implementation workshops with industry post-final rule, we developed templates that contain all the requirements that laboratories can use. There is no burden change associated with these job aids, which should make recordkeeping and reporting easier for industry. Because they are written as spreadsheet templates, we wish to submit them to OMB as forms to display an OMB control number and expiration date.

2. NEED FOR AND USE OF THE COLLECTION

2(a) Need/Authority for the Collection

The final streamlining rule was developed under the authority granted by Section 211 of the Clean Air Act (CAA). 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 supporting statement submitted with the final rule described the recordkeeping and reporting requirements and the associated costs to various regulated parties, including laboratories.

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.

2(b) Practical Utility/Users of the Data

The templates included in this non-substantive revision may be used by laboratories to meet regulatory requirements. We believe providing templates to assist laboratories in meeting the requirements of the regulation is highly beneficial to both respondents and the Agency. Providing templates will make aid laboratories in meeting regulatory requirements and will remove any guesswork as far as meeting recordkeeping requirements.

3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA

3(a) Non-duplication

The information required to be submitted or maintained under the approved ICR is not available from another source.

3(b) Public Notice Prior to Submission to OMB

3(c) Consultations

EPA developed the regulations in close consultation with the affected industries and had discussed proposed recordkeeping and reporting with interested parties, including at a workshop held in Chicago in May 2018 (more information about that workshop and materials discussed are posted here: <https://www.epa.gov/diesel-fuel-standards/fuels-regulatory-streamlining-workshop>). A second workshop was held in Ann Arbor in July 2019. EPA considered and incorporated many of the suggestions from these workshops and considered and incorporated many of the suggestions made during the comment period for the proposed rule. After the final rule, EPA held implementation workshops, including one focused on sampling and testing specifically.

3(d) Effect of Less Frequent Collection

Laboratory records must be maintained on an ongoing basis; this proposed non-substantive revision to the approved ICR does not affect the collection schedule.

3(e) General Guidelines

This information collection activity in the ICR complies with 5 CFR 1320.6, except that respondents must keep certain records for longer than three years. Consistent with the approved ICR, laboratories must retain records underlying testing and reporting activities for five years. The information required to be retained will facilitate EPA's identification of the source of any fuel found to be in violation of the part 1090 standards. Five-year retention has been required by part 80 fuels programs for decades - resulting in this period becoming the industry standard. Therefore, the retention requirements for part 1090 are no different and produce little-to-no additional burden. Five years is the applicable statute of limitations for these Clean Air Act fuel programs. *See* 28 U.S.C. 2462.

3(f) Confidentiality

Information claimed as CBI is protected in accordance with the EPA regulations at 40 CFR part 2 and established Agency procedures. Reporting form instructions clearly explain how a party may make a claim of CBI and provide a field for indicating such a claim.

3(g) Sensitive Questions

No questions of a sensitive nature are included in the job aids we seek to provide.

4. THE RESPONDENTS AND THE INFORMATION COLLECTED

4(a) Respondents/SIC Codes

The respondents for the approved ICR are not changed and generally fall within the following industry categories, with their NAICS and SIC codes; the respondents most interested in the job aid are Testing Laboratories:

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

Industry Category	NAICS¹ Code	SIC² 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 information requested is identical to the information described in the final rule and the approved ICR. As described above, the approved ICR treats laboratory records related to PBMS as CBP. We wish to provide a job aid that consists of helpful templates that laboratories can use to meet this requirement.

(i) *Data items, including recordkeeping requirements*

The job aid/templates we seek to include are attached.

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

5(a) Agency Activities

The Agency activities described in the approved ICR will not change.

5(b) Collection Methodology and Management

The collection methodology in described in the approved ICR will not change.

5(c) Small Entities

The effect upon small entities described in the approved ICR will not change.

5(d) Collection Schedule

The collection schedule in the approved ICR will not change.

6. ESTIMATING THE ANNUAL BURDEN AND COST OF THE COLLECTION

6(a) Estimating Respondent Universe

The estimated respondent universe described in the approved ICR will not change.

Table 6(a). Estimating Respondent Universe

6(b) Estimating Respondent Burden and Cost

The detailed estimates, by respondent, and listed by collection activity/regulatory citations are found in Tables I - VII of Appendix A of the approved ICR and will not change.

6(c) Estimating Agency Burden and Cost

The Agency burden and response described in the approved ICR will not change.

6(e) Reason for Change in Burden

There is no change in burden from this non-substantive revision to the approved ICR.

6(f) Burden Statement

The Burden Statement from the approved ICR will not change.

Attachment – Proposed Job Aid/Templates