

Supporting Statement  
for  
Information Collection Request

**Recordkeeping and Reporting Requirements  
for the Fuel Quality Regulations  
for Nonroad, Locomotive, and Marine Diesel Fuel**

EPA ICR 1718.05

Spring 2003

Assessment and Standards Division  
Office of Transportation and Air Quality  
Office of Air and Radiation  
U.S. Environmental Protection Agency

## **1. IDENTIFICATION OF THE INFORMATION COLLECTION**

### **1(a) Title Of The Information Collection**

Recordkeeping and Reporting Requirements for the Fuel Quality Regulations for Nonroad, Locomotive, and Marine Diesel Fuel

ICR: 1718.05, OMB Control Number: 2060-0308

### **1(b) Short Characterization/Abstract**

Nonroad diesel engines are the largest remaining contributor to the overall mobile source emissions inventory. We have already taken steps to dramatically reduce emissions from light-duty vehicles and engines through the Tier 2 and 2007 highway diesel programs. With expected growth in the nonroad sector, the relative emissions contribution is projected to be even larger in later years. The proposed rule sets out emissions standards for nonroad engines used in construction, farming, and mining operation that will achieve over 90% reduction in emissions levels from today's engines. Additionally, we are proposing to reduce sulfur levels in nonroad diesel fuel, including diesel fuel used in locomotive and marine applications, first to 500 parts per million (ppm) and then a further reduction to 15 ppm. Taken together, controls included in this proposal would result in large public health and welfare benefits. As was the case with the Tier 2 and 2007 highway diesel programs, this proposed program would treat vehicles and fuels as a system, combining requirements for much cleaner vehicles with requirements for much lower levels of sulfur in diesel fuel.

The current proposal sets out new engine exhaust emissions standards, sulfur control requirements for nonroad diesel fuel, and new engine emissions test procedures.

The pollution emitted by diesel engines contributes greatly to our nation's continuing air quality problems. EPA is introducing a rule that would establish standards for the quality of nonroad, locomotive and marine diesel fuel. New emissions standards for these engines will apply starting with model year 2007. Since the new technology developed will require low sulfur diesel fuel (500 ppm sulfur or less), the regulations require the availability of this fuel starting by no later than June 1, 2007.

The diesel sulfur rule contains many types of flexibility

aimed at reducing burdens on small businesses and those faced with particular hardships. The probable fuel program design will be implemented stepwise for the years 2007, 2010 and 2014 and beyond.

This Information Collection Request (ICR) would make ICR additions to the existing fuels regulations applicable to diesel fuel. The additional requirements covered under this ICR are included in the proposed rule.

The information under this ICR will be collected by EPA's Transportation and Regional Programs Division, Office of Transportation and Air Quality, Office of Air and Radiation (OAR), and by EPA's Air Enforcement Division, Office of Regulatory Enforcement, Office of Enforcement and Compliance Assurance (OECA). The information collected will be used by EPA to evaluate compliance with diesel sulfur control requirements under the diesel rule. This oversight by EPA is necessary to ensure attainment of the air quality goals of the diesel program.

The scope of the recordkeeping and reporting requirements for each type of party (e.g., refiners, marketers, or retailers of diesel), and therefore the cost to that party, reflects the party's opportunity to create, control or alter the sulfur content of diesel fuel. As a result, refiners and importers will generally have more requirements than parties downstream from the diesel production or import point, such as retailers. EPA has made every effort to minimize recordkeeping and reporting burdens and to ensure that parties do not have to submit duplicate information. For example, a refiner or importer who has already registered under the reformulated gasoline and anti-dumping program (ICR number 1591.13, OMB control number 2060-0277) is not required to resubmit the same information for purposes of this program.

It is estimated that there will be 37,713 reports, 54,858 burden hours, and total costs (labor, overhead and maintenance, purchased services, and annualized capital costs) of \$7,352,915. This figure includes the initial burden associated with learning and adapting to the new requirements.

## **2. NEED FOR AND USE OF THE COLLECTION**

### **2(a) Need/Authority For The Collection**

EPA is proposing a rule to establish a comprehensive national control program that will regulate equipment and its fuel as a single system. As part of this program, new emissions standards will begin to take effect in model year 2007, and will apply to nonroad, locomotive, and marine diesel fuel engines. These standards are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. Because these devices are damaged by sulfur, we are also reducing the level of sulfur in diesel fuel significantly at an appropriate time. The program provides substantial flexibility for refiners, especially small refiners, and for manufacturers of engines and equipment. These options will ensure that there is widespread availability and supply of the low sulfur diesel fuel from the very beginning of the program and that high sulfur and low sulfur fuels are segregated at all points in the distribution system. This rule also provides for exemptions, upon application, for research, development, and testing purposes.

This supporting statement describes the recordkeeping and reporting requirements and the associated costs to various parties (e.g., refiners, importers, distributors, and retailers of diesel fuel). These requirements are necessary to enable the Administrator to:

- (1) Identify the sources of diesel fuel; and
- (2) Ensure that these sources comply with the standards and limitations of the rules.

An effective enforcement scheme is necessary to ensure that the environmental goals of the diesel program are met, and that those complying with the requirements in good faith are not disadvantaged by noncomplying parties. The diesel program requirements create a significant economic incentive for noncompliance.

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. Relevant portions of the statutes referenced above can be found in the Attachment. The current regulations applicable to nonroad, locomotive and marine diesel fuel can be found in 40 CFR Part 80, Regulation of Fuels and Fuel Additives. The regulations associated with the information collection are contained in the proposed rule for the nonroad diesel rulemaking.

## **2(b) Practical Utility/Users of the Data**

EPA will use the information contained in the annual reports required by this information collection to evaluate the compliance of parties involved in the production and importation of diesel with the nonroad, locomotive, and marine diesel fuel requirements. These reports will also be used by EPA to target compliance investigations. Any baseline information submitted by refiners in order to generate early credits will be used to ensure that credits generated are correctly determined. PTDs maintained by parties in the diesel fuel distribution system and records related to diesel blending will be used to evaluate the compliance of the parties that maintain the records, and to help evaluate upstream compliance.

## **3. NONDUPLICATION, CONSULTATIONS, AND OTHER COLLECTION CRITERIA**

### **3(a) Nonduplication**

Efforts have been made to eliminate duplication in this information collection. 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 will not be available from another source.

To minimize the information collection burden, refiners and importers who are registered under the RFG program (40 CFR 80.76) are considered to have satisfied the registration requirements under the diesel rule. This also applies to the registration requirements for refiners subject to the small refiner or temporary hardship relief provisions, and refiners and importers subject to the GPA standards. Refiners and importers who are not already registered with EPA must register in accordance with the registration requirements under the RFG program.

### **3(b) Public Notice Prior to Submission to OMB**

We will publish a proposed rulemaking in the Federal Register regarding requirements for low-sulfur nonroad diesel fuel. The proposed rule will include invitations to comment on the ICR. We have already received comments on several issues related to information collection as part of our effort to develop the proposal. These comments and our responses are reflected in the proposal and will be addressed in the summary and analysis of comments and this ICR for the final rule.

### **3(c) Consultations**

EPA has discussed aspects of this information collection with representatives of regulated industry.

As part of its effort to comply with the requirements of the Small Business Regulatory Enforcement Fairness Act (SBREFA) requirements, EPA met several times with small entity representatives. Additionally, EPA convened an intergovernmental panel, in accordance with the SBREFA, which met with small entity representatives and made specific recommendations to EPA regarding the impact of diesel sulfur control on small businesses. These recommendations were carefully considered by EPA in developing the proposed and final rules and the specific provisions for qualifying small refiners. A copy of the Panel's report is available in the docket for this regulatory action. The Panel report contains a list of the fuel industry's participating small entity representatives, and provides a summary of their comments. In addition, EPA staff met periodically with API and its member companies to develop the proposed requirements.

### **3(d) Effect of Less Frequent Collection**

The diesel rule requires refiners and importers to submit annual reports which will, by the information contained therein, demonstrate a party's compliance with the applicable sulfur standards. Less frequent submittal of such reports would severely hinder EPA's ability to monitor compliance, and would likely lead to noncompliance.

### **3(e) General Guidelines**

This information collection activity complies with the guidelines in 5 CFR 1320.6, except that respondents are required to keep certain records for longer than three years. Specifically, all parties are required to keep PTDs and records of quality assurance testing (if conducted) for five years. Refiners and importers are also required to keep their compliance records for five years. The PTD information will facilitate EPA's identification of the source of any diesel fuel found to be in violation of the sulfur standard. These recordkeeping requirements should impose little additional burden. Five years is the applicable statute of limitations for fuel programs. See 28 U.S.C. 2462.

Refiners and importers will be submitting a limited amount of proprietary information in their annual reports. Those

submitting a baseline or applying for one of the flexibility options such as small refiner, GPA or temporary relief provisions, will be submitting additional proprietary information.

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 entry and access to facilities.

### **3(f) Confidentiality**

As discussed in 3(e) above, proprietary information will be submitted by refiners and importers. Confidentiality for such information is covered by established Agency procedures and the regulations at 40 CFR Part 2.

### **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 are:

- Refiners (both domestic and foreign refiners who manufacture diesel for use in the U.S.)
- Importers of diesel into the U. S.
- Diesel distributors, carriers, wholesale purchaser-consumers, and retailers
- Users of research and development diesel (testing laboratories)

Recordkeeping and, in some cases, reporting are required by the following industries: refiners (2911), importers (5172), pipelines (4613), petroleum marketers and other distributors (5171,5172), terminals (4226), fuel oil dealers (5983), fuel additive manufacturers (5172, 2911), and petroleum retailers and wholesale purchaser-consumers (5541).

Some of the required records - like product transfer documents - (PTDs) are generated and maintained in the normal

course of business (i.e., customary business practices, or "CBP"). Diesel fuel additive manufacturers who sell bulk additives to terminals will have a new requirement to generate PTDs describing the sulfur content of such additives. This burden on additive manufacturers should be minimal. Without the required records, EPA would be unable to enforce the diesel sulfur requirements.

#### **4(b) Information Requested**

##### 1. Data Items

Knowledge of the following definitions at 40 CFR Part 2 is important for a thorough understanding of the reporting and recordkeeping requirements:

"Diesel fuel" means any fuel sold in any state or Territory of the United States and suitable for use in diesel motor vehicles, diesel motor vehicle engines or diesel nonroad engines, and which is commonly or commercially known or sold as diesel fuel.

"Nonroad, locomotive, and marine diesel fuel" means any diesel fuel, or any distillate product, that is used, intended for use, or made available for use, as a fuel in diesel motor vehicles or diesel nonroad, locomotive, and marine engines.

"Refinery" means a plant in the United States at which gasoline or diesel fuel is produced.

"Foreign refinery" means a refinery that is located outside the United States.

"Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.

"Small refiner" means a refiner who produces diesel fuel at a refinery by processing crude through refinery units, employed fewer than an average of 1,500 people from January 1, 1999 to January 1, 2000, had an average crude capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 1999, and that has submitted an application and received EPA approval under 40 CFR § 80.550.

"Importer" means a person who imports gasoline, gasoline blending stocks or components, or diesel from a foreign country into the United States (including the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands).

"Sulfur percentage" is the percentage of sulfur in diesel fuel by weight, as determined using one of the test methods specified in the regulations.

"Batch of nonroad, locomotive, and marine diesel fuel" means a quantity of diesel fuel which is homogenous with regard to those properties that are specified for nonroad, locomotive, and marine diesel fuel under 40 CFR subpart I.

"Nonroad, locomotive, and marine diesel fuel additive" means any substance not composed of purely carbon and/or hydrogen, or of diesel blendstocks, that is added, intended for adding, used, or offered for use in nonroad, locomotive, and marine diesel fuel subject to its production.

## 2. Recordkeeping and Reporting Requirements

### a. General Recordkeeping and Reporting Requirements Applicable to Refiners and Importers

*Registration.* (See 40 CFR § 80.597.) The diesel sulfur program requires that refiners and importers who are either currently producing and supplying nonroad diesel fuel, or that expect to do so. Where a registrant has already provided information under the reformulated gasoline and anti-dumping program (see 40 CFR § 80.76), that registrant is not required to re-register under this diesel program.

*Pre-Compliance Reports.* (See 40 CFR § 80.594.) All refiners and importers must generally report on their progress towards meeting the nonroad diesel sulfur standard as specified in this proposal. Pre-compliance reports may be submitted electronically or on paper and must describe any changes related to registration, volume estimates for both 15 ppm and 500 ppm diesel fuel to be produced from crude oil and other sources, estimates as to the number of credits to be earned and/or used, and information indicating progress toward making necessary capital commitments and modifications to produce 15 ppm diesel fuel by the appropriate date. Pre-compliance reports must be submitted by a date to be specified upon finalization of this proposal and should be accompanied by a written, signed certification by a responsible corporate officer.

*Annual reports, underlying records, and electronic reporting.* (See 40 CFR §§ 80.592(b) and 80.593.)

The first compliance period during which credits are generated, any refiner or importer who produces or imports diesel fuel subject to the 500 ppm sulfur standard or who generates credits under the diesel program must submit annual reports to

EPA. The annual reports are due the last day of February for the previous year's activity.

Annual reports must contain the following information: name of the company and registration number, volume and quality data for all diesel fuel produced for sale within the United States during the compliance period, what percentage of fuel met the 15 ppm and 500 ppm sulfur standards, and information regarding credits generated, used, and/or transferred. (See 40 CFR § 80.593.) Small refiners will be required to provide minimal additional information, which varies according to which small refiner option the refiner will be using. All annual reports must be accompanied by a written, signed certification by a responsible corporate officer.

Records related to the annual reports must be maintained for at least five years. The first compliance period during which credits are generated, whichever is earlier, any refiner or importer continuing to produce 500 ppm nonroad, locomotive, and marine diesel fuel must keep records that including the following information for each batch of diesel fuel produced by all refiners or imported by all import facilities subject to one of the flexibilities:

- 1) batch volume;
- 2) batch number;
- 3) date of production or import;
- 4) PADD of production/import; and
- 5) designation of the batch as meeting the 15 ppm or 500 ppm sulfur standard.

For foreign refiners and importers, designations and other records required under 40 CFR § 80.620 are also required. Importers are required to keep records identifying and verifying the source of each batch of certified and non-certified foreign refiner diesel fuel under 40 CFR § 80.620. (See 40 CFR § 80.592(c).)

For all refiners and importers, who generate credits, the following records must be kept separately for each refinery and by PADD of production/import for for each credit trading area (in the case of an importer):

- 1) the number of credits possessed at the beginning of the year;
- 5) the number of credits generated during the year;
- 6) the number of credits used during the year;
- 7) information about any party from whom credits were obtained

- or to whom credits were traded, including that party's EPA registration number;
- 8) any credits that will carry over into (the) subsequent year(s); and
  - 9) any other commercial documents related to transfer of credits.

It is our intention to accept all diesel program annual reports in a highly simplified, electronic format (i.e., either within a common commercial spreadsheet or as a comma delimited text file). We believe that this will minimize the cost of reporting for regulated parties and, based upon our experience with electronic reporting in other fuels programs, will be widely embraced by regulated parties.

We will request encryption in order maintain strict protection of these submissions, which are generally covered by a claim of "confidential business information" (CBI). The signature and certification by the responsible corporate officer will be in writing. In order to ensure the integrity of electronic files, a hash value will be included to identify the annual report file(s) submitted. (A hash algorithm computes a unique and condensed representation of a message or a data file. This "hash value" and is useful for identification and evidentiary purposes.)

All annual reporting under this program ends with the report due on the last day of February 2011 and covering compliance year 2010. After that date, all nonroad, locomotive, and marine diesel fuel will have to meet the 15 ppm standard and there is no further purpose to be served by annual reporting.

Registration information and reports will be entered into an EPA Office of Air and Radiation, Office of Transportation and Air Quality computer database. Information covered by a claim of business confidentiality will be handled in accordance with standard Agency procedures regarding confidential business information and the applicable provisions at 40 CFR Part 2.

*Product transfer documents.* (See 40 CFR § 80.590.) All parties in the distribution system are required to keep product transfer documents (PTDs), but refiners and importers are also required to initially generate and provide information on commercial PTDs that identify diesel fuel for highway use complying with either the 15 ppm or 500 ppm standard or identifying the diesel fuel as meeting certain other specific needs. For example, PTDs will be

used to identify diesel fuel as meeting the 15 ppm or 500 ppm sulfur standard, as diesel fuel for export only, as diesel fuel for use in specified Territories, as diesel fuel for use as research and development fuel only, etc. Product transfer documents are also used to identify diesel fuel for use in Alaska and exempt from Federal dye requirements. (See 40 CFR § 69.51(a)(2) and (c)(2).)

The record retention time for most records is five years, which is the same as under other fuels programs. Creation and retention of PTDs does not create a new requirement, but there will be a one time expense associated with developing new computer product codes or descriptive phrases to identify product. Product codes may be used by most parties if such codes are clearly understood by each transferee. Textual statements are to be provided to truck carriers, retailers, and/or wholesale purchaser-consumers. Once established, these product codes will continue to be routinely used.

Any additional burdens associated with PTDs are reasonably expected to be quite minimal because all parties already routinely receive transfer documents as a customary business practice and generally maintain them for four or five years under state tax laws. Product transfer document information is necessary to 1) prevent commingling of products meeting different sulfur standards, 2) avoid contamination of non road diesel with higher sulfur products, and 3) prevent misfueling of model year 2007 and later vehicles with any fuel having a sulfur content greater than 15 ppm. It is very important that misfueling not occur, as it may result in harm to the vehicles emissions controls and other systems. It is important that excessive amounts of 15 ppm fuel not be downgraded in the distribution system in order to ensure sufficient availability of 15 ppm compliant fuel at retail.

*Product transfer documents for additives.* (See 40 CFR § 50.591.) Product transfer documents for diesel additives must indicate that the additive does not exceed 15 ppm sulfur or, in the alternative, that the additive does exceed 15 ppm sulfur and care must be taken to blend it properly in order to ensure that the blended final product is compliant with the 15 ppm sulfur standard.

*Quality assurance test results for batches of diesel fuel.* (See 40 CFR § 80.592.) Refiners and importers are not required to test each batch of diesel for its sulfur content. Quality assurance testing is voluntary, although nearly all refiners and

importers would engage in such testing in order to establish an affirmative defense under an enforcement scenario. Records retained would have to indicate the location, date, time and storage tank or truck sampled, the name and title of the person who sampled the tank or truck, and the results of any testing. For any product that was non-compliant as a result of quality assurance testing, records would have to be made and kept to indicate the actions the party has taken, if any, to identify the cause of the noncompliance and to prevent future instances of noncompliance. Any generated records related to quality assurance testing would have to be retained for five years.

All records, including electronic records and the various types of specific recordkeeping and reporting requirements (discussed below), must be made available to EPA upon request.

b. Applications and baselines for small refiners. (See 40 CFR §§ 80.550 - 80.80.553.)

Small refiners must apply for small refiner status. Application must be made by December 31, 2001. (This date may be June 1, 2003 in limited circumstances involving the activation or reactivation of a refinery.)

Small refiner applications must include information about the company, its corporate structure and its refining capacity that will permit EPA to assess whether the refiner is, in fact, "small" for purposes of the program. All applications must be in writing and signed and certified by a responsible corporate officer.

The application must indicate whether the refiner is seeking to continue the sale of 500 ppm nonroad, locomotive, and marine diesel fuel and/or to generate early compliance credits, or if the refiner is seeking an extension of its small refiner gasoline sulfur standard under the gasoline sulfur regulations. (See 40 CFR §§ 80.240, 80.552(c) and 80.553.)

Small refiners must apply for a small refiner baseline. (See 40 CFR § 80.595.) A separate volume baseline must be submitted for each refinery for which small refiner status is sought. Instructions for calculating the baseline are included in the regulations at 40 CFR § 80.596. The baseline must be accompanied by a written signature and certification by a responsible corporate officer.

Small refiners must comply with the same recordkeeping and

reporting requirements, including pre-compliance and annual reports, required of all refiners. If they choose to continue to produce 500 ppm and/or to generate credits, then they will have to make a showing (as part of the pre-compliance and/or annual report) that sufficient sources of 15 ppm diesel exist in areas where they will supply 500 ppm product. If, after 2003, the sources of 15 ppm diesel decrease, then they must further identify (as part of the pre-compliance and/or annual report) the change and include supplementary information showing that the sources of 15 ppm product are still adequate.

c. Applications by Refiners Seeking to Be Granted Temporary Relief for General Hardship. (See 40 CFR § 80.560.)

A refiner may petition for temporary relief from some or all of the diesel requirements if the refiner can demonstrate that unusual circumstances exist that impose extreme hardship and prevent the refiner from being able to comply with applicable requirements. The items that must be included in the petition are laid out in 40 CFR § 80.560 and include description of a plan demonstrating how the refiner plans to comply with the diesel rule's requirements as soon as possible, information about the refiner's efforts to obtain capital for refinery improvements or to obtain credits, information about the bond rating of the entity that owns the refinery, and similar items that support the application. The refiner must also include a compliance plan that will demonstrate how the refiner will engage in a quality assurance testing program, engage in period sampling and testing at its own facilities and at downstream locations, inspect retail and wholesale purchaser-consumer facilities it supplies to ensure proper segregation and labeling of its product, etc. All applications must be accompanied by a signed, certification letter from a responsible corporate officer.

d. Applications by Refiners Seeking to be Granted Relief under Extreme Circumstances. (See 40 CFR § 80.561.)

In appropriate extreme, unusual, and unforeseen circumstances, clearly outside the control of the refiner or importer and which could not have been avoided by exercising due diligence, EPA may permit distribution of diesel fuel that does not meet regulatory requirements if certain conditions are met (e.g. it must be in the public interest to do so, the refiner must make up any air quality detriment, the refiner must pay the U.S. Treasury an amount equal to the economic benefit of the nonconformity minus the amount paid making up any air quality

detriment, etc.). Due to the extreme nature of this relief, no exact format is prescribed by the regulations for application. However, in order for the Agency to make a decision as to whether to grant such relief, it is necessary for the party to describe the circumstances in sufficient detail.

e. Applications for Research and Development Exemptions. (See 40 CFR § 80.600.)

Any person may receive an exemption from the regulations for diesel fuel used for research, development, or testing purposes. The regulations specify the type of information a party would submit in order to demonstrate that there is a legitimate basis for granting an exemption. Such information includes a concise statement of the purpose and scope of the program and an explanation as to why an exemption is needed. Information about the duration of the program, the maximum number of vehicles or engines involved, and the quantity of diesel fuel is to be provided to the Agency. In addition, the party must provide information about the site where research is to be conducted and the manner in which records will be kept. Contact information must be provided.

f. Recordkeeping and reporting that is specific to foreign refiners subject to a temporary compliance option or a hardship provisions  
(See 40 CFR § 80.620.)

Generally, the requirements of the diesel program are to be met by the importer (who imports foreign refiner diesel) unless a foreign refinery has applied for and received EPA approval to produce nonroad, locomotive, and marine diesel fuel under the temporary compliance option or one of the hardship provisions. Foreign refiners may seek to be included under the temporary compliance option (see 40 CFR §§ 80.530-80.532), the small refiner hardship provisions (see 40 CFR §§ 80.552 and 80.553), the temporary relief provisions of 40 CFR §80.560 or the extreme unforeseen circumstances provisions of 40 CFR §80.561. As with other refiners, application must be made in writing to EPA, and signed and certified by a responsible corporate officer. The writing must be in English or an English translation must be provided.

Because of the difficulties of enforcing requirements in foreign countries, there is an attest engagement requirement

associated with foreign refiner flexibility. This must be performed on a yearly basis and must be submitted on May 30<sup>th</sup> for the prior calendar year. An attest engagement is similar to a financial audit and is to be conducted by a party who is independent of the foreign refiner and who is either a licensed CPA or a person approved in advance by EPA who is capable of carrying out those duties.

- g. Recordkeeping and reporting that is specific to the generation of early credits. (See 40 CFR §§ 80.531 and 80.532.)

Details to be given upon finalization of this proposal.

### 3. Respondent Activities

The following are required:

1. Read and comprehend the regulations and instructions for submission of registration, reports, and/or applications.
2. Train personnel to meet the requirements, employing new technologies if warranted.
3. Develop the information that is not already available.
4. Gather and organize the information.
5. Review the information, perform quality assurance, and take corrective action, if necessary, to meet the regulatory requirements.
6. Report the information to EPA in an appropriate manner, and/or retain the information, as specified in the regulations.

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

5(a) Agency Activities

The following are required:

3.

- Prepare necessary guidance documents, including a Question and Answer (Q&A) document
- Convey the requirements in a manner that is understandable. Emphasize the benefits of submitting data electronically.
- Respond to inquiries.
- Provide access to the regulations, guidance documents, and forms.
- Review the submitted information prior to data entry for compliance with submission requirements.
- Process baseline applications and applications for hardships.
- Contact the respondent when the information has not been submitted properly and provide guidance on correction of the problem.
- Maintain and refine hardware and software systems for handling confidential data via hard copy and electronically.
- Administer a contract for data entry.
- Input information into databases and store the information.

Perform data analysis and identify violations.

1.

5(b) Collection Methodology and Management

The information collection has been developed by EPA offices that have planned and allocated resources for the efficient and effective management and use of the information to be collected,

including the processing of the information in a manner which shall enhance the utility of the information for the Agency and the public. The information collection, to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, Agency efficiency, and responsiveness to the public.

EPA will accept common electronic formats for most of the reporting requirements - for example, annual reports may be submitted in any of several commercial spreadsheet formats or, more simply, as comma-delimited text files. For applications for small refiner status, research and development exemptions, and similar documents, any format may be used that contains the necessary information. All submissions must be signed and certified by a responsible corporate officer. Electronic submissions should be encrypted and must contain a "hash value," as discussed above in section 4.

The product transfer document information can be included on standard transfer documentation customarily used in the ordinary course of business. EPA allows the information to be encoded by upstream parties (refiners, importers, terminals) to facilitate reporting and save space.

The information is carefully reviewed for compliance with the requirements. Most of the information submitted to the Agency is confidential. It is stored in a secure area and on secure databases.

#### 5(c) Small Entity Flexibility

The information collection reduces to the extent practicable and appropriate the burden on respondents, including small entities. The major reporting requirements apply to refiners and importers of diesel, which are not usually small businesses. Small refiners and other parties are required to supply information in order to confirm their status and the applicability of appropriate flexibility provisions to them. However, most of these reporting requirements are included in the one time submission of the registration, application, and baseline. Other small businesses which are covered, including diesel distributors, retailers, and wholesale purchaser consumers, have no mandatory requirements other than maintaining product transfer documents, which is already done in the ordinary course of business.

## 6. ESTIMATING THE BURDEN AND COST OF THE COLLECTION

### 6(a)and(b)Estimating Respondent Burdens and Costs

Several reporting burdens associated with this program are one-time burdens associated with the start of the program. For example, there is a one-time reporting burden associated with registration (for those parties who are not already registered under the reformulated gasoline and anti-dumping program or gasoline sulfur program). There is also a one-time reporting burden associated with each application under various available compliance options, including the small refiner, GPA, and temporary hardship provisions.

QA testing of batches of diesel fuel under this program is voluntary. Such testing is performed by many parties in the normal course of business. There is an annualized capital cost for the equipment necessary for the batch testing.

Third party activity, the transmittal or storage of product-transfer documents, is a customary business practice. For most reporting requirements, the only operating and maintenance (O&M) costs are for copying and postage/courier fees. Some electronic reports may be encrypted and sent via e-mail or diskette. There is a very modest capital cost for encryption software.

Labor rates on a per-hour basis, are taken from the Bureau of Labor Statistics web site at <http://stats.bls.gov/news.release/ecec.t12.htm> (accessed November 24, 2000). Technical labor is \$42.89/hr, managerial labor is \$65.19/hr, clerical labor is \$27.11/hr. Labor rates were multiplied by 1.5 to account for fringe benefits and other overhead expenses.

The labor mix for the activities above will be about the same for each. It is assumed that for each hour of activity the mix will be about 0.1 hour managerial, 0.7 hour technical, and 0.2 hour clerical. This gives an average labor cost of about \$70 per hour, which will be used in this ICR. The annual burden estimates given below are based upon the likely respondents and estimated number of reports, industry contact, and our knowledge of likely industry activity over the next three years. They are presented in the same order as above, but with abbreviated titles. The estimated respondent population by respondent is noted on the table below.

#### ANNUAL ESTIMATED REPORTING BURDENS

For most activities the estimate is one hour per report. However, some reports and some applications may require

considerably more time, as estimated below. We expect that all or nearly all annual reports and baselines applications will be submitted electronically.

Annual Burden Table by Collection Activity

Collection Activity	Number of Respondents	Reports per Respondent/Total	Hours per Report/Total	Labor Costs in \$	Non-postage Other Costs in \$
Refiner and importer registration <sup>1</sup>	20	1/20	1/20	1,350	
Application for Small Refiner Status (including Baseline) <sup>2</sup>	25	1/25	20/500	33,750	
Temporary Hardship Relief Application <sup>2</sup>	20	1/20	20/400	27,000	
Application for Relief Under Extreme Circumstances <sup>3</sup>	2	1/2	40/80	5,400	

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<sup>1</sup> Many parties have already registered under other fuels program and will not have to re-register. We are assuming 125 refineries, 75 importers, and 1,350 terminals total for purposes of this annual burden table.

<sup>2</sup> These are one-time burdens.

<sup>3</sup> Applications of this type are only for extreme, unforeseen circumstances and are expected to be very rare.

Collection Activity	Number of Respondents	Reports per Respondent/Total	Hours per Report/Total	Labor Costs in \$	Non-postage Other Costs in \$
R&D Exemption Application <sup>4</sup>	8	1/8	1/8	540	
Refiners' and importers' database and software programming needs for diesel reporting and credit tracking <sup>2</sup>	150	1/150	150/22,500 (annualized over 3 years)	1,518,750	
Refiners' and Importers' Pre-compliance Reports	150	1/150	20/3,000	202,500	
Refiners' and Importers' Annual reports	150	1/150	40/6,000	405,000	

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<sup>4</sup> Estimate is based upon the number of R&D exemptions requested in similar programs and upon discussion with industry sources.

Collection Activity	Number of Respondents	Reports per Respondent/Total	Hours per Report/Total	Labor Costs in \$	Non-postage Other Costs in \$
Refiners' and importers' creation of new product codes or phrases for Product Transfer Documents <sup>5</sup>	150	15/2,250	.33/750 (annualized over 3 years)	50,625	
Diesel additive manufacturers' creation of new product codes or phrases for Product Transfer Documents <sup>6</sup>	200	100/20,000	.33/6,600 (annualized over 3 years)	445,500	
Voluntary QA by refiners and importers	150	100/15,000	1/15,000	1,012,500	3,600,000  (24,000 per respondent, 1/2 assumed to be O & M and 1/2 assumed to be capital cost)

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<sup>5</sup> Product transfer documents are kept in the normal course of business; however there is a one time burden associated with creating new program codes or phrases.

<sup>6</sup> Product transfer documents are kept in the normal course of business; however there is a one time burden associated with creating new program codes or phrases.

Collection Activity	Number of Respondents	Reports per Respondent/Total	Hours per Report/Total	Labor Costs in \$	Non-postage Other Costs in \$
Attest engagements for foreign refiners <sup>7</sup>	5	1/5	40/200	13,500	50,000 Purchased Services (PS)  (10,000 per respondent per year)

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<sup>7</sup> Only for foreign refiners who use the temporary compliance or other flexibility option (e.g. small refiner).

TOTALS:

TOTAL NO. OF REPORTS: 37,713

TOTAL BURDEN HOURS: 54,858

TOTAL LABOR COSTS: 3,702,915

TOTAL O&M AND CAPITAL COSTS: 3,600,000 (1/2 O&M and 1/2 CAPITAL)

TOTAL PURCHASED SERVICES COSTS: 50,000

TOTAL OF ALL COSTS = 7,352,915

The above cost estimate represents the maximum cost associated with the information collection for the nonroad diesel rule. It is highly probable that refiners and importers will incorporate the data submission requirements for the nonroad diesel with other established submission forms such as the highway diesel collection. As a result the overall cost could be reduced significantly.

6(c) Estimating Agency Burden and Cost

The Agency activities listed in 5(a) are part of an overall gasoline and diesel reporting system (including reformulated gasoline, conventional gasoline, and diesel). This system is handled by a contractor for \$218,000 per year, a GS-13 computer specialist for \$120,000 per year (including overhead), a GS-13 program analyst for \$120,000 per year, and the equivalent of a GS-14 program manager for \$150,000 per year. Annual cost for lease and security of the secure area where the confidential data are stored and analyzed is estimated at \$30,000. Annual computer cost is estimated at \$30,000. Thus, the annual estimated cost to the government is \$668,000. The total annual hours for government employees are 3 full time equivalents (FTE) x 2080 hours/FTE = 6,240 hours.

6(d) and (e) Estimating the Respondent Universe and Total Burden and Costs, and Bottom Line Burden Hours and Costs

This was incorporated into 6(a) and (b).

#### 6(f) Reasons for Change in Burden

The reporting burden related to diesel fuel has changed as a result of the final rule establishing the low sulfur nonroad equipment diesel fuel requirements.

#### 6(g) Burden Statement

There are only two printed forms for this program. These are the same as the company and facility registration forms currently used for the RFG and anti-dumping program (OMB Control Number 2060-0277.) Parties may indicate a diesel registration by simply writing "diesel" at the top of the form(s) if they so wish.

The public reporting burden for this Environmental Protection Agency (EPA) collection of information is estimated to average one hour per response. This includes time for reviewing instructions and regulations, searching company records, gathering the needed data, and completing, reviewing, copying, and transmitting the collection of information.

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 or 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 No. OAR-2003-0012, which is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., 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 and the Air Docket is (202) 566-1744. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at <http://www.epa.gov/edocket>. EDOCKET is available for submitting or viewing public comments, accessing the index listing of the contents of the public docket, and accessing those documents in the public docket that are available electronically. Once 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, DC 20503, Attention: Desk Office for EPA. Please include the EPA Docket ID No. (OAR-2003-0012) and OMB control number (2060-0308) in any correspondence.