

SUPPORTING STATEMENT FOR
RENEWABLE FUEL STANDARD (RFS2) VOLUNTARY RIN QUALITY ASSURANCE
PROGRAM (FINAL RULE)

A. JUSTIFICATION

1. Identification of the Information Collection

a. Title: RFS2 Voluntary RIN Quality Assurance Program, EPA ICR No. 2473.02, OMB Control Number 2060-0688.

b. Short characterization:

The Renewable Fuel Standard (RFS) program began in 2006 pursuant to the requirements in Clean Air Act (CAA) section 211(o) which were added through the Energy Policy Act of 2005 (EPAAct). The statutory requirements for the RFS program were subsequently modified through the Energy Independence and Security Act of 2007 (EISA), resulting in the promulgation of major revisions to the regulatory requirements on March 26, 2010¹.

The RFS program requires that specified volumes of renewable fuel be used as transportation fuel, heating oil, and/or jet fuel each year. To accomplish this, the Environmental Protection Agency (EPA) publishes applicable percentage standards annually that apply to the sum of all gasoline and diesel produced or imported. The percentage standards are set so that if every obligated party meets the percentages, then the amount of renewable fuel, cellulosic biofuel, biomass-based diesel, and advanced biofuel used will meet the volumes required on a nationwide basis.

Obligated parties demonstrate compliance with the standards through the acquisition of unique Renewable Identification Numbers (RINs) assigned by the producer or importer to every batch of renewable fuel produced or imported. Validly generated RINs show that a certain volume of qualifying renewable fuel was produced or imported. The RFS program also includes provisions stipulating the conditions under which RINs are invalid, the liability carried by a party that transfers or uses an invalid RIN, and how invalid RINs must be treated.

The RIN system within the RFS program contains unique features that make it somewhat challenging for the obligated parties that need RINs for compliance purposes to verify that those RINs have been validly generated. Several cases of fraudulently generated RINs have compelled some obligated parties to limit their business relationships to only those parties that appear most trustworthy. This reaction by the obligated parties made it more difficult for smaller renewable fuel producers to sell their RINs and reduced the overall liquidity of the RIN market. To ensure that RINs are validly generated, individual obligated parties are now conducting their own audits of renewable fuel production facilities, potentially duplicating one another's efforts. These

¹ 75 FR 14670

circumstances have created inefficiencies in the RIN market, prompting requests for an additional regulatory mechanism that would reduce the risk of potentially invalid RINs, return liquidity to the RIN market, and reduce the cost of verifying the validity of RINs.

The EPA finalized the voluntary quality assurance program on July 18, 2014 (79 FR 42078) to provide a more structured way to assure that the RINs entering commerce are valid. The program provides an affirmative defense against violations under certain conditions for the transfer or use of invalid RINs, and specifies both the conditions under which invalid RINs must be replaced with valid RINs, and by whom. The voluntary program enables smaller renewable fuel producers to demonstrate that their RINs are valid, reducing the risk that obligated parties believe is associated with such RINs.

The voluntary quality assurance program for RINs provides a means for regulated parties to ensure that RINs are properly generated, through audits of production facilities conducted by independent third parties using quality assurance plans (QAPs). To this end, we are promulgating the following:

- Minimum requirements for QAPs, including such things as verification of feedstock type(s), verification that volumes produced are consistent with amount of feedstocks processed, and verification that RINs generated are appropriately categorized and match the volumes produced
- Qualifications for independent third-party auditors
- Requirements for audits of renewable fuel production facilities, including minimum frequency, site visits, review of records, and reporting
- Changes to EMTS that accommodate the quality assurance program

We believe that the costs associated with this voluntary quality assurance program are warranted to ensure the viability of the renewable fuel and RIN markets. This cost assessment includes the cost of performing audits, to both the fuel producer and the auditor, and the cost to the Agency in implementing this program.

There are approximately 485 biofuel producers operating more than 600 biofuel production facilities. These numbers are expected to increase as the biofuel market expands. While it is unlikely that all biofuel producers will opt to implement a QAP, that was the assumption for these cost estimates in order to reflect the maximum potential cost of the program.

No comments were received during the Notice of Proposed Rulemaking (NPRM) comment period on the ICR statement or on the description of impacts and expected costs described in the preamble. This ICR has been updated to reflect changes made to the proposed QAP, particularly a reduction in the required number of facility site visits and related recordkeeping and reporting burden. Most assumptions regarding cost and burden for the final QAP program remain the same as those described for the proposed program.

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 the 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 regulation will allow the EPA to monitor compliance with the RFS program. The quality assurance program helps to ensure that the RIN system operates as originally intended. The primary impacts of the quality assurance program are improved liquidity in the RIN market and improved opportunities for smaller renewable fuel producers to sell their RINs. The data generated by the QAP program will assist obligated parties and smaller renewable fuel producers in complying with the requirements of the RFS program by supporting the validity of RINs.

The quality assurance program is voluntary. As a result, there are no obligatory costs. There are costs associated with an individual party's participation in the quality assurance program, and in Section 6 we have provided estimates of the costs of participation. These estimates are supported by data provided by several QAP vendors. It is worthwhile to note that, as this is a voluntary program intended to support a current market system, any costs incurred would only be borne if the industry believes that those costs would be less than current costs in the marketplace resulting from efforts to verify, acquire, and trade RINs.

3. Non-duplication, Consultation, and other Collection Criteria

a. Non-duplication

Efforts have been made to eliminate duplication in this information collection. The QAP may substitute for data previously required in RFS data collection and reporting regulations.

b. Public Notice

We describe the recordkeeping and reporting requirements for the voluntary QAP program in the final rulemaking and are providing this supporting statement to assist parties potentially considering participation in the program.

c. Consultations

We met with seven (7) parties who are already developing RIN validation programs for the biofuels industry. We have also met with several industry groups and obligated parties which have been affected by RIN fraud. These parties all provided informal estimates of the costs

associated with this type of quality assurance program which were used to inform the cost calculations made for this statement.

d. Effects of Less Frequent Data Collection

We have designed the reporting schedule to coincide with existing reporting deadlines.. Because this is a quality assurance program, more frequent data collection is more likely to ensure the validity of the RINs audited. The program is structured to allow the market to balance the benefits of the program with the costs. Less frequent collection of data would jeopardize the validity of audited RINs and would negatively impact the entire RIN market.

e. General Guidelines

All Office of Management and Budget (OMB) guidelines are met.

f. Confidentiality

We inform respondents that they may assert claims of confidential business information (CBI) for the information they submit. We require that actual RINs not be treated as confidential business information under RFS2, as they are necessary identifiers to accompany renewable fuels. In order to ensure transparency in the RIN validation program, as much of the associated data as possible should be made publicly accessible. Any information claimed as confidential 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 information.

4. The Respondents and the Information Requested

a. Respondents/with NAICS and SIC Codes

1The 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), and other fuel dealers (454319/5989).

b. Information Requested

For those biofuel producers who opt into the QAP, each biofuel production facility must be visited and assessed as part of any audit conducted under the quality assurance program. An

auditor must use an approved QAP as the basis for the verification of biofuel produced and RINs generated at a facility. In order to verify production, the auditor must conduct site visits, review documents, and contact entities that do business with the facility. The required components of audits are discussed below.

Elements of a QAP Audit:

- Physical Examination of Facility and Operations

The goal of the onsite visit is to verify that plant has the technology to produce, store, and blend biofuels at registered levels. The auditor will likely use plant maps and photos as part of this analysis, and should compare and contrast the plant's infrastructure with the third party engineering review reports on file with the EPA. The auditor should note the size and number of storage and blending tanks, and observe the measurement of volume in the tanks. The auditor should determine whether the process rate is consistent with annual production of the facility, and whether the facility has quality process controls in place.

We believe that mass and energy balances on the facility are critical components of any audit. Because integrated facilities will likely have energy usage that is not directly related to biofuel production, the auditor should have alternate means of assessing and correlating energy usage to production.

- Document Review

The auditor should ensure that the producer has and is fulfilling the EPA record-keeping requirements at §80.1454(c)(1)(i)(A)-(B) and (ii). We expect the auditor to evaluate reports submitted to the EPA, and that these reports should be year-to-date, as applicable, and from the previous year, for comparison. These include activity reports, RIN transaction reports, RIN generation reports, and renewable fuel producer co-product reports. The third-party engineering review and annual attestation report should also be reviewed.

Reports submitted to the EPA as required under § 80.1469 should be cross-checked with other records. For instance, the auditor should have access to certificates of analysis for all batches of feedstocks. The auditor might consider spot-checking recent feedstock receipts (if the producer uses a variety of feedstocks, then the auditor should be provided with receipts for each feedstock). Integrated facilities may not have internal sales receipts for feedstock usage, so an alternative paper trail will likely be required. Similar to the feedstock document review and crosscheck, renewable fuel and co-product delivery documentation should be part of any audit.

- Review and Reporting

We expect the auditor to contact the biofuel producer's customers and suppliers in order to verify sales and purchases. This will likely require ongoing monitoring of the

biofuel production facilities by auditor staff or consultants. In addition, auditors are likely to need to track RINs on EMTS. This will ensure that the verified RINs are being reported accurately. Auditors will be responsible for preparing the QAP and submitting it to the EPA.

5. The Information Collected, Agency Activities, Collection Methodology, and Information Management

a. Agency Activities

- Respond to inquiries on QAP requirements and options
- Provide copies of the regulations
- Acknowledge receipt of qualifying QAPs
- Assist EMTS users with new functions in system related to QAPs
- Refer violations to enforcement personnel
- Contact reporting parties if there is a problem with their submission

b. Collection and Methodology and Management

We will be receiving data in a simplified and secure fashion via the Agency's Central Data Exchange (CDX). Information claimed as CBI will be stored in appropriately controlled areas. Auditors will collect data in a wide variety of ways, as is appropriate to the specific production facility, as indicated in the Information Collected section above. Many of the auditors consulted plan to use electronic, remote sensing, and/or web-based systems to make data collection as efficient as possible.

c. Small Entity Flexibility

This collection will not adversely affect small entities. The final rulemaking describes flexible provisions available to small entities. This program was specifically designed with the small biofuel producer in mind, as they have been the most negatively impacted by the RIN fraud to date.

d. Collection Schedule

We are requiring that an auditor conduct at least two (2) onsite visits per year, or every six (6) months. New production facilities should be audited before startup and, subsequently, according to the standard semi-annual schedule. We expect that each visit could take from one to several days, depending on the size and complexity of the facility, the availability of records, changes since the last audit, etc. For some components of the audit we require real-time, or batch-level monitoring. The QAP is required to provide details of the means for collection and evaluation of the data collected in real-time.

6. Estimating the Burden and Cost of Collection

a. Estimating the Respondent Universe

We based our estimated number of respondents for this program using the current number of biofuel producers (RIN generators) registered in EMTS plus the total number of registered renewable fuel production facilities. It is unlikely that all biofuel producers will choose to utilize the QAP, in which case the number of respondents would be less than the number assumed here. In order to estimate the maximum cost of this data collection request, we assumed that all parties would opt to use the QAP. It is highly unlikely that all biofuel producers will make this choice, and therefore the costs will likely be lower than those estimated here. Note that the costs are expected to be linear; i.e. there are no economies of scale assumed, based on the number of respondents.

b. Estimating the Respondent Burden and Cost

Respondent costs associated with the RIN quality assurance program include recordkeeping and reporting costs as well as other costs associated with the auditing of renewable fuel production and RIN verification (for example, contract negotiation, site visits, and document review). We expect there will be some start-up/capital costs for auditors who choose to offer the use of remote monitoring, but the Agency is not able to provide any capital cost estimates at this time as doing so could reveal confidential business information. We estimate the total annual hourly burden for respondents to be 263,744 hours.

Three labor categories are involved: managerial, technical/professional, and clerical. The estimates use the Bureau of Labor Statistics mean average wages for relevant employee categories (May 2011). The following wages and benefits apply by category:

Wages and Benefits

Managerial	\$55.04 per hour
Technical	\$47.81 per hour
Clerical	\$18.35 per hour

Doubling for company overhead beyond wages and benefits, and for convenience, rounding up to the dollar, gives the following rates for this ICR:

Total Employer Cost

Managerial	\$110 per hour
Technical	\$96 per hour
Clerical	\$37 per hour

We have estimated the amount of time needed for each labor category, and for each expected step in the QAP development process. These time estimates are shown in Table 1.

c. Estimating the Agency Burden and Cost

The EPA must check each QAP submission for completeness. The EPA will be reviewing the qualifications of the QAP providers. Reporting parties must be contacted if there is a problem with their submission. It is anticipated that the QAP will require minimal additional burden and cost on the EPA, relatively to the effort already undertaken for previous RFS reporting requirements.

This supporting statement considers costs associated with accepting QAP submissions. We anticipate that each QAP will require just four hours of review by one full time GS-13 technical employee at a current pay rate of \$44.65 per hour. Doubled to account for overhead and benefits, the hourly agency burden is estimated at \$89. These costs are included in Table 1 with the estimated total agency cost at \$268,424 per year.

d. Bottom Line Burden Hours and Costs

We estimate the following annual totals:

TOTAL NO. OF RESPONDENTS (RIN generators plus total facility audits):
1313

TOTAL BURDEN HOURS (RIN generator requirements plus facility audits):
263,744

TOTAL COST TO RESPONDENTS FOR ALL AUDITS:
\$ 22,386,702

e. Reason for Change in Burden

The change in burden is due to regulations that allow additional RFS reporting.

f. Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is shown in Table 1. 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-2005-0161, which is available for online viewing at www.regulations.gov, or in person viewing at the Air Docket in the EPA Docket Center in Washington, DC (EPA/DC). The docket is located in the EPA West Building, 1301 Constitution Avenue, NW, Room 3334, and is open from 8:30 a.m. to 4:30 p.m., Eastern Time, 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.

You may use www.regulations.gov 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 EPA-HQ-OAR-2005-0161. 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 the EPA. Please include the EPA Docket ID Number EPA-HQ-OAR-2005-0161 and OMB Control Number 2060-0688 in any correspondence.

Table 1

RIN Verification, Recordkeeping and Reporting Cost Estimates								
	Time (hrs)							
<u>Category</u>	<u>Mgmt</u>	<u>Prof/ Tech</u>	<u>Clerical</u>	<u>#/yr</u>	<u>Other Costs (travel, fees) \$</u>	<u>Total Hrs</u>	<u>Total \$</u>	
<u>RIN Generator:</u>								
Site Visit	1	16	4	2		42	3588	
Reporting	2	12	4	2		36	3040	
Recordkeeping	0	0	2	2		4	148	
						82	6776	
<u>Auditor:</u>								
Contract Initiation	4	4	2	1	530	10	1428	
Site Visit	4	16	0	1	1060	20	3036	
Follow-up Visit	1	6	0	1	1060	7	1746	
Follow-up Verification	1	16	10	2		54	4032	
Feedstock suppliers	0	4	0	2		8	0	
Process fuel suppliers	0	4	0	2		8	0	
Volume/mass balance	0	4	0	2		8	0	
Monitoring	2	50	0	1		52	5020	
Consultants				1	1000	0	1000	
Reporting	4	49	32	1		85	6328	
Recordkeeping	0	12	25	1		37	2077	
						289	24667	
<u>EPA:</u>								
Implementation		4				4	356	
	Number of RIN Generators:					559	45,838	\$ 3,787,784
	Number of Audits:					754	217,906	\$ 18,598,918
	Industry Total:					1313	263,744	\$ 22,386,702
	EPA:					754	3,016	\$ 268,424
	EPA + Industry Total:						530,504	\$ 45,041,828