Supporting Statement for the Recordkeeping and Reporting Requirements for the Renewable Fuel Standard (RFS) Program: RFS Annual Rules

1. Identification of the Information Collection

1(a) Title of the Information Collection

Renewable Fuel Standard (RFS) Program: RFS Annual Rules, EPA ICR No. 2691.01, OMB Control Number 2060-NEW.

1(b) Short characterization:

This ICR is for a proposed rule makes a variety of amendments to the Renewable Fuel Standard (RFS) regulations, including amendments that will permit biointermediates into the RFS program. A "biointermediate" is produced from renewable biomass at a biointermediate production facility and is not itself a renewable fuel; the biointermediate will be processed into a renewable fuel at a subsequent renewable fuel production facility. Prior to this proposed rule, the RFS regulation did not include biointermediates, but there are economic and practical reasons that parties may wish to use them. The party who produces a biointermediate at their facility is a "biointermediate producer" and the party who processes the biointermediate into renewable fuel at their subsequent facility is a "renewable fuel producer."

The proposed regulations include new information collection burdens that are related to allowing biointermediates into the RFS program. The recordkeeping and reporting requirements of this proposed regulation would allow the EPA to monitor compliance from biointermediate producers, biointermediate importers, and renewable fuel producers who use biointermediates. Biointermediate producers (who have proposed recordkeeping and reporting requirements) and biointermediate importers (who have proposed recordkeeping requirements) are new regulated parties under the proposed rule. Renewable fuel producers are existing regulated parties who may increase in number (e.g., as new registrants who wish to make renewable fuel from biointermediates) or who may be subject to additional recordkeeping and reporting associated with their biointermediate use. Biointermediate producers and renewable fuel producers have proposed requirements related to having third party engineering reviews of their processes and facilities as part of registration, having a quality assurance plan (QAP) performed by an independent QAP provider, and have requirements for attest engagements performed as a check on their records and compliance report by a third party auditor. Biointermediate importers would need to engage a third party to provide a certification of volumes they import. These engineering review, QAP requirements, audit requirements, and volume certifications are "purchased services" for purposes of this ICR and are discussed in greater detail below.

This information collection request is related to the following approved information collection requests for the RFS program: 2060-0723 (expiring 11/30/2022), 2060-0725 (expiring 08/31/2022) and 2060-0728 (expiring 12/31/2023). It may be helpful for interested parties to

look at these ICRs, since renewable fuel producers are existing respondents under these collections and have certain existing recordkeeping and reporting items described in each of these ICRs. For this reason, interested parties may wish to reference these existing information collection requests, which are available at the OMB Paperwork Reduction Act page (https://www.reginfo.gov/public/do/PRAMain).

2. Need For, and Use of, the Collection

2(a) Authority for the Collection

Sections 114 and 208 of the Clean Air Act (CAA), 42 U.S.C. §§ 7414 and 7542, authorize EPA to require recordkeeping and reporting regarding enforcement of the provisions of Title II of the CAA.

2(b) Practical Utility/Uses of the Data

The recordkeeping and reporting requirements of this proposed regulation would allow EPA to monitor compliance from biointermediate producers, biointermediate importers, and renewable fuel producers under the RFS program.

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

3(a) Non-duplication

Efforts have been made to eliminate duplication in this information collection and EPA is only requesting information necessary in order to implement a working biointermediate program. We are not seeking to collect information readily available to us in any other manner. The information requested is often claimed as confidential business information (CBI) by the submitter and, as such, is not readily or publicly available.

3(b) Public Notice

Public notice of this ICR will be provided in the associated proposed rule. Any public comments received will be addressed in the ICR associated with the final rule.

3(c) Consultations

We have drawn upon our experience with RFS implementation and with similar fuels regulations to develop the estimates in this supporting statement. We encourage interested parties and those who may be respondents to this proposed ICR to provide comment on both the proposed rule and these estimates.

3(d) Effects of Less Frequent Data Collection

We have designed the reporting schedule to coincide with existing reporting deadlines applicable to these (i.e., renewable fuels producers and third parties already submit the same or similar reports on the proposed schedule), and other parties regulated under the RFS program. Less frequent collection of data would make it impossible to carry out the provisions of the CAA.

3(e) General Guidelines

This information collection activity complies with 5 CFR 1320.6, except that respondents would be required to keep certain records for longer than three years. Specifically, parties would be required to keep product transfer documents (PTDs) and records related to the production, transfer, and use of biointermediates and renewable fuels for five years, and parties would be required to keep their compliance records (e.g., copies of periodic reports) for five (5) years. Five years is the applicable statute of limitations for other EPA fuels programs. *See* 28 U.S.C. 2462. Many records such as PTDs (e.g., bills of lading, invoices, etc.) and fuel production records should be kept by parties under normal business practice. Therefore, the recordkeeping requirements under the proposed requirements should impose little additional burden.

3(f) Confidentiality

We inform respondents that they may assert claims of CBI for information they submit. Any information claimed as confidential would be treated in accordance with 40 CFR part 2 and established EPA 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.

3(g) Sensitive Information

This information collection does not require submission of any sensitive information (e.g., social security numbers, dates of birth, etc.).

4. <u>The Respondents and the Information Requested</u>

4(a) Respondents with NAICS/SIC Codes

The respondents to this information collection fall into the following general industry categories: petroleum refineries (324110/2911), ethyl alcohol manufacturers (325193/2869), other basic organic chemical manufacturing (325110/2869), chemical and allied products merchant wholesalers (426990/5169), petroleum bulk stations and terminals (422710/5171), petroleum and petroleum products merchant wholesalers (422720/5172), and other fuel dealers (454319/5989).

We have assumed the following classes of party, which are covered by this supporting statement.

- Biointermediate producers
- RIN Generators – specifically, renewable fuel producers who use biointermediates

- Biointermediate importers
- Third parties, including third party engineers, attest auditors, QAP providers, and independent parties who provide purchased professional services to the parties listed above.

4(b) Information Requested

The information requested is listed in detail in Appendix A and may be summarized, by respondent, as follows:

Biointermediate Producers (Table 1) and RIN Generators - Renewable Fuel Producers (Table 2) who use biointermediates:

1. Reporting requirements including registration and periodic compliance reports. These parties must engage the services of independent third parties to provide engineering reviews (a part of registration that describes the process or making the biointermediate and related aspects of the facility in which is produced), QAP (a process of independent verification of feedstocks and renewable fuels), and attest engagements (an independent auditing requirement).
2. Recordkeeping requirements that include keeping copies of all records that support compliance reports and the use and retention of product transfer documents (PTDs).

Biointermediate Importers (Table III):

1. No reporting requirements.
2. Recordkeeping requirements that include keeping copies of PTDs and retaining/using volume certification records. These parties must engage the services of an independent third party to perform volume certification.

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

5(a) Agency Activities

- All reports and registrations will be reviewed by the EPA for completeness and for potential violations.
- Potential violations will be referred to enforcement personnel.
- Registration numbers will be issued for new registrants.
- The EPA will contact reporting parties if there is a problem with their submission.

5(b) Collection Methodology and Management

The EPA will continue to receive all reports, registrations, initial registrations, and updates via existing reporting systems, which are grouped under the name of TeRRA and include DCFUEL and EMTS modules. EPA utilizes the Central Data Exchange (CDX), which is a secure portal, for many submissions. Information claimed as CBI will be stored in appropriately controlled areas. The EPA will provide Guidance Documents, Report Instructions, and Report Templates at: https://www.epa.gov/fuels-registration-reporting-and-compliance-help/list-all-quarterly-and-annual-reports-renewable.

5(c) Small Entity Flexibility

This collection would not adversely affect small entities and may benefit small entities who are either biointermediate producers or renewable fuel producers.

5(d) Collection Schedule

Registrations are received on a rolling basis. Updates may be sent in at any time after initial registration. New parties may enter the regulated industry at any time, triggering registration requirements. Reports are submitted to the EPA as needed or on quarterly and annual basis.

6. Estimating the Burden and Cost of Collection

6(a) Estimating the Respondent Universe

We drew upon experience implementing similar regulations among the same entities to develop estimates of the burden associated with this collection. Detailed burden estimates for each party are in Appendix A. The following parties are identified as part of this collection with the number of each category of respondent in parentheticals:

- Biointermediate producers – we estimate 60 new foreign and domestic biointermediate producers (Table I of Appendix A)
- RIN Generators - renewable fuels producers who use biointermediates – we estimate that there will be 40 renewable fuel producers using biointermediates, of whom 20 would be new registrants. (Table II of Appendix A)
- Biointermediate importers – we estimate five (5) biointermediate importers. (Table III of Appendix A.)
- Third parties, including third party engineers, attest auditors, and QAP providers – we estimate 10 third party engineers, 10 attest auditors, two (2) QAP providers, and two (2) independent parties who provide volume certification to biointermediate importers. These are the outside parties whom biointermediate producers, renewable fuel producers who use biointermediates, and biointermediate importers must purchase services from in order to perform certain recordkeeping and reporting tasks. (Table IV of Appendix A.)

Biointermediate producers and biointermediate importers are new respondents under this proposed regulation and this ICR. Renewable fuels producers are existing respondents, but we anticipate that they may grow in number due to the inclusion of biointermediates in RFS and our

estimates in Appendix A reflect this expectation.

In order to assign the costs to the parties who bear them, and in order to avoid double counting, this ICR assigns the responses, hours, and costs to the respondents in Tables I-III who engage the services of third parties to submit information on their behalf (and who purchase those services). However, in order to properly count all respondents, Table IV includes the third parties in the total number of respondents. Please refer to Appendix A for the detailed estimates and explanations.

6(b) Estimating the Respondent Burden and Cost

The burden estimates are provided in Appendix A. Four labor categories are involved in these estimates: managerial, technical, clerical, and legal. The estimates are based on the Bureau of Labor Statistics figures from "National Industry-Specific Occupational Employment & Wage Estimate: Petroleum and Coal Products Manufacturing" (March 2020). Using this method, the following wages and benefits apply by category:

Labor Costs*				
Labor Type	*Labor Cost/hour Dollars*	*Labor + Overhead/ hour*[a]	*Portion attributed/hour*	*Employer Cost/hour Dollars*
Managerial	104.23	209	0.05	10.45
Technical/Professional	38.29	77	0.7	53.90
Clerical	21.75	44	0.2	8.80
Legal	83.03	167	0.05	8.35
Total Employer Cost/hour				$ 82.00
Purchased Services[b]				$ 164.00

[a] Overhead is calculated to be equal to the cost of labor.

[b] The cost of purchased services (for example, cost of attest auditors) is calculated at twice the Total Employer Cost. This figure makes for an easily understandable estimate and matches feedback we received from industry on the actual cost of such services.

6(c) Estimating the Agency Burden and Costs

The EPA would generate company and facility registration number(s) for new registrants and notify them of these numbers, which would appear on reports. EPA would also process pathway applications and examine registration materials, such as engineering reviews. Report formats and instructions/guidance would be prepared by EPA personnel. Reports would be processed by contractors and must be reviewed by EPA personnel using automated processes to the greatest extent practical. Reporting parties would be contacted if there is a problem with their submission. We would have to develop forms for the reporting requirements for many of the parties covered in the proposed rulemaking. We have provided sample reporting templates as an attachment to this document in the docket for the proposed rulemaking.

This supporting statement considers all EPA costs associated with accepting new registrants and new reports associated with the proposed rule. Using the RFS-related ICRs as a guide in developing these initial estimates, we anticipate that the proposed rule would require the equivalent labor of the equivalent of two full-time GS-13 technical employee for a total of $216,000 labor cost and one-eighth of a GS-15 management employee for a total of $32,000 labor cost.[1]

Since we are using CDX, some costs incurred by the EPA will be tied to the number of registrants who send us reports. Specifically, there is an annual "subscription cost" associated with the use of CDX that is passed on to the EPA program office and we estimate that registrants due to the RFS program would increase by approximately $33,000 per year as a result of the proposed rule. We anticipate an increase of $50,000 in annual contract costs related to registration and reporting activities related to the RFS program. We anticipate increased IT development and testing costs at $250,000. Adding the following values results in an annual estimated EPA burden associated with this information collection, as follows:

Two GS-13 technical employee (full-time) =	$ 432,000
One GS-15 manager (1/8 time) =	34,500
Annual CDX subscription fee =	33,000
Annual contract costs =	50,000
Testing and development=	250,000
TOTAL =	**799,500**

As with all items in this supporting statement, we strongly encourage comment on the estimated EPA burden and on EPA activities associated with this proposed information collection.

6(d) Estimating the Respondent Universe

We estimated the number of regulated entities for this proposed ICR by drawing upon our experience regulating the same or similar entities under the RFS program. Where possible, we used estimates based on parties that have expressed interest in a particular portion of the proposed rule.

6(e) Bottom Line Burden Hours and Costs

From the tables, we estimate the following annual totals:

TOTAL NO. OF RESPONDENTS:	1,670
TOTAL NO. OF RESPONSES:	56,207

[1] These estimates are derived from "OPM Salary Table 2021-DCB," effective January 2021. This table may be found at https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/DCB.pdf. The extreme of step 10 was assumed for all categories. We have assumed a quarter-time GS-13 technical worker, and a GS-15 manager working one-eighth of his/her time managing this project (0.125). All values were multiplied by 1.6 (which is a common factor utilized in ICRs to account for overhead costs) to determine labor cost. They were then rounded to the nearest $ 500.

TOTAL BURDEN HOURS:	47,988
TOTAL COST TO RESPONDENTS:	$ 2,828,180[2]

6(f) Burden Statement

The annual burden is estimated to average 29 hours per respondent, depending on the information collection requirements of the party, and the average number of hours per response is estimated to be approximately one hour, rounded to the nearest full number.

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

To comment on the EPA'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. EPA-HQ-OAR-2021-0324, which is available for online viewing at www.regulations.gov, or in-person viewing at the Air and Radiation Docket and Information Center in the EPA Docket Center (EPA/DC). The docket is in the William Jefferson Clinton Building West, 1301 Constitution Avenue, NW, Room 3334, Washington, DC, and is open from 8:30 a.m. to 4:30 p.m., Eastern Standard 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 and Radiation Docket and Information Center is (202) 566-1742.

An electronic version of the public docket is available at www.regulations.gov. This site can be used to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select "search," then key in the Docket ID No. identified above. Also, you can send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW, Washington, D.C. 20503, Attention: Desk Officer for EPA. Please include the EPA Docket ID No. EPA-HQ-OAR-2021-0324 and OMB Control Number 2060-NEW in any correspondence.

Appendix A – Detailed Burden Estimates (Tables in Excel format)

[2] This is the total non-labor cost, all of which is *purchased services* for this ICR. This is the figure that is included in the OMB inventory.

Appendix B – Proposed Forms: AT0100, RFS0702, RFS0802, RFS0902, RFS2000, RFS2200, RFS2300, RFS2400, RFS4000