

## **Supporting Statement for Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes (Proposed Rule)**

### **1. Identification of the Information Collection**

#### **1(a) Title of the Information Collection**

Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes (Proposed Rule), EPA ICR No. 2722.01, OMB Control Number 2060-NEW.

#### **1(b) Short characterization:**

This ICR is for a proposed rule that describes how RINs from biogas-derived renewable fuels may be generated under the RFS program. The biogas-derived renewable fuels included in this proposal are renewable compressed natural gas (CNG), renewable liquified natural gas (LNG), and renewable electricity. The regulations we propose address which parties can generate RINs, the prevention of double-counting, and the data requirements for valid RIN generation. The proposed changes are intended to provide clarity on how renewable electricity produced from biogas would be incorporated into the RFS so that the existing RIN-generating pathway could be effectively utilized in a manner that ensures RINs are generated consistent with RFS regulatory requirements.

Specifically related to this information collection request, we are proposing compliance provisions necessary to ensure that the production, distribution, and use of biogas, renewable electricity, and RINs are consistent with Clean Air Act requirements under the RFS program. These proposed compliance provisions include registration, reporting, product transfer documents (PTDs), and recordkeeping requirements.

### **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 regulation will allow EPA to monitor compliance 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 to implement the proposed rule. 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**

This ICR accompanies a notice of proposed rulemaking. We are seeking comments on all aspects of the proposed rule, including the information collections associated with it. Comments related to the design of the program, including recordkeeping and reporting will be addressed with the final rule.

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

We have drawn upon the sources cited in Appendix A - Detailed Burden Estimates and 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 ICR to provide comment on these estimates.

### **3(d) Effects of Less Frequent Data Collection**

We have designed the reporting schedule to coincide, to the extent possible, with existing RFS reporting deadlines applicable to all parties regulated under the RFS program. Compliance reporting is typically quarterly or annual. Some proposed reporting is monthly. Reporting of transactions within EMTS are done on-occasion/as needed to correspond to reportable activity (e.g., generation of RINs). Initial registration and setting up initial system access typically are a one-time event; however, parties are responsible for updating their registrations on-occasion/as needed (e.g., if they change their address or the activities they engage in under the program). Engineering reviews are initially required and must be updated every three years. 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 respondents are 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 their participation in the RFS program 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 requirements of this rule should impose little additional burden on most parties beyond initial programming of any statement on PTDs or other changes required to participate in the RFS program.

### **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 or personal information (e.g., social security numbers, dates of birth, etc.).

## **4. The Respondents and the Information Requested**

### **4(a) Respondents with SIC Codes**

The respondents to this information collection fall into the following general industry categories:

221210	Distribution of renewable natural gas (RNG)
221117	Biomass electric power generation
324110	Petroleum refineries
325120	Biogases, industrial (i.e., compressed, liquefied, solid), manufacturing
325193	Ethyl alcohol manufacturing
325199	Other basic organic chemical manufacturing
336110	Electric automobiles for highway use manufacturing
424690	Chemical and allied products merchant wholesalers
424710	Petroleum bulk stations and terminals
424720	Petroleum and petroleum products merchant wholesalers
491101	Electric Companies
221210	Manufactured gas production and distribution
454319	Other fuel dealers
562212	Landfills

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

- Biogas producers: These are parties who own, lease, operate, control, or supervise a biogas production facility. A biogas production facility is where biogas is produced from renewable biomass under an approved pathway. These are shown in Table I of Appendix A.
- Renewable electricity generators: These are parties who own, lease, operate, control, or supervises a renewable electricity generation facility. A renewable electricity generation where renewable electricity is produced from biogas or renewable natural gas (RNG). These are shown in Table II of Appendix A.
- Renewable electricity RIN generators (RERGs): These are original equipment manufacturers (OEMs) of light-duty vehicles or light-duty trucks registered to

generate RINs for renewable electricity. These are shown in Table III of Appendix A.

- RNG producers, RNG importers, and RIN generators of biogas-derived renewable fuel in a closed distribution system; and proposed provisions for separated food waste (SFW) :
  - RNG producers own, lease, operate, control, or supervise an RNG production facility. And RNG production facility is a location where biogas is upgraded to RNG.
  - RNG importers import RNG into a covered location and generates RINs for the RNG under the proposed regulation.
  - A biogas closed distribution system means the infrastructure contained between when biogas is produced, used to produce a biogas-derived renewable fuel, and when the biogas-derived renewable fuel is used as transportation fuel within a discrete location or series of locations that does not include placement of biogas or RNG on a natural gas commercial pipeline system.
  - The proposed SFW provisions are for alternative recordkeeping requirements that have both recordkeeping and reporting aspects, as described in proposed §80.1479 and as estimated in Appendix A.
  - These parties are shown in Table IV of Appendix A.
- QAP Providers: These parties who provide Quality Assurance Plan services are reflected in Table V of Appendix A.
- RNG RIN separators: These are parties who register to separate RNG RINs under the proposed regulation. They are reflected in Table VI of Appendix A.
- Third parties, including third party engineers, attest auditors, and independent parties who provide purchased professional services to the parties listed above. These parties must register and associate with parties for whom they perform services, and they bill the hourly/monetary cost of their services to their clients. These are shown in Table VII of Appendix A.

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

The information requested is listed in detail in Appendix A. All items of information are listed with regulatory citations and forms in Appendix A. Forms have been docketed with the proposed rule. Information to be collected may be summarized, by respondent, as follows:

*Biogas Producers (Table I)* We estimate 176 domestic biogas producers and 20 foreign biogas producers who will participate in activities under this information collection.

1. Reporting requirements, including registration with EPA under §§80.145, 80.1450(b), and 40 CFR part 1090, subpart I, as applicable. Registration consists of both submission of basic, overhead information necessary to set up access for registration and reporting and submission of more detailed program information. Appendix A breaks out these burdens for its estimates. A biogas producer must

submit periodic compliance reports to EPA under §§80.150 and 80.1451. A biogas producer must submit an annual attest engagement report to EPA under §§80.175 and 80.1464, using procedures specified in 40 CFR 1090.1800 and 1090.1805. If a party wants to generate verified RINs under a quality assurance plan (QAP), the biogas producer must have an approved quality assurance plan (QAP) under §80.180 and the independent third-party auditor must have conducted a site visit of the biogas production facility under §80.1472.

2. Recordkeeping requirements, including assigning a number (the “batch number”) to each batch of biogas consisting of their EPA-issued company registration number, the EPA-issued facility registration number, the last two digits of the calendar year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (e.g., 4321-54321-23-000001, 4321-54321-23-000002, etc.). These respondents are responsible for keeping copies of all records that support information contained in registration and in compliance reports, and the use and retention of product transfer documents (PTDs). Biogas producers must retain results of their sampling, testing, and measurement of biogas in accordance with §80.165.

*Renewable Electricity Generators (Table II)* We estimate 176 domestic and 20 foreign renewable electricity generators

1. Reporting requirements, including registration with EPA under §§80.145, 80.1450(b), and 40 CFR part 1090, subpart I, as applicable. Registration consists of both submission of basic, overhead information necessary to set up access for registration and reporting and submission of more detailed program information. Appendix A breaks out these burdens for its estimates. A renewable electricity generator must submit reports to EPA under §80.150. A renewable electricity generator must submit annual attest engagement reports to EPA under §80.175 using procedures specified in 40 CFR 1090.1800 and 1090.1805. Association with an auditor must be performed as part of registration. Prior to the
2. generation of Q-RINs for a biogas-derived renewable fuel, a renewable electricity generator must have an approved QAP under §80.180 and the independent third-party auditor must have conducted a site visit of the renewable electricity generation facility under §80.1472.
3. Recordkeeping requirements, including assigning a number to each batch of renewable electricity consisting of their EPA-issued company registration number, the EPA-issued facility registration number, the last two digits of the calendar year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (e.g., 4321-54321-23-000001, 4321-54321-23-000002, etc.). A renewable electricity generator must create and maintain records under §80.155. On each occasion when a renewable electricity generator transfers RIN generation allotment to a RIN generator, the transferor must provide to the transferee PTDs

under §80.160. A renewable electricity generator must measure renewable electricity in accordance with §80.165. A renewable energy generator must perform the calculations in proposed regulation to determine RINs for batches of renewable electricity by D-Code.

*Renewable Electricity RIN Generators (RERGS) (Table III)* We estimate 50 respondents, to correspond to the number of original equipment manufacturers (OEMs) who sell vehicles to the U.S. market. We do not know if there will be any foreign RERGs and have estimated one (1) foreign respondent for purposes of these estimates.

1. Reporting requirements, include registration under §§80.145, 80.1450, and 40 CFR part 1090, subpart I, as applicable. Registration consists of both submission of basic, overhead information necessary to set up access for registration and reporting and submission of more detailed program information. Appendix A breaks out these burdens for its estimates. A RERG must submit reports to EPA under §§80.150, 80.1451, and 80.1452. A RERG must enter RIN transactions in EMTS. A RERG must submit annual attest engagement reports to EPA under §§80.175 and 80.1464 using procedures specified in 40 CFR 1090.1800 and 1090.1805. Association with an auditor must be performed as part of registration. Prior to the generation of a Q-RIN from renewable electricity, a RERG must have an approved QAP under §80.180.
2. Recordkeeping requirements, including creating and maintaining records under §§80.155 and 80.1454. On each occasion when a RERG transfers RINs to another party, the transferor must provide to the transferee PTDs under §§80.160 and 80.1453.

*RNG producers, RNG importers, and producers of biogas-derived renewable fuel in a closed system; Separated Food Waste (SFW) Provisions (Table IV)* - we assume 176 existing and 90 new respondents, total, as explained in detail in Appendix A.

1. Reporting requirements, including registration with EPA under §§80.145, 80.1450, and 40 CFR part 1090, subpart I, as applicable. Registration consists of both submission of basic, overhead information necessary to set up access for registration and reporting and submission of more detailed program information. Appendix A breaks out these burdens for its estimates. Submitting reports to EPA under §§80.150, 80.1451 and 80.1452. Respondents must assign a number (the “batch number”) to each batch of RNG consisting of their EPA-issued company registration number, the EPA-issued facility registration number, the last two digits of the calendar year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (e.g., 4321-54321-23-000001, 4321-54321-23-000002, etc.). The respondent must submit annual attest engagement reports to EPA under §§80.175 and 80.1464 using procedures specified in 40 CFR 1090.1800 and 1090.1805. Association with an auditor must be performed as part of registration. Prior to the generation of a Q-RIN for RNG, an RNG producer or foreign RNG producer must have an approved QAP under §80.180 if the RNG

producer's or foreign RNG producer's RNG is intended for use to make renewable electricity or to be used as a biointermediate.

2. Recordkeeping requirements, including Respondents assigning a number (the "batch number") to each batch of RNG consisting of their EPA-issued company registration number, the EPA-issued facility registration number, the last two digits of the calendar year in which the batch was produced, and a unique number for the batch, beginning with the number one for the first batch produced each calendar year and each subsequent batch during the calendar year being assigned the next sequential number (e.g., 4321-54321-23-000001, 4321-54321-23-000002, etc.). The party must create and maintain records under §§80.155 and 80.1454. On each occasion when the party transfers RNG, renewable fuel, or RINs to another party, the transferor must provide to the transferee PTDs under §§80.160 and 80.1453.
3. For the proposed SFW provisions, there are both recordkeeping and reporting burdens calculated in this table. This proposed burden is related to alternative recordkeeping provisions and are proposed in §80.1479 in the NPRM.

*QAP Providers (Table V)* We estimate three (3) respondents. We do not anticipate new QAP providers registering under this proposed regulation. QAP providers will have Reporting requirements like those that already exist under the RFS program, including batch and RIN verification, and related to potentially invalid RINs.

*RNG RIN Separators (Table V)* We anticipate 300 existing, and 150 new, respondents for a total of 450 respondents.

1. Reporting, including registration with EPA under §§80.145, 80.1450, and 40 CFR part 1090, subpart I, as applicable. Registration consists of both submission of basic, overhead information necessary to set up access for registration and reporting and submission of more detailed program information. Appendix A breaks out these burdens for its estimates. An RNG separator must submit reports to EPA under §§80.150, 80.1451. Respondents must submit annual attest engagement reports to EPA under §§80.175 and 80.1464 using procedures specified in 40 CFR 1090.1800 and 1090.1805. Association with an auditor must be performed as part of registration.
2. Recordkeeping, including transfers title of the biogas-derived renewable fuel to another party, the transferor must provide to the transferee PTDs under §§80.160 and 80.1453. RIN Separators must create and maintain records under §§80.155 and 80.1454.

Specific requirements for foreign entities are contained in §80.170; items of recordkeeping and reporting are estimated, with citations and forms in Appendix A. All proposed forms have been docketed with the proposed rule.

## 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**

The proposed rule would not change the compliance flexibilities currently offered to small entities under the RFS program and available information shows that the impact on small entities from implementation of this rule will not be significant. Existing flexibilities available to small entities under the RFS program include being able to comply through RIN trading rather than renewable fuel blending, 20 percent RIN rollover allowance (up to 20 percent of an obligated party's renewable volume obligation (RVO) can be met using previous-year RINs), and deficit carry-forward (the ability to carry over a deficit from a given year into the following year, provided that the deficit is satisfied together with the next year's RVO).

### **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.

To assign the costs to the parties who bear them, and to avoid double counting, this ICR assigns the responses, hours, and costs to the respondents in Tables I-VI who engage the services of third parties to submit information on their behalf (and who purchase those services).



However, to properly count all respondents, Table VII 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 detailed burden estimates are provided in Appendix A. For these estimates, four labor categories are used: managerial, technical, clerical, and legal. The source of the estimates is U.S. Bureau of Labor Statistics. “May 2021 National Industry-Specific Occupational Employment and Wage Estimates for NAICS 324000 - Petroleum and Coal Products Manufacturing” [See: [https://www.bls.gov/oes/current/naics3\\_324000.htm](https://www.bls.gov/oes/current/naics3_324000.htm) (accessed May 2, 2022).] For each labor category, mean hourly wage was selected, as follows:

<b>Labor Costs</b>				
<i>Labor Type</i>	<i>Labor Cost/hour</i>	<i>Labor + Overhead/hour<sup>a</sup></i>	<i>Portion attributed/hour</i>	<i>Employer Cost/hour</i>
Managerial (CEO - 11-1011)	126.33	253.00	0.05	12.65
Professional/Technical (Refinery Operators - 51-8093)	41.32	83.00	0.7	58.10
Clerical (Secretaries and Administrative Assistants 43-6010)	26.88	54.00	0.2	10.80
Legal (Lawyer 23-1011)	98.36	197.00	0.05	9.85
Total Employer Cost/hour				92.00
Purchased Services <sup>b</sup>				230.00

<sup>a</sup> Overhead is calculated to be equal to the cost of labor; i.e. 2x labor cost, rounded up.

<sup>b</sup> The cost of purchased services (for example, cost of attest auditors) is calculated at 2.5 times the Total Employer Cost. Increased from 2 times (because of recent industry consultation/comment on related RFS ICR, under OMB control number 2060-0725).

### 6(c) Estimating the Agency Burden and Costs

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 and examine registration materials, such as engineering reviews and QAP plans.

This supporting statement considers EPA costs associated with accepting new registrants and new reports associated with the rule. Using the RFS-related ICRs as a guide in developing these initial estimates, we anticipate that the rule will require the equivalent labor of the equivalent of 1.5 full-time GS-13 technical employee at \$331,500 labor cost and one-quarter of a GS-15 management employee at \$70,500 labor cost.<sup>1</sup>

Adding the following values results in an annual estimated EPA burden associated with this information collection, as follows:

1.5 GS-13 technical employees (full-time) =	\$	331,500
One GS-15 manager (1/4 time) =		70,500
<b>TOTAL =</b>		<b>402,000</b>

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

Please note that system costs and contractor support costs are addressed in the following RFS-related ICRs: 2060-0725 and 2060-0740.

### 6(d) Estimating the Respondent Universe

We estimated the number of regulated entities for this 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 rule.

### 6(e) Bottom Line Burden Hours and Costs

From the tables, we estimate the following annual totals:

TOTAL NUMBER OF RESPONDENTS	10,454
TOTAL NUMBER OF RESPONSES	144,020
TOTAL BURDEN HOURS	181,010
TOTAL COST TO RESPONDENTS <sup>2</sup>	\$22,422,240

<sup>1</sup> These estimates are derived from "OPM Salary Table 2022-DCB," effective January 2022. This table may be found at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB.pdf> (accessed October 2, 2022). The extreme of step 10 was assumed for all categories. 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.

<sup>2</sup> This is the total non-labor costs, all of which is purchased services for this ICR. This is the amount that is included in the OMB inventory. The total including labor and non-labor cost for this ICR is \$30,477,175. Please refer to

## **6(f) Burden Statement**

The annual burden is estimated to averages 17 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-2021-0427, which is available for online viewing at [www.regulations.gov](http://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](http://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-2021-0427 and OMB Control Number 2060-NEW in any correspondence.

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summary tab of Appendix A.

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