

Supporting Statement for Renewable Fuel Standard (RFS) Program: Standards for 2023-2025 and Other Changes (Final 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 (Final Rule), EPA ICR No. 2722.02, OMB Control Number 2060-NEW.

1(b) Short characterization:

This information collection request (ICR) is for a final rule that establishes volume requirements for 2023-2025 and makes additional regulatory changes to assist EPA in implementing the RFS program and to implement biogas regulatory reform. The following regulatory changes in the final rule are most relevant to this information collection:

- Modification of the regulatory provisions for biogas-derived renewable fuels to ensure that biogas is produced from renewable biomass and used as a transportation fuel and to allow for the use of biogas as a biointermediate (“biogas regulatory reform”).
- Enhancements to the third-party oversight provisions including engineering reviews, the RFS quality assurance program, and annual attest engagements.
- Alternative recordkeeping for waste feedstocks, including separated food waste (SFW).

Provisions involving the collection of information from respondents include registration, compliance reporting, product transfer documents (PTDs), measurement/testing, and recordkeeping requirements. The regulations related to this collection are in 40 CFR part 80, subparts E and M; and 40 CFR part 1090. This information collection has some relationship to the following existing ICRs: Renewable Fuel Standard Program, OMB Control No. 2060-0725 (expires November 30, 2025); Renewable Fuel Standard (RFS) Program: RFS Final Rules, OMB Control No. 2060-0740 (expires October 31, 2025) [this is the information collection that includes biointermediates recordkeeping and reporting]; Fuels Regulatory Streamlining (Final Rule), OMB Control No. 2060-0731 (expires January 31, 2024).

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 and will permit us to implement needed biogas regulatory reform.

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 requesting information necessary to implement the 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

A supporting statement, detailed burden estimates, and proposed forms were docketed with the notice of proposed rulemaking entitled, “Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes.”¹ Comments related to the design of the program, including recordkeeping and reporting, have been addressed with the final rule. We had proposed a program for eRINs (credits that would have represented renewable electricity produced from biogas that is used in electric vehicles) - however, we are not taking any action on eRINs in this 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 monthly, quarterly, or annual. Reporting of transactions within EMTS are done on-occasion/as needed to correspond to reportable activity (e.g., generation of RINs, Renewable Identification Numbers, which represent a volume of renewable fuel), but are typically assumed to occur on a monthly basis. 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 generally must be

¹ Proposed Rule, 87 FR 80582 (December 30, 2022)

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 (3) years. Specifically, parties would be required to keep product transfer documents (PTDs) and records related to their participation in the RFS program for five (5) years, and parties would be required to keep their compliance records (e.g., copies of periodic reports) for five (5) years. Five (5) 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 may fall into the following general industry categories:

221210	Distribution of renewable natural gas (RNG)
324110	Petroleum refineries
325120	Biogases, industrial (i.e., compressed, liquefied, solid), manufacturing
325193	Ethyl alcohol manufacturing
325199	Other basic organic chemical manufacturing
424690	Chemical and allied products merchant wholesalers
424710	Petroleum bulk stations and terminals
424720	Petroleum and petroleum products merchant wholesalers
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 – Tab I of Appendix A; these parties own, operate, lease, control, or supervise a biogas production facility where biogas is produced from renewable biomass under an approved pathway.
- RNG Producers – Tab II of Appendix A; these parties own, operate, lease, control, or supervise an RNG production facility where biogas is upgraded to renewable natural gas (RNG) under an approved pathway.
- RNG Importers – Tab III of Appendix A; these parties import RNG into the covered location and generate RINs for the RNG as specified in the regulations.
- SFW – Tab IV of Appendix A; this Tab is for parties who use alternative recordkeeping for separated yard waste, separated food waste (SFW), separated municipal solid waste (MSW), or biogenic oils/fats/greases. Feedstock aggregators are addressed on this Tab.
- Biogas Closed Distribution System RIN Generators – Tab V of Appendix A; these are parties who generate RINs for renewable compressed natural gas (CNG)/liquified natural gas (LNG) in a biogas closed distribution system. A biogas closed distribution system refers to the infrastructure between when biogas is produced and when biogas or treated biogas is used to produce biogas-derived renewable fuel within a discrete location or series of locations that does not include placement of biogas, treated biogas, or RNG on a natural gas commercial pipeline.
- QAP Providers – Tab VI of Appendix A; these parties provide auditing and other services related to quality assurance plans (QAPs). Because they register and incur a direct reporting burden (versus just submitting reports for others), they are kept separate from the other Third Parties on Tab VIII.
- RNG RIN separators – Tab VII of Appendix A; these parties register to separate RINs for RNG.
- Third Parties – Tab VIII of Appendix A; these parties provide purchased services to other parties; although they register with EPA and submit reports, they do so on behalf of other parties. This includes attest auditors and third-party engineers. Because they have no direct reporting burden, they are kept separate from the QAP Providers on Tab VI.
- Producers of Renewable Fuel from Biogas used as biointermediate or RNG used as feedstock – Tab IX of Appendix A; these parties are a subset of renewable fuel producers.

4(b) Information Requested

The specific information requested is listed in detail for each party listed above on their respective Tabs in Appendix A. Forms that accompany this ICR have been transmitted to OMB and are listed with each associate respondent in Appendix A. Reporting occurs within system provided by EPA, which are grouped under the umbrella system name of TeRRA and include

OTAQREG (registration), DCFUEL (compliance reporting), and EPA Moderated Transaction System - EMTS (transactional reporting) modules. EPA utilizes the Central Data Exchange (CDX), which is a secure portal, for many submissions. Information to be collected may be summarized, generally, as follows:

Reporting:

- All respondents must register with EPA or update their registration (if already registered) as appropriate. Registration may involve association with third parties who submit information on their behalf (e.g., attest auditors). This occurs within OTAQREG.
- Respondents must enter transactions in the EPA Moderated Transaction System (EMTS) and submit compliance reports to EPA via DCFUEL. Certain respondents will assign batch numbers in EMTS.
- Some respondents must arrange for certain third-party reporting on their behalf – for example, attest engagements and/or engineering reviews. The third parties register and associate with the parties for whom they report in OTAQREG, and then submit the reports via DCFUEL.

Recordkeeping:

- Respondents must generally keep copies of records that demonstrate compliance with the RFS program, including records that relate to registration and compliance reports submitted to EPA. Nearly all companies have electronic records systems; in addition, companies are also able to access records of their registration/reporting submissions to EPA via their secure accounts with us.
- Respondents must generate/use/keep Product Transfer Documents (PTDs).
- Respondents must keep records of measurements/testing, if applicable.
- Respondents must keep certain records if they elect to use alternative recordkeeping provisions (e.g., for separated food waste).

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 receive all reports, registrations, initial registrations, and updates via existing reporting systems, which are grouped under the umbrella system name of TeRRA and include OTAQREG, 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 rule does 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 typically received on a rolling basis, although we expect many parties to seek to register as soon as possible once the final rule is effective. Updates may be sent in at any time after initial registration, as they are often triggered by events such as a change of address or change of ownership. New parties may enter the regulated industry at any time, triggering registration requirements. Reports are submitted to the EPA as needed or on a prescribed monthly, 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-VII and IX who must engage the services of third parties to submit information on their behalf (and who purchase those services). However, to properly count all respondents, Table VIII 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. Please refer to the Labor Costs Tab

in Appendix A for more detail. 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 (accessed May 2, 2022).] For each labor category, mean hourly wage was selected, as follows:

Labor Costs				
<i>Labor Type</i>	<i>Labor Cost/hour</i>	<i>Labor + Overhead/hour^a</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^b				230.00

^a Overhead is calculated to be equal to the cost of labor, i.e., 2x labor cost, rounded up.

^b 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 will generate company and facility registration number(s) for new registrants and notify them of these numbers, which would appear on reports. EPA will also process and examine registration materials, such as engineering reviews and QAP plans, and compliance reports.

This supporting statement considers EPA costs associated with accepting new and updated 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.²

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
TOTAL =		402,000

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 related system costs and contractor support costs are also addressed in the following RFS-related ICRs: 2060-0725, 2060-0740, and in the fuels regulatory streamlining ICR: 2060-0731.

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. In some cases, we have information based on current registrants. In other cases, we must make reasonable assumptions. These are explained on each Tab of Appendix A.

² 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.

6(e) Bottom Line Burden Hours and Costs

From the tables, we estimate the following annual totals:

TOTAL NUMBER OF RESPONDENTS	7,835
TOTAL NUMBER OF RESPONSES	58,354
TOTAL BURDEN HOURS	82,441
TOTAL COST TO RESPONDENTS ³	\$5,684,472

6(f) Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to be 1.4 hours per response. 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, 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.

³ This is the total non-labor costs to be reflected in the OMB inventory. Of this \$5,684,472 total, \$5,659,472 is purchased services and \$25,000 is capital/O&M. Please refer to the Summary Tab of Appendix A for a detailed breakdown and explanation.

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-2021-0427 and OMB Control Number 2060-NEW in any correspondence.

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