

NTDF—This fuel is designated for non-transportation use.’’

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§ 80.1454 What are the recordkeeping requirements under the RFS program?

(a) *Requirements for obligated parties and exporters of renewable fuel.* Beginning July 1, 2010, any obligated party (as described at § 80.1406) or exporter of renewable fuel (as described at § 80.1430) must keep all of the following records:

(1) Product transfer documents consistent with § 80.1453 and associated with the obligated party’s or exporter of renewable fuel’s activity, if any, as transferor or transferee of renewable fuel or separated RINs.

(2) Copies of all reports submitted to EPA under § 80.1451(a), as applicable.

(3) Records related to each RIN transaction, including all of the following:

(i) A list of the RINs owned, purchased, sold, separated, retired, or reinstated.

(ii) The parties involved in each RIN transaction including the transferor, transferee, and any broker or agent.

(iii) The date of the transfer of the RIN(s).

(iv) Additional information, including contracts, correspondence, and invoices, related to details of the RIN transaction and its terms.

(4) Records related to the use of RINs (by facility, if applicable) for compliance, including all of the following:

(i) Methods and variables used to calculate the Renewable Volume Obligations pursuant to § 80.1407 or § 80.1430.

(ii) List of RINs used to demonstrate compliance.

(iii) Additional information related to details of RIN use for compliance.

(5) Records related to the separation of assigned RINs from renewable fuel volume.

(6) For exported renewable fuel, invoices, bills of lading and other documents describing the exported renewable fuel.

(i) For exporters of renewable fuel for which no RINs were generated, an affidavit signed by the producer of the ex-

ported renewable fuel affirming that no RINs were generated for that volume of renewable fuel.

(ii) [Reserved]

(b) *Requirements for all producers of renewable fuel.* Beginning July 1, 2010, any domestic or RIN-generating foreign producer of a renewable fuel as defined in § 80.1401 must keep all of the following records in addition to those required under paragraphs (c) or (d) of this section:

(1) Product transfer documents consistent with § 80.1453 and associated with the renewable fuel producer’s activity, if any, as transferor or transferee of renewable fuel or separated RINs.

(2) Copies of all reports submitted to EPA under §§ 80.1449 and 80.1451(b).

(3) Records related to the generation and assignment of RINs for each facility, including all of the following:

(i) Batch volume in gallons.

(ii) Batch number.

(iii) RIN as assigned under § 80.1426, if applicable.

(iv) Identification of batches by renewable category.

(v) Type and quantity of co-products produced.

(vi) Type and quantity of feedstocks used.

(vii) Type and quantity of fuel used for process heat.

(viii) Feedstock energy calculations per § 80.1426(f)(4).

(ix) Date of production.

(x) Results of any laboratory analysis of batch chemical composition or physical properties.

(xi) For RINs generated for ethanol produced from corn starch at a facility using a pathway in Table 1 to § 80.1426 that requires the use of one or more of the advanced technologies listed in Table 2 to § 80.1426, documentation to demonstrate that employment of the required advanced technology or technologies was conducted in accordance with the specifications in Tables 1 and 2 to § 80.1426, including any requirement for application to 90% of the production on a calendar year basis.

(xii) All commercial documents and additional information related to details of RIN generation.

(4) Records related to each RIN transaction, separately for each transaction, including all of the following:

(i) A list of the RINs owned, purchased, sold, separated, retired, or reinstated.

(ii) The parties involved in each transaction including the transferor, transferee, and any broker or agent.

(iii) The date of the transfer of the RIN(s).

(iv) Additional information related to details of the transaction and its terms.

(5) Records related to the production, importation, ownership, sale or use of any volume of renewable fuel for which RINs were generated or blend of renewable fuel for which RINs were generated and gasoline or diesel fuel that any party designates for use as transportation fuel, jet fuel, or heating oil and the use of the fuel or blend as transportation fuel, jet fuel, or heating oil without further blending, in the designated form.

(6) Copies of registration documents required under § 80.1450, including information on fuels and products, feedstocks, facility production processes, process changes, and capacity, energy sources, and a copy of the independent third party engineering review submitted to EPA per § 80.1450(b)(2).

(7) For any producer of renewable fuel made from *Arundo donax* or *Pennisetum purpureum* per § 80.1426(f)(14), all the following:

(i) Records related to all requirements and duties set forth in the registration documents described in § 80.1450(b)(1)(x)(A), including but not limited to the Risk Mitigation Plan, monitoring records and reports, and adherence to state, local and federal invasive species requirements and permits.

(ii) Records associated with feedstock purchases and transfers that identify where the feedstocks were produced and are sufficient to verify that feedstocks used were produced and transported in accordance with an EPA approved Risk Mitigation Plan or were produced on land that the EPA determined does not present a significant likelihood of invasive spread beyond the planting area of the feedstock used

for production of the renewable fuel, including all the following:

(A) Maps or electronic data identifying the boundaries of the land where each type of feedstock was produced.

(B) Bills of lading, product transfer documents, or other commercial documents showing the quantity of feedstock purchased from each area identified above, and showing each transfer of custody of the feedstock from the location where it was produced to the renewable fuel production facility.

(8) A producer of fuel oil meeting paragraph (2) of the definition of heating oil in § 80.1401 shall keep copies of all contracts which describe the fuel oil under contract with each end user.

(9) Records, including contracts, related to the implementation of a QAP under § 80.1469.

(10) Records related to any volume of renewable fuel where RINs were not generated by the renewable fuel producer or importer pursuant to § 80.1426(c).

(c) *Additional requirements for imports of renewable fuel.* (1) Beginning July 1, 2010, any RIN-generating foreign producer of a renewable fuel or RIN-generating importer must keep records of feedstock purchases and transfers associated with renewable fuel for which RINs are generated, sufficient to verify that feedstocks used are renewable biomass (as defined in § 80.1401).

(i) RIN-generating foreign producers and importers of renewable fuel made from feedstocks that are planted crops or crop residue from existing foreign agricultural land, planted trees or tree residue from actively managed tree plantations, slash and pre-commercial thinnings from forestlands or biomass obtained from wildland-urban interface must maintain all the following records to verify the location where these feedstocks were produced:

(A) Maps or electronic data identifying the boundaries of the land where each type of feedstock was produced.

(B) Bills of lading, product transfer documents, or other commercial documents showing the quantity of feedstock purchased from each area identified in paragraph (c)(1)(i)(A) of this section, and showing each transfer of custody of the feedstock from the location

where it was produced to the renewable fuel production facility.

(ii)(A) RIN-generating foreign producers and importers of renewable fuel made from planted crops or crop residue from existing foreign agricultural land must keep records that serve as evidence that the land from which the feedstock was obtained was cleared or cultivated prior to December 19, 2007 and actively managed or fallow, and nonforested on December 19, 2007. RIN-generating foreign producers or importers of renewable fuel made from planted trees or tree residue from actively managed tree plantations must keep records that serve as evidence that the land from which the feedstock was obtained was cleared prior to December 19, 2007 and actively managed on December 19, 2007.

(B) The records must be provided by the feedstock producer, traceable to the land in question, and consist of at least one of the following documents:

(1) Sales records for planted crops or trees, crop or tree residue, or livestock; purchasing records for fertilizer, weed control, or reseeded, including seeds, seedlings, or other nursery stock.

(2) A written management plan for agricultural or silvicultural purposes; documentation of participation in an agricultural or silvicultural program sponsored by a Federal, state, or local government agency.

(3) Documentation of land management in accordance with an agricultural or silvicultural product certification program, an agreement for land management consultation with a professional forester that identifies the land in question.

(4) Evidence of the existence and ongoing maintenance of a road system or other physical infrastructure designed and maintained for logging use, together with one of the aforementioned documents in this paragraph (c)(1)(ii)(B).

(iii) RIN-generating foreign producers and importers of renewable fuel made from any other type of renewable biomass must have documents from their feedstock supplier certifying that the feedstock qualifies as renewable biomass as defined in § 80.1401, describing the feedstock and identifying the

process that was used to generate the feedstock.

(2) Beginning July 1, 2010, any RIN-generating importer of renewable fuel (as defined in § 80.1401) must keep all of the following records:

(i) Product transfer documents consistent with § 80.1453 and associated with the renewable fuel importer's activity, if any, as transferor or transferee of renewable fuel.

(ii) Copies of all reports submitted to EPA under §§ 80.1449 and 80.1451(b).

(iii) Records related to the generation and assignment of RINs for each facility, including all of the following:

(A) Batch volume in gallons.

(B) Batch number.

(C) RIN as assigned under § 80.1426.

(D) Identification of batches by renewable category.

(E) Type and quantity of feedstocks used.

(F) Type and quantity of fuel used for process heat.

(G) Date of import.

(H) Results of any laboratory analysis of batch chemical composition or physical properties.

(I) The EPA registration number of the foreign renewable fuel producers producing the fuel.

(J) Additional information related to details of RIN generation.

(iv) Records related to each RIN transaction, including all of the following:

(A) A list of the RINs owned, purchased, sold, separated, retired, or reinstated.

(B) The parties involved in each transaction including the transferor, transferee, and any broker or agent.

(C) The date of the transfer of the RIN(s).

(D) Additional information related to details of the transaction and its terms.

(v) Copies of registration documents required under § 80.1450.

(vi) Records related to the import of any volume of renewable fuel that the importer designates for use as transportation fuel, jet fuel, or heating oil.

(d) *Additional requirements for domestic producers of renewable fuel.* Except as provided in paragraphs (g) and (h) of this section, beginning July 1, 2010, any domestic producer of renewable fuel as

defined in § 80.1401 that generates RINs for such fuel must keep documents associated with feedstock purchases and transfers that identify where the feedstocks were produced and are sufficient to verify that feedstocks used are renewable biomass (as defined in § 80.1401) if RINs are generated.

(1) Domestic producers of renewable fuel made from feedstocks that are planted trees or tree residue from actively managed tree plantations, slash and pre-commercial thinnings from forestlands or biomass obtained from areas at risk of wildfire must maintain all the following records to verify the location where these feedstocks were produced:

(i) Maps or electronic data identifying the boundaries of the land where each type of feedstock was produced.

(ii) Bills of lading, product transfer documents or other commercial documents showing the quantity of feedstock purchased from each area identified in paragraph (d)(1)(i) of this section, and showing each transfer of custody of the feedstock from the location where it was produced to the renewable fuel production facility.

(2) Domestic producers of renewable fuel made from planted trees or tree residue from actively managed tree plantations must keep records that serve as evidence that the land from which the feedstock was obtained was cleared prior to December 19, 2007 and actively managed on December 19, 2007. The records must be provided by the feedstock producer and must include at least one of the following documents, which must be traceable to the land in question:

(i) Sales records for planted trees or tree residue.

(ii) Purchasing records for fertilizer, weed control, or reseeded, including seeds, seedlings, or other nursery stock.

(iii) A written management plan for silvicultural purposes.

(iv) Documentation of participation in a silvicultural program sponsored by a Federal, state, or local government agency.

(v) Documentation of land management in accordance with a silvicultural product certification program, an

agreement for land management consultation with a professional forester.

(vi) Evidence of the existence and ongoing maintenance of a road system or other physical infrastructure designed and maintained for logging use, together with one of the aforementioned documents.

(3) Domestic producers of renewable fuel made from planted crops or crop residue from existing foreign agricultural land must keep all the following records:

(i) Records that serve as evidence that the land from which the feedstock was obtained was cleared or cultivated prior to December 19, 2007 and actively managed or fallow, and nonforested on December 19, 2007. The records must be provided by the feedstock producer and must include at least one of the following documents, which must be traceable to the land in question:

(A) Sales records for planted crops, crop residue, or livestock.

(B) Purchasing records for fertilizer, weed control, seeds, seedlings, or other nursery stock.

(C) A written management plan for agricultural purposes.

(D) Documentation of participation in an agricultural program sponsored by a Federal, State, or local government agency.

(E) Documentation of land management in accordance with an agricultural product certification program.

(ii) Records to verify the location where the feedstocks were produced:

(A) Maps or electronic data identifying the boundaries of the land where each type of feedstock was produced; and

(B) Bills of lading, product transfer documents or other commercial documents showing the quantity of feedstock purchased from each area identified in paragraph (d)(3)(ii)(A) of this section, and showing each transfer of custody of the feedstock from the location where it was produced to the renewable fuel facility.

(4) Domestic producers of renewable fuel made from any other type of renewable biomass must have documents from their feedstock supplier certifying that the feedstock qualifies as renewable biomass as defined in § 80.1401, describing the feedstock. Separated

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yard and food waste, biogenic oils/fats/greases, and separated municipal solid waste are also subject to the requirements in paragraph (j) of this section.

(e) *Additional requirements for producers of fuel exempt from the 20% GHG reduction requirement.* Beginning July 1, 2010, any production facility with a baseline volume of fuel that is not subject to the 20% GHG threshold, pursuant to §80.1403(c) and (d), must keep all of the following:

(1) Detailed engineering plans for the facility.

(2) Federal, State, and local (or foreign governmental) preconstruction approvals and permitting.

(3) Procurement and construction contracts and agreements.

(f) *Requirements for other parties that own RINs.* Beginning July 1, 2010, any party, other than those parties covered in paragraphs (a) and (b) of this section, that owns RINs must keep all of the following records:

(1) Product transfer documents consistent with §80.1453 and associated with the party's activity, if any, as transferor or transferee of renewable fuel or separated RINs.

(2) Copies of all reports submitted to EPA under §80.1451(c).

(3) Records related to each RIN transaction by renewable fuel category, including all of the following:

(i) A list of the RINs owned, purchased, sold, separated, retired, or reinstated.

(ii) The parties involved in each RIN transaction including the transferor, transferee, and any broker or agent.

(iii) The date of the transfer of the RIN(s).

(iv) Additional information related to details of the transaction and its terms.

(4) Records related to any volume of renewable fuel that the party designated for use as transportation fuel, jet fuel, or heating oil and from which RINs were separated pursuant to §80.1429(b)(4).

(g) *Aggregate compliance with renewable biomass requirement.* Any producer or RIN-generating importer of renewable fuel made from planted crops or crop residue from existing U.S. agricultural land as defined in §80.1401, or from planted crops or crop residue from

existing agricultural land in a country covered by a petition approved pursuant to §80.1457, is covered by the aggregate compliance approach and is not subject to the recordkeeping requirements for planted crops and crop residue at §80.1454(g)(2) unless EPA publishes a finding that the 2007 baseline amount of agricultural land in the U.S. has been exceeded or, for the aggregate compliance approach in a foreign country, that the withdrawal of EPA approval of the aggregate compliance approach is warranted pursuant to §80.1457(e).

(1) EPA will make findings concerning whether the 2007 baseline amount of agricultural land in the U.S. or other country covered by a petition approved pursuant to §80.1457 has been exceeded and will publish these findings in the FEDERAL REGISTER by November 30 of the year preceding the compliance period.

(2) If EPA finds that the 2007 baseline amount of agricultural land in the U.S. or other country covered by a petition approved pursuant to §80.1457 has been exceeded, beginning on the first day of July of the compliance period in question any producer or RIN-generating importer of renewable fuel made from planted crops or crop residue in the country for which such a finding is made must keep all the following records:

(i) Records that serve as evidence that the land from which the feedstock was obtained was cleared or cultivated prior to December 19, 2007 and actively managed or fallow, and nonforested on December 19, 2007. The records must be provided by the feedstock producer and must include at least one of the following documents, which must be traceable to the land in question:

(A) Sales records for planted crops, crop residue or livestock.

(B) Purchasing records for fertilizer, weed control, seeds, seedlings, or other nursery stock.

(C) A written management plan for agricultural purposes.

(D) Documentation of participation in an agricultural program sponsored by a Federal, state, or local government agency.

(E) Documentation of land management in accordance with an agricultural product certification program.

(ii) Records to verify the location where the feedstocks were produced:

(A) Maps or electronic data identifying the boundaries of the land where each type of feedstock was produced; and

(B) Bills of lading, product transfer documents or other commercial documents showing the quantity of feedstock purchased from each area identified in paragraph (g)(2)(ii)(A) of this section, and showing each transfer of custody of the feedstock from the location where it was produced to the renewable fuel facility.

(h) *Alternative renewable biomass tracking requirement.* Any foreign or domestic renewable fuel producer or RIN-generating importer may comply with the following alternative renewable biomass tracking requirement instead of the recordkeeping requirements in paragraphs (c)(1), (d), and (g) of this section:

(1) To comply with the alternative renewable biomass tracking requirement under this paragraph (h), a renewable fuel producer or importer must either arrange to have an independent third party conduct a comprehensive program of annual compliance surveys, or participate in the funding of an organization which arranged to have an independent third party conduct a comprehensive program of annual compliance surveys, to be carried out in accordance with a survey plan which has been approved by EPA.

(2) The annual compliance surveys under this paragraph (h) must be all the following:

(i) Planned and conducted by an independent surveyor that meets the requirements in § 80.68(c)(13)(i).

(ii) Conducted at renewable fuel production and import facilities and their feedstock suppliers.

(iii) Representative of all renewable fuel producers and importers in the survey area and representative of their feedstock suppliers.

(iv) Designed to achieve at least the same level of quality assurance required in paragraphs (c)(1), (d) and (g) of this section.

(3) The compliance survey program shall require the independent surveyor conducting the surveys to do all the following:

(i) Conduct feedstock audits of renewable fuel production and import facilities in accordance with the survey plan approved under this paragraph (h), or immediately notify EPA of any refusal of these facilities to allow an audit to be conducted.

(ii) Obtain the records and product transfer documents associated with the feedstocks being audited.

(iii) Determine the feedstock supplier(s) that supplied the feedstocks to the renewable fuel producer.

(iv) Confirm that feedstocks used to produce RIN-generating renewable fuels meet the definition of renewable biomass as defined in § 80.1401.

(v) Immediately notify EPA of any case where the feedstocks do not meet the definition of renewable biomass as defined in § 80.1401.

(vi) Immediately notify EPA of any instances where a renewable fuel producer, importer or feedstock supplier subject to review under the approved plan fails to cooperate in the manner described in this section.

(vii) Submit to EPA a report of each survey, within thirty days following the completion of each survey, such report to include all the following information:

(A) The identification of the person who conducted the survey.

(B) An attestation by the officer of the surveyor company that the survey was conducted in accordance with the survey plan and the survey results are accurate.

(C) Identification of the parties for whom the survey was conducted.

(D) Identification of the covered area surveyed.

(E) The dates on which the survey was conducted.

(F) The address of each facility at which the survey audit was conducted and the date of the audit.

(G) A description of the methodology used to select the locations for survey audits and the number of audits conducted.

(viii) Maintain all records relating to the survey audits conducted under this

section (h) for a period of at least 5 years.

(ix) At any time permit any representative of EPA to monitor the conduct of the surveys, including observing audits, reviewing records, and analysis of the audit results.

(4) A survey plan under this paragraph (h) must include all the following:

(i) Identification of the parties for whom the survey is to be conducted.

(ii) Identification of the independent surveyor.

(iii) A methodology for determining all the following:

(A) When the audits will be conducted.

(B) The audit locations.

(C) The number of audits to be conducted during the annual compliance period.

(iv) Any other elements determined by EPA to be necessary to achieve the level of quality assurance required under paragraphs (c)(1), (d), and (g) of this section.

(5)(i) Each renewable fuel producer and importer who participates in the alternative renewable biomass tracking under this paragraph (h) must take all reasonable steps to ensure that each feedstock producer, aggregator, distributor, or supplier cooperates with this program by allowing the independent surveyor to audit their facility and by providing to the independent surveyor and/or EPA, upon request, copies of management plans, product transfer documents, and other records or information regarding the source of any feedstocks received.

(ii) Reasonable steps under paragraph (h)(5)(i) of this section must include, but typically should not be limited to: Contractual agreements with feedstock producers, aggregators, distributors, and suppliers, which require them to cooperate with the independent surveyor and/or EPA in the manner described in paragraph (h)(5)(i) of this section.

(6) The procedure for obtaining EPA approval of a survey plan under this paragraph (h), and for revocation of any such approval, are as follows:

(i) A detailed survey plan which complies with the requirements of this paragraph (h) must be submitted to

EPA, no later than September 1 of the year preceding the calendar year in which the surveys will be conducted.

(ii) The survey plan must be signed by a responsible corporate officer of the renewable fuel producer or importer, or responsible officer of the organization which arranges to have an independent surveyor conduct a program of renewable biomass compliance surveys, as applicable.

(iii) The survey plan must be sent to the attention of "RFS Program" to the address in §80.10(a).

(iv) EPA will send a letter to the party submitting a survey plan under this section, either approving or disapproving the survey plan.

(v) EPA may revoke any approval of a survey plan under this section for cause, including an EPA determination that the approved survey plan had proved inadequate in practice or that it was not fully implemented.

(vi) The approving official for an alternative quality assurance program under this section is the Director of the Compliance and Innovative Strategies Division, Office of Transportation and Air Quality.

(vii) Any notifications required under this paragraph (h) must be directed to the officer designated in paragraph (h)(6)(vi) of this section.

(7)(i) No later than December 1 of the year preceding the year in which the surveys will be conducted, the contract with the independent surveyor shall be in effect, and an amount of money necessary to carry out the entire survey plan shall be paid to the independent surveyor or placed into an escrow account with instructions to the escrow agent to pay the money to the independent surveyor during the course of the conduct of the survey plan.

(ii) No later than December 15 of the year preceding the year in which the surveys will be conducted, EPA must receive a copy of the contract with the independent surveyor, proof that the money necessary to carry out the survey plan has either been paid to the independent surveyor or placed into an escrow account, and, if placed into an escrow account, a copy of the escrow agreement, to be sent to the official designated in paragraph (h)(6)(iii) of this section.

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(8) A failure of any renewable fuel producers or importer to fulfill or cause to be fulfilled any of the requirements of this paragraph (h) will cause the option for such party to use the alternative quality assurance requirements under this paragraph (h) to be void *ab initio*.

(i) Beginning July 1, 2010, all parties must keep transaction information sent to EMTS in addition to other records required under this section.

(1) For buy or sell transactions of separated RINs, parties must retain records substantiating the price reported to EPA under § 80.1452.

(2) For buy or sell transactions of separated RINs on or after January 1, 2020, parties must retain records demonstrating the transaction mechanism (*e.g.*, spot market or fulfilling a term contract).

(j) A renewable fuel producer that produces fuel from separated yard waste (as described in § 80.1426(f)(5)(i)(A)), separated food waste (as described in § 80.1426(f)(5)(i)(B)), separated municipal solid waste (as described in § 80.1426(f)(5)(i)(C)), or biogenic waste oils/fats/greases must keep all the following additional records:

(1) For separated yard waste, separated food waste, and biogenic waste oils/fats/greases:

(i) Documents demonstrating the amounts, by weight, purchased of separated yard waste, separated food waste, or biogenic waste oils/fats/greases for use as a feedstock in producing renewable fuel.

(ii) Documents demonstrating the location of any establishment(s) from which the waste stream consisting solely of separated yard waste, separated food waste, or biogenic waste oils/fats/greases is collected.

(iii) Such other records as may be requested by the Administrator.

(2) For separated municipal solid waste:

(i) Contracts and documents memorializing the sale of paper, cardboard, plastics, rubber, textiles, metals, and glass separated from municipal solid waste for recycling.

(ii) Documents demonstrating the amounts by weight purchased of post-recycled separated yard and food waste

for use as a feedstock in producing renewable fuel.

(iii) Documents demonstrating the fuel sampling methods used pursuant to § 80.1426(f)(9) and the results of all fuel analyses to determine the non-fossil fraction of fuel made from separated municipal solid waste.

(iv) Such other records as may be requested by the Administrator.

(k)(1) Biogas/CNG/LNG and electricity in pathways involving feedstocks other than grain sorghum. A renewable fuel producer that generates RINs for renewable CNG, renewable LNG or renewable electricity pursuant to § 80.1426(f)(10) or (11), or that uses process heat from biogas to produce renewable fuel pursuant to § 80.1426(f)(12) shall keep all of the following additional records:

(i) Documentation recording the sale of renewable CNG, renewable LNG or renewable electricity for use as transportation fuel relied upon in § 80.1426(f)(10), § 80.1426(f)(11), or for use of biogas for process heat to make renewable fuel as relied upon in § 80.1426(f)(12) and the transfer of title of the biogas/CNG/LNG or renewable electricity from the point of biogas production to the facility which sells or uses the fuel for transportation purposes.

(ii) Documents demonstrating the volume and energy content of biogas/CNG/LNG, or kilowatts of renewable electricity, relied upon under § 80.1426(f)(10) that was delivered to the facility which sells or uses the fuel for transportation purposes.

(iii) Documents demonstrating the volume and energy content of biogas/CNG/LNG, or kilowatts of renewable electricity, relied upon under § 80.1426(f)(11), or biogas relied upon under § 80.1426(f)(12) that was placed into the commercial distribution.

(iv) Documents demonstrating the volume and energy content of biogas relied upon under § 80.1426(f)(12) at the point of distribution.

(v) Affidavits, EPA-approved documentation, or data from a real-time electronic monitoring system, confirming that the amount of the biogas/CNG/LNG or renewable electricity relied upon under § 80.1426(f)(10) and (11) was used for transportation purposes

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only, and for no other purpose. The RIN generator shall obtain affidavits, or monitoring system data under this paragraph (k), at least once per calendar quarter.

(vi) The biogas or renewable electricity producer's Compliance Certification required under Title V of the Clean Air Act.

(vii) Any other records as requested by the Administrator.

(2) Biogas and electricity in pathways involving grain sorghum as feedstock. A renewable fuel producer that produces fuel pursuant to a pathway that uses grain sorghum as a feedstock shall keep all of the following additional records, as appropriate:

(i) Contracts and documents memorializing the purchase and sale of biogas and the transfer of biogas from the point of generation to the ethanol production facility.

(ii) If the advanced biofuel pathway is used, documents demonstrating the total kilowatt-hours (kWh) of electricity used from the grid, and the total kWh of grid electricity used on a per gallon of ethanol basis, pursuant to § 80.1426(f)(13).

(iii) Affidavits from the producer of biogas used at the facility, and all parties that held title to the biogas, confirming that title and environmental attributes of the biogas relied upon under § 80.1426(f)(13) were used for producing ethanol at the renewable fuel production facility and for no other purpose. The renewable fuel producer shall obtain these affidavits at least once per calendar quarter.

(iv) The biogas producer's Compliance Certification required under Title V of the Clean Air Act.

(v) Such other records as may be requested by the Administrator.

(1) Requirements for producers or importers of any renewable fuel other than ethanol, biodiesel, renewable gasoline, renewable diesel that meets ASTM D 975-13a Grade No. 1-D or No. 2-D specifications (incorporated by reference, see § 80.1468), biogas or renewable electricity. A renewable fuel producer that generates RINs for any renewable fuel other than ethanol, biodiesel, renewable gasoline, renewable diesel that meets ASTM D 975-13a Grade No. 1-D or No. 2-D specifications

(incorporated by reference, see § 80.1468), biogas or renewable electricity shall keep all of the following additional records:

(1) Documents demonstrating the total volume of renewable fuel produced, total volume of renewable fuel blended into gasoline and diesel fuel, and the percentage of renewable fuel in each batch of finished fuel.

(2) Contracts and documents memorializing the sale of renewable fuel to parties who blend the fuel into gasoline or diesel fuel to produce a transportation fuel, heating oil or jet fuel, or who use the renewable fuel in its neat form for a qualifying fuel use.

(3) Such other records as may be requested by the Administrator.

(m) Requirements for independent third-party auditors. Any independent third-party auditor (as described at § 80.1471) must keep all of the following records for a period of at least five years:

(1) Copies of all reports submitted to the EPA under § 80.1451(g), as applicable.

(2) Records related to the implementation of a QAP under § 80.1469 for each facility including records from facility audits and ongoing and quarterly monitoring activities.

(3) Records related to the verification of RINs under § 80.1471(e).

(4) Copies of communications sent to and received from renewable fuel producers or foreign renewable fuel producers, feedstock suppliers, purchasers of RINs, and obligated parties.

(5) Copies of all notes relating to the implementation of a QAP under § 80.1469.

(6) List of RINs reported to the EPA and renewable fuel producers or foreign renewable fuel producers as potentially invalidly generated under § 80.1474 compliance.

(7) Records related to the professional liability insurance requirement under § 80.1471(c).

(8) Copies of all records related to any financial assurance instrument as required under § 80.1470 under a quality assurance plan implemented under § 80.1469(a) during the interim period.

(9) Copies of all records and notifications related to the identification of a

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potentially invalid RIN under § 80.1474(b).

(10) Such other records as may be requested by the Administrator.

(n) The records required under paragraphs (a) through (d), (f) through (l), and (t) of this section and under § 80.1453 shall be kept for five years from the date they were created, except that records related to transactions involving RINs shall be kept for five years from the date of the RIN transaction.

(o) The records required under paragraph (e) of this section shall be kept through calendar year 2022.

(p) On request by the EPA, the records required under this section and under § 80.1453 must be made available to the Administrator or the Administrator's authorized representative. For records that are electronically generated or maintained, the equipment or software necessary to read the records shall be made available; or, if requested by the EPA, electronic records shall be converted to paper documents.

(q) The records required in paragraphs (b)(3) and (c)(1) of this section must be transferred with any renewable fuel sent to the importer of that renewable fuel by any non-RIN-generating foreign producer.

(r) Copies of all reports required under § 80.1464.

(s) Producers of renewable fuel using crop residue shall keep records of all of the following:

(1) The specific crop residue feedstock(s) utilized to produce renewable fuel for each batch of renewable fuel produced.

(2) The total quantity of each specific crop residue feedstock used for each batch.

(3) Total amount of fuel produced under the crop residue pathway for each batch.

(t) *Requirements for parties that redesignate certified NTDF as MVNRLM diesel fuel.* Parties that redesignate certified NTDF as MVNRLM diesel fuel under § 80.1408 must keep all of the following additional records:

(1) Records related to all transactions in which certified NTDF is redesignated as MVNRLM diesel fuel.

(2) Records related to all transactions in which MVNRLM diesel fuel

is redesignated to a non-transportation use.

(3) Records related to the volume of MVNRLM diesel fuel received.

(4) Records related to the volume of MVNRLM diesel fuel delivered.

(5) Records related to the volume of certified NTDF received.

(6) Records related to the volume of certified NTDF delivered.

(u) *Requirements for recordkeeping of RIN holdings for all parties transacting or owning RINs.* (1) Starting January 1, 2020, parties must retain records related to end-of-day separated D6 RIN holdings, and any associated calculations recorded in order to meet the RIN holdings requirements described in § 80.1435 for a period of at least five years. Such records must include information related to any corporate affiliates, contractual affiliates, and their RIN holdings and calculations.

(2) Parties must retain records related to their reports to EPA regarding threshold compliance under §§ 80.1435 and 80.1451 for a period of at least five years.

(v) *Requirements for recordkeeping of contractual and corporate affiliates.* (1) Parties must retain records including, but not limited to, the name, address, business location, contact information, and description of relationship, for each RIN-holding corporate affiliate for a period of at least five years. For the corporate affiliate group, a relational diagram.

(2) Parties must retain records including, but not limited to, the name, address, business location, contact information, and contract or other agreement for each contractual affiliate for a period of at least five years.

(3) If a party claims an exemption from aggregation under § 80.1435(e), the party must retain all records in support of the exemption for a period of at least five years and must provide these records to the attest auditor under § 80.1464, and to EPA upon request.

(w) *English language records.* Any document requested by the Administrator under this section must be submitted

in English, or shall include an English translation.

[75 FR 14863, Mar. 26, 2010, as amended at 75 FR 26046, May 10, 2010; 75 FR 76829, Dec. 9, 2010; 75 FR 79978, Dec. 21, 2010; 77 FR 74606, Dec. 17, 2012; 78 FR 22789, Apr. 17, 2013; 78 FR 41715, July 11, 2013; 78 FR 62471, Oct. 22, 2013; 79 FR 42118, 42165, July 18, 2014; 84 FR 27024, June 10, 2019; 85 FR 7080, Feb. 6, 2020]

§ 80.1455 What are the small volume provisions for renewable fuel production facilities and importers?

(a) *Standard volume threshold.* Renewable fuel production facilities located within the United States that produce less than 10,000 gallons of renewable fuel each year, and importers who import less than 10,000 gallons of renewable fuel each year, are not subject to the requirements of § 80.1426(a) and (e) related to the generation and assignment of RINs to batches of renewable fuel. Except as stated in paragraph (b) of this section, such production facilities and importers that do not generate and assign RINs to batches of renewable fuel are also exempt from all the following requirements of this subpart:

- (1) The registration requirements of § 80.1450.
- (2) The reporting requirements of § 80.1451.
- (3) The EMTS requirements of § 80.1452.
- (4) The recordkeeping requirements of § 80.1454.
- (5) The attest engagement requirements of § 80.1464.
- (6) The production outlook report requirements of § 80.1449.

(b)(1) Renewable fuel production facilities and importers who produce or import less than 10,000 gallons of renewable fuel each year and that generate and assign RINs to batches of renewable fuel are subject to the provisions of §§ 80.1426, 80.1449 through 80.1452, 80.1454, and 80.1464.

(2) Renewable fuel production facilities and importers who produce or import less than 10,000 gallons of renewable fuel each year but wish to own RINs will be subject to all requirements stated in paragraphs (a)(1) through (a)(6) and (b)(1) of this section, and all other applicable requirements of this subpart M.

(c) *Temporary volume threshold.* Renewable fuel production facilities lo-

cated within the United States that produce less than 125,000 gallons of renewable fuel each year are not subject to the requirements of § 80.1426(a) and (e) related to the generation and assignment of RINs to batches of renewable fuel for up to three years, beginning with the calendar year in which the production facility produces its first gallon of renewable fuel. Except as stated in paragraph (d) of this section, such production facilities that do not generate and assign RINs to batches of renewable fuel are also exempt from all the following requirements of this subpart for a maximum of three years:

- (1) The registration requirements of § 80.1450.
- (2) The reporting requirements of § 80.1451.
- (3) The EMTS requirements of § 80.1452.
- (4) The recordkeeping requirements of § 80.1454.
- (5) The attest engagement requirements of § 80.1464.
- (6) The production outlook report requirements of § 80.1449.

(d)(1) Renewable fuel production facilities who produce less than 125,000 gallons of renewable fuel each year and that generate and assign RINs to batches of renewable fuel are subject to the provisions of §§ 80.1426, 80.1449 through 80.1452, 80.1454, and 80.1464.

(2) Renewable fuel production facilities who produce less than 125,000 gallons of renewable fuel each year but wish to own RINs will be subject to all requirements stated in paragraphs (c)(1) through (c)(6) and (d)(1) of this section, and all other applicable requirements of this subpart M.

[75 FR 14863, Mar. 26, 2010, as amended at 75 FR 26047, May 10, 2010]

§ 80.1456 What are the provisions for cellulosic biofuel waiver credits?

(a) If EPA reduces the applicable volume of cellulosic biofuel pursuant to section 211(o)(7)(D)(i) of the Clean Air Act (42 U.S.C. 7545(o)(7)(D)(i)) for any given compliance year, then EPA will provide cellulosic biofuel waiver credits for purchase for that compliance year.

- (1) The price of these cellulosic biofuel waiver credits will be set by