6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA-HQ-OAR-2024-0411; FRL-12015-01-OAR]

RIN 2060-AW46

Renewable Fuel Standard (RFS) Program: Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement and Extension of 2024 Compliance Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially waive the 2024 cellulosic biofuel volume requirement and revise the associated percentage standard under the Renewable Fuel Standard (RFS) program due to a shortfall in cellulosic biofuel production. As a result of this proposed change, this action also proposes to extend the RFS compliance reporting deadline for the 2024 compliance year. This action also proposes several minor revisions related to the biogas provisions of the RFS program.

DATES: *Comments*. Comments must be received on or before January 21, 2025.

Public hearing: EPA will hold a virtual public hearing on December 20, 2024. Please refer to the **SUPPLEMENTARY INFORMATION** section for additional information on the public hearing.

ADDRESSES: *Comments*. Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2024-0411, at *http://www.regulations.gov*. Follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI or multimedia submissions; and general guidance on making effective comments.

Public hearing. The virtual public hearing will be held on December 20, 2024. The hearing will begin at 9:00 a.m. Eastern Standard Time (EST) and end when all parties who wish to speak have had an opportunity to do so. All hearing attendees (including even those who do not intend to provide testimony) should register for the virtual public hearing by December 13, 2024. Information on how to register can be found at *https://www.epa.gov/renewable-fuel-standard-program/proposed-partial-waiver-2024-cellulosic-biofuel-volume-requirement*. Additional information regarding the hearing appears below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: For questions regarding this action, contact Dallas Burkholder, Office of Transportation and Air Quality, Compliance Division, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone

number: (734) 214-4776; email address: *RFS-Rulemakings@epa.gov*. For questions regarding the public hearing, contact Nick Parsons at *RFS-Hearing@epa.gov*.

SUPPLEMENTARY INFORMATION:

Does this action apply to me?

Entities potentially affected by this action are those involved with the production, distribution, and sale of transportation fuels (e.g., gasoline and diesel fuel) and renewable fuels (e.g., ethanol, biodiesel, renewable diesel, and biogas). Potentially affected categories include:

Category	NAICS[1] Code	Examples of Potentially Affected Entities
Industry	211130	Natural gas liquids extraction and fractionation
Industry	221210	Natural gas production and distribution
Industry	324110	Petroleum refineries (including importers)
Industry	325120	Biogases, industrial (i.e., compressed, liquified, solid), manufacturing
Industry	325193	Ethyl alcohol manufacturing
Industry	325199	Other basic organic chemical manufacturing
Industry	424690	Chemical and allied products merchant wholesalers
Industry	424710	Petroleum bulk stations and terminals
Industry	424720	Petroleum and petroleum products wholesalers
Industry	457210	Fuel dealers
Industry	562212	Landfills

[1] North American Industry Classification System (NAICS).

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your entity would be affected by this action, you should carefully examine the applicability criteria in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Participation in virtual public hearing.

Information on how to register for the virtual public hearing can be found at *https://www.epa.gov/renewable-fuel-standard-program/proposed-partial-waiver-2024-cellulosic-biofuel-volume-requirement*. The last day to pre-register to speak at the hearing is December 13, 2024. Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/renewable-fuel-standard-program/proposed-partial-waiver-2024-cellulosic-biofuel-volume-requirement*. While EPA expects the hearing to go forward as set forth above, please monitor the website or contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to determine if there are any updates. EPA does not intend to publish a document in the *Federal Register* announcing updates.

Each commenter will have 3 minutes to provide oral testimony. EPA may ask clarifying questions during the oral presentations, but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing and describe your needs by December 13, 2024. EPA may not be able to arrange accommodations without advance notice.

Preamble acronyms and abbreviations.

Throughout this document the use of "we," "us," or "our" is intended to refer to EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, EPA defines the following terms and acronyms here:

BBD	biomass-based diesel

CAA	Clean Air Act
CG	conventional gasoline
CNG	compressed natural gas
CWC	cellulosic waiver credit
FRS ID	facility registration system identification
GC	gas chromatograph
LNG	liquified natural gas
RBOB	reformulated gasoline before oxygenate blending
RFG	reformulated gasoline
RFS	Renewable Fuel Standard
RIN	Renewable Identification Number
RNG	renewable natural gas
RVO	Renewable Volume Obligation

Outline of this Preamble

I. Executive Summary

On July 12, 2023, EPA promulgated a rule establishing the RFS volume requirements and percentage standards for 2023–2025 (the "Set Rule").[1] As part of that rulemaking, EPA projected that 1.09 billion cellulosic Renewable Identification Numbers (RINs) would be generated in 2024 and used that volume to establish the 2024 cellulosic biofuel percentage standard of 0.63 percent.[2] However, based on current projections of cellulosic biofuel production for 2024, we expect that only 0.97 billion cellulosic RINs will be generated in 2024, a shortfall of 0.12 billion RINs. As discussed in Section III, this follows a shortfall in cellulosic biofuel production in 2023 that resulted in the total cellulosic RIN deficit from 2023 carried into 2024 to exceed the total number of available 2023 cellulosic carryover RINs. Given these factors and reasons further explained in Sections II through IV, in this action we are proposing to partially waive the 2024 cellulosic biofuel volume requirement to 0.88 billion RINs (the sum of projected

[1] 88 FR 44468 (July 12, 2023).
[2] 40 CFR 80.1405(a).

cellulosic biofuel production in 2024 less the cellulosic biofuel deficits carried into 2024) using the statutory "general waiver authority." We are requesting comment on the magnitude of the partial waiver and the use of the cellulosic waiver authority as an alternative to the general waiver authority.

We currently project that the supply of advanced biofuel and total renewable fuel in 2024 will exceed the required volumes by a significant margin, despite the projected shortfall in cellulosic biofuel. Given the projected surplus of 2024 advanced RINs, we are not proposing to revise the volume requirements for any of the other categories of renewable fuel (i.e., biomass-based diesel (BBD), advanced biofuel, and total renewable fuel). We are also not proposing any changes to any of the 2025 RFS standards, which were also finalized in the Set Rule. While EPA may possibly consider a partial waiver of the 2025 cellulosic biofuel standard in a future action, any comments on such a change to the 2025 RFS standards will be treated as beyond the scope of this action.[3]

As discussed in Section V, we are additionally seeking comment on two issues related to the "cellulosic waiver authority": (1) Whether this authority is available to waive the 2024 cellulosic biofuel volume requirement; and (2) Our proposal to replace the source of data for the wholesale price of gasoline that is used to calculate the price of cellulosic waiver credits (CWCs) because the data source currently identified in the regulations is no longer available.

In Section VII, we are also proposing to extend the 2024 RFS compliance deadline from March 31, 2025, to the next quarterly compliance reporting deadline after the effective date of the action finalizing these amendments, as well as proposing provisions that would automatically extend the annual compliance reporting deadline for a given compliance year if EPA proposes to

[3] EPA is not reopening the 2025 RFS volumes and standards in this proceeding, nor are we reopening any of the 2024 RFS volumes and standards besides the 2024 cellulosic biofuel volume and standard.

revise an existing RFS standard for that year, as is proposed herein. EPA requests comment on these compliance deadline proposals.

Finally, as discussed in Section VIII, we are proposing minor revisions to two main areas of the RFS program's biogas regulations that were identified after EPA and market participants began implementing the regulations promulgated in the Set Rule. First, EPA is proposing to clarify and provide flexibility for how biogas, renewable natural gas (RNG), renewable compressed natural gas (CNG), and renewable liquified natural gas (LNG) are measured, sampled, and tested to demonstrate compliance.

Second, EPA is proposing the following technical amendments to the biogas regulations:

- Clarifying what constitutes a batch of RNG.
- Clarifying the requirements for the generation, assignment, and separation of RINs for RNG.
- Clarifying the registration requirements for biogas producers, RNG producers, and RNG RIN separators.
- Clarifying the attest engagement requirements for biogas producers, RNG producers, and RNG RIN separators.
- Numerous clarifications, corrections, and consistency edits to the biogas regulations.

II. Statutory Background

A. The RFS Program and the Set Authority

Clean Air Act (CAA) section 211(o)(2)(B) establishes the framework by which EPA is to establish annual, nationally applicable volume targets for each of the four categories of renewable fuel that make up the RFS program: cellulosic biofuel, BBD, advanced biofuel, and renewable fuel. CAA section 211(o)(2)(B)(i) provides specific applicable volumes for cellulosic

biofuel, advanced biofuel, and renewable fuel for each year from 2010 to 2022 and specific applicable volumes for BBD for each year from 2010 to 2012.

For the years beyond those expressly enumerated (i.e., after 2022 for all categories), CAA section 211(o)(2)(B)(ii) provides that applicable volumes are set by EPA in coordination with the United States Department of Agriculture (USDA) and Department of Energy (DOE), based on a review of the implementation of the RFS program to date, and that EPA must analyze specific factors (e.g., the impact of the production and use of renewable fuels on the environment, energy security, the infrastructure of the United States, and job creation). EPA calls this statutory authority to set volumes after 2022 its "set authority." CAA section 211(o)(2)(B)(ii) additionally provides that under the set authority, EPA shall promulgate applicable volumes no later than 14 months prior to the start of the relevant year.[4]

This action concerns the 2024 cellulosic biofuel volume requirement that was established in the Set Rule, EPA's first RFS rule promulgated under the set authority. In the Set Rule, EPA established the volume requirements for 2023–2025 using the set authority and acknowledged that certain waivers may be available to adjust the volume requirements if the requisite statutory conditions are met.[5]

B. General Waiver Authority

CAA section 211(o)(7)(A) provides that EPA, in consultation with USDA and DOE, may reduce RFS volume requirements previously established pursuant to CAA section 211(o)(2) for a given compliance year, in whole or in part, under specified circumstances, including when EPA

[4] "The Administrator shall promulgate rules establishing the applicable volumes under this clause no later than 14 months before the first year for which such applicable volume will apply." CAA section 211(o)(2)(B)(ii).
[5] 88 FR 44479 (July 12, 2023) ("While we are establishing applicable volume requirements in this action for future years that are achievable and appropriate based on our consideration of the statutory factors, we retain our legal authority to waive volumes in the future under the waiver authorities should circumstances so warrant.").

finds that "there is an inadequate domestic supply."[6] Notably, CAA section 211(o)(7)(A) does not include any temporal limitation on when the waiver may be used or any limitation on which category of volumes may be waived, and thus the general waiver authority may be used to waive the cellulosic volume after the volumes have been set.

In *Americans for Clean Energy v. EPA*, 864 F.3d 691 (2017) ("*ACE*"), the U.S. Court of Appeals for the D.C. Circuit held that, for this provision, the statute requires a "supply-side" assessment of the volumes of renewable fuel that can be supplied to refiners, importers, and blenders.[7] Thus, EPA has the authority to waive volumes under this provision only if EPA determines that there is an "inadequate domestic supply" of renewable fuel based on the volumes of renewable fuel that can be supplied to refiners, importers, and blenders (i.e., EPA cannot base its finding on demand-side considerations). In calculating the supply of renewable fuel to make this threshold determination, EPA has consistently excluded carryover RINs from the previous compliance year and only assessed the quantity of actual renewable fuel projected to be (or actually) supplied to refiners, importers, and blenders in the compliance year at issue. This approach was upheld by the D.C. Circuit in *ACE*.[8]

Once EPA determines that there is an inadequate domestic supply of renewable fuel (or that the required volumes would result in severe economic or environmental harm), CAA section 211(o)(7)(A) states that EPA "may" waive RFS volume requirements. Given that the statute permits EPA to determine whether or not to issue a waiver, EPA takes into consideration the

[6] The CAA section 211(o)(7)(A) general waiver authority also allows EPA to waive RFS volumes if an applicable standard "would severely harm the economy or environment of a State, a region, or the United States" ("severe economic harm"). This provision is not relevant to this action and is therefore not discussed, but more information can be found at 77 FR 70756 (November 27, 2012).
[7] *ACE* resolved challenges to EPA's rulemaking that established the 2014–2016 RFS standards ("2014–2016 Rule"). 80 FR 77420 (December 14, 2015).
[8] *ACE*, 864 F.3d at 704, 713–716 (holding that EPA "permissibly declined to consider carryover RINs for purposes of determining the available supply.")

availability of carryover RINs at this point in its analysis, particularly in circumstances where EPA is considering whether to adjust the volume requirement after it has been set.[9] If EPA finds that the number of available RINs—including carryover RINs—is sufficient to meet the standards, EPA may choose not to issue a waiver, even if it determines there is an "inadequate domestic supply."[10] Given the discretion afforded to EPA to issue waivers, EPA also considers other factors, as appropriate, when determining whether to issue a waiver under the general waiver authority.[11] This action proposes to implement such a general waiver to reduce the 2024 cellulosic biofuel volume requirement.

C. Cellulosic Waiver Authority

The cellulosic waiver authority at CAA section 211(o)(7)(D)(i) provides that "[f]or any calendar year for which the projected volume of cellulosic biofuel production is less than the minimum applicable volume established under paragraph (2)(B), as determined by the Administrator based on the estimate provided under paragraph (3)(A)," EPA "shall reduce the applicable volume of cellulosic biofuel required under paragraph (2)(B) to the projected volume available during that calendar year" and that this reduction shall be made "not later than November 30 of the preceding calendar year." For those years in which EPA "makes such a reduction," the statute further provides that EPA may also "reduce the applicable volume of renewable fuel and advanced biofuels requirement . . . by the same or a lesser volume." As such, even when EPA exercises its cellulosic waiver authority, the determination of whether to correspondingly reduce the advanced biofuel requirement is discretionary. As recognized by

[9] 80 FR 77484–85 (December 14, 2015).
[10] This was the case for 2016 and 2023, when EPA declined petitions for waiver of the cellulosic biofuel standards for those compliance years. See "Denial of AFPM Petition for Waiver of 2016 Cellulosic Biofuel Standard," January 17, 2017, available in the docket for this action; see also "Denial of AFPM Petition for Partial Waiver of 2023 Cellulosic Biofuel Standard," 89 FR 20961 (March 26, 2024).
[11] See, e.g., 73 FR 47168 (August 13, 2008) and 77 FR 70752, 70756 (November 27, 2012).

EPA in the Set Rule, there may be situations in which the CAA section 211(o)(7)(D) cellulosic waiver authority remains available to waive cellulosic biofuel volume requirements after 2022.[12]

In the past, when establishing the annual volumes and percentage standards using the cellulosic waiver authority, if EPA determined that the projected volume of cellulosic biofuel production for a given year would be less than the annual applicable volume established by Congress under CAA section 211(o)(2)(B)(i)(III), then EPA had the authority to reduce the applicable volume of cellulosic biofuel in relation to the projected volume available for that calendar year. Pursuant to this provision, EPA set the cellulosic biofuel volume requirement lower than the CAA section 211(o)(2)(B)(i)(III) statutory volumes enumerated by Congress for each year from 2010 through 2022. EPA was challenged regarding its interpretation of this statutory provision, leading the D.C. Circuit to evaluate various aspects of EPA's cellulosic waiver authority.[13] In 2013 in *American Petroleum Institute (API) v. EPA*, the court held that EPA must take a "neutral aim at accuracy" in determining the projected volume of cellulosic biofuel available.[14] In *API* and *Alon Refining Krotz Springs, Inc. v. EPA*, the D.C. Circuit upheld EPA's decision to use the Energy Information Administration's (EIA's) projected volume of cellulosic biofuel production to inform EPA's projection, without requiring "slavish adherence by EPA to the EIA estimate."[15] In *Sinclair Wyoming Refining Co. LLC, et al. v. EPA*, the D.C. Circuit upheld EPA's reading of the statutory phrase "projected volume available" to exclude

[12] "Renewable Fuel Standard (RFS) Program: Standards for 2023–25 and Other Changes, Response to Comments," EPA-420-R-23-014, June 2023 ("Set Rule RTC"), p. 9.
[13] See, e.g., *American Petroleum Institute (API) v. EPA*, 706 F.3d 474, 479 (D.C. Cir. 2013) ("*API*") (interpreting the "projected volume available" and indicating that "the most natural reading of the provision is to call for a projection that aims at accuracy, not at deliberately indulging a greater risk of overshooting than undershooting" in projecting the available cellulosic biofuel volume); *ACE* at 730 (determining EPA's use of the cellulosic waiver authority to reduce advanced and total renewable fuel was reasonable); *Sinclair Wyoming Refining Co. LLC, et al. v. EPA*, 101 F.4th 871, 883 (2024) ("*Sinclair*") (rejecting biofuels producers' challenge that EPA must include carryover cellulosic RINs in its determination of "projected volume available during that calendar year").
[14] *API*, 706 F.3d at 476.
[15] *Alon Refining Krotz Springs, Inc. v. EPA*, 396 F.3d 628, 660 (D.C. Cir. 2019); *API*, 607 F.3d at 478.

carryover RINs.[16]

When EPA waived the cellulosic biofuel volume requirement using the cellulosic waiver authority in the past, it made CWCs available.[17] As described in past RFS actions, CWCs—which, when made available, were offered for sale to obligated parties at a price established by regulation per the statute[18]—provided compliance flexibility for obligated parties and effectively established a ceiling for the price of cellulosic biofuel RINs.[19] However, it should be noted that CWCs only satisfied an obligated party's cellulosic biofuel obligation; unlike a cellulosic RIN, a CWC could not be used to satisfy an obligated party's advanced biofuel or total renewable fuel obligation.[20] Therefore, to obtain the same compliance value as a cellulosic biofuel RIN, an obligated party using a CWC for compliance with the cellulosic biofuel standard needed to also acquire an advanced biofuel RIN to use towards meeting its advanced biofuel and total renewable fuel obligations. When CWCs were made available, they generally served to limit or cap the price of cellulosic RINs.

In Section V, EPA requests comment on whether use of the cellulosic waiver authority is available to reduce cellulosic biofuel volumes in 2024, because certain stakeholders have requested that EPA waive the 2024 cellulosic biofuel volume requirement using this authority rather than, or in addition to, the general waiver authority.[21]

III. Assessment of Cellulosic RINs Available for Compliance

In the Set Rule, EPA projected that 1.09 billion cellulosic RINs would be generated in 2024, and used that volume to calculate the 2024 cellulosic biofuel percentage standard of 0.63

[16] *Sinclair*, 101 F.4th at 883–884.
[17] CAA section 211(o)(7)(D)(ii).
[18] CAA section 211(o)(7)(D)(iii); 40 CFR 80.1456.
[19] See, e.g., 85 FR 7025 (February 6, 2020); 87 FR 39616 (July 1, 2022).
[20] 72 FR 14726–27 (March 26, 2010).
[21] See, e.g., AFPM, "Petition for Partial Waiver of the 2024 Cellulosic Biofuel Volumetric Requirements," November 1, 2024.

percent.[22] While the actual number of cellulosic RINs that obligated parties will ultimately need to retire for compliance with the current standard will not be known until after the 2024 compliance deadline,[23] when obligated parties report to EPA their 2024 gasoline and diesel production and import volumes,[24] for purposes of making a decision to partially waive the 2024 cellulosic biofuel volume requirement, we have assumed that the actual total 2024 cellulosic biofuel obligation, if not waived, will be 1.09 billion RINs.[25]

As of October 10, 2024, approximately 0.64 billion 2024 cellulosic RINs have been generated through September 2024.[26] To project total cellulosic RIN generation for 2024, we considered the seasonality of cellulosic RIN generation over the previous five years. We observed that the number of cellulosic RINs generated at the end of each month as a percentage of the total number of cellulosic RINs generated that year was very consistent from year-to-year.[27] Based on the observed cellulosic RIN generation data from 2019–2023, we project that cellulosic RIN generation for 2024 will be approximately 0.97 billion RINs.[28]

We have also considered the total cellulosic RIN deficit carried forward from 2023. To

[22] 88 FR 44470–71 (July 12, 2023).
[23] The compliance deadline for the 2024 standards is currently March 31, 2025. However, as described in Section VII.A, EPA is proposing to extend the 2024 compliance deadline in this action.
[24] 40 CFR 80.1451 and 80.1427(a).
[25] Because the compliance obligation is calculated on a percentage basis, if the actual gasoline and diesel volumes reported by obligated parties differ from the projected gasoline and diesel volumes that were used to derive the percentage standard, then the actual number of RINs required for compliance will differ from the projected volume that was used to calculate the percentage standard. Although we rely on the 1.09-billion-RIN projection for 2024 in the Set Rule that was the basis for the 2024 cellulosic biofuel percentage standard, EPA would reach the same conclusion to waive the 2024 cellulosic biofuel volume requirement, for the reasons stated below, using a higher RIN obligation (i.e., a higher gasoline and diesel projection).
[26] See "Total Net Generation" RIN data table at: *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/rins-generated-transactions*. This table includes all reported cellulosic RINs that have been generated so far in 2024 and were not otherwise retired due to RIN generation error (i.e., an invalid RIN). Thus, the volume of 2024 cellulosic RINs in this table is the volume of RINs that have been made available for compliance with the 2024 cellulosic biofuel standard.
[27] This data is summarized in "Seasonality of RIN Generation (2019-2023) and Projected RIN Generation for 2024 Based on Data Through September 2024," available in the docket for this action.
[28] We intend to consider additional cellulosic RIN generation data throughout the remainder of 2024 as it becomes available to inform any final action.

demonstrate compliance in 2024, obligated parties that carried a cellulosic RIN deficit from 2023 into 2024 must retire RINs to fully satisfy their cellulosic biofuel obligation, calculated to include the obligation incurred in 2024 plus the deficit carried forward from 2023.[29] Over 20 obligated parties—who together represent 21 percent of the total cellulosic biofuel obligation for 2023—carried a cellulosic RIN deficit into 2024, including two of the six largest obligated parties and seven of the 25 largest obligated parties.[30] Together, this total cellulosic RIN deficit reflects a deferred obligation of approximately 0.09 billion cellulosic RINs.[31] If EPA were to include this cellulosic RIN deficit from 2023, the net number of RINs available to comply with the 2024 cellulosic biofuel standard would be approximately 0.88 billion RINs. This is approximately 0.21 billion fewer RINs than the 1.09 billion RINs needed to comply with the current 2024 cellulosic biofuel standard, a shortfall of approximately 18 percent.

We also have taken into consideration cellulosic RINs carried over from 2023. There are approximately 0.03 billion 2023 cellulosic carryover RINs available.[32] These carryover RINs represent actual cellulosic biofuel that was produced in 2023, but these RINs were not used for compliance in 2023 and therefore remain available to obligated parties for use to comply with the 2024 cellulosic biofuel standard.[33] If EPA were to include both the 2023 cellulosic carryover RINs and total cellulosic RIN deficit from 2023, the net number of RINs available to comply with the 2024 cellulosic biofuel standard is approximately 0.91 billion RINs. This is

[29] Under the statute and our implementing regulations, an obligated party is permitted to carry forward a deficit in lieu of retiring a sufficient number of RINs to meet its obligation. CAA section 211(o)(5)(D); 40 CFR 80.1407(a), 80.1427(b).
[30] See "2023 RFS0304 Annual Compliance Report Data as of October 8, 2024," available in the docket for this action.
[31] See Table 6: Total Compliance Deficits by Year at *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/annual-compliance-data-obligated-parties-and*.
[32] See "Cellulosic Carryover RIN Calculation for Proposed Partial Waiver of 2024 Cellulosic Biofuel Volume Requirement," available in the docket for this action.
[33] 40 CFR 80.1427(a).

approximately 0.18 billion fewer RINs than the 1.09 billion RINs needed to comply with the current 2024 cellulosic biofuel standard, a shortfall of approximately 16 percent.

Due to the expected shortfall in cellulosic biofuel production in 2024, the total cellulosic RIN deficit carried forward from 2023 into 2024, and the limited number of available 2023 cellulosic carryover RINs, the cellulosic RIN shortfall could be of such a magnitude that some obligated parties that carried forward a deficit from 2023 into 2024 would be forced into non-compliance with their 2024 cellulosic biofuel obligations. This is because while obligated parties that did not carry forward a cellulosic RIN deficit from 2023 into 2024 would be able to carry forward a deficit from 2024 into 2025 to demonstrate compliance—which is permitted by statute[34] and regulation[35] and is routinely done—obligated parties that carried a cellulosic RIN deficit from 2023 into 2024 are precluded by statute[36] and regulation[37] from doing so in the subsequent year (i.e., from 2024 into 2025). This fact, combined with the shortfall in cellulosic biofuel production in 2024, may disrupt the functioning of the RIN market and leave some obligated parties unable to obtain the cellulosic RINs necessary to comply with their 2024 obligations, through no fault of their own.

IV. Proposal to Partially Waive the 2024 Cellulosic Biofuel Volume Requirement Using the General Waiver Authority

As discussed in Section II.B, the general waiver authority authorizes EPA to reduce volume requirements promulgated under CAA section 211(o)(2) upon a finding of "inadequate domestic supply." The general waiver authority has no temporal limitation that would prohibit its use after the volume requirements have been set, is discretionary, and does not provide direction

[34] CAA section 211(o)(5)(D).
[35] 40 CFR 80.1427(b).
[36] CAA section 211(o)(5)(D)(i).
[37] 40 CFR 80.1427(b)(1)(i).

as to the magnitude of the volume that may be waived if EPA makes a finding of "inadequate domestic supply." As discussed in Section III, EPA does not account for carryover RINs as a constituent of the available supply in making the threshold determination. Once EPA determines that there is "inadequate domestic supply," then EPA may consider certain additional factors regarding the RIN market—i.e., the availability of RINs for the year in question, carryover RINs from the prior year, and the volume of RIN deficits carried forward from the prior year—when determining whether to waive the volume requirements, and by how much, when using the general waiver authority.[38]

As discussed in Section III, we currently project cellulosic RIN generation for 2024 will be approximately 0.97 billion RINs. Additionally, obligated parties carried a 0.09 billion total cellulosic RIN deficit from 2023 into the 2024 compliance year. If we do not account for this deficit when using the general waiver authority, then we would effectively force an even larger cellulosic RIN deficit to be carried into 2025. Further, as noted in Section III, any obligated party that already carried a cellulosic RIN deficit from 2023 into 2024 is unable to subsequently carry a cellulosic RIN deficit from 2024 into 2025.[39] Thus, if those obligated parties are unable to acquire sufficient RINs to fully satisfy their 2024 cellulosic biofuel obligations (including the cellulosic RIN deficit carried forward from 2023), then they would be forced into noncompliance. Since more than 20 obligated parties carried a 0.09 billion total cellulosic RIN deficit from 2023 into 2024, noncompliance is a real possibility for some obligated parties.

[38] Note that once it has determined that there is "inadequate domestic supply," EPA's consideration of the magnitude of the volume reduction to be implemented under the general waiver authority is factually and legally distinct from EPA's consideration of the threshold determination of the "projected volume available" when acting under the cellulosic waiver authority. While EPA permissibly excludes carryover RINs from its calculation of "projected volume available" under the cellulosic waiver authority (see *Sinclair*, 101 F.4th at 883–884), EPA is not bound to follow the same approach when implementing a volume reduction when acting under the general waiver authority.

[39] CAA section 211(o)(5)(D); 40 CFR 80.1427(b).

Furthermore, since we are not proposing to use the cellulosic waiver authority and EPA is only authorized to make CWCs available when reducing the cellulosic biofuel volume requirement using the cellulosic waiver authority, CWCs would not be available as a result of this action.

Given the inadequate volume of cellulosic biofuel projected to be produced in 2024 and the number of obligated parties that carried a cellulosic RIN deficit from 2023 into 2024, EPA is proposing to use the general waiver authority to reduce the 2024 cellulosic biofuel volume requirement to 0.88 billion RINs, a reduction of 0.21 billion RINs from the current volume requirement of 1.09 billion RINs. This proposed volume requirement represents the projected cellulosic RIN generation for 2024 of 0.97 billion RINs less the total cellulosic RIN deficit from 2023 of 0.09 billion RINs.[40]

We recognize that this proposed volume requirement does not account for the availability of the limited number of 2023 cellulosic carryover RINs. As discussed in Section III, there are approximately 0.03 billion 2023 cellulosic RINs available for use in 2024, which is 0.06 billion fewer cellulosic RINs than the 0.09 billion total cellulosic RIN deficit from 2023. As we have noted in previous RFS actions, carryover RINs provide important benefits to the RFS program, including compliance flexibility to individual obligated parties, liquidity to the RIN market, and mitigation against market impacts that could occur if RIN generation in any year falls short of the required volume of renewable fuel, as was the case for cellulosic biofuel in 2023.[41] We are therefore concerned about the impacts on the RIN market and functioning of the RFS program were we to include these 2023 cellulosic carryover RINs when determining the magnitude of the appropriate reduction for the 2024 cellulosic biofuel volume requirement (i.e., EPA maintains

[40] We intend to consider additional cellulosic RIN generation data throughout the remainder of 2024 as it becomes available to inform any final action.
[41] See, e.g., 88 FR 44471, 44493–96 (July 12, 2023).

concerns with intentionally drawing down the number of available cellulosic carryover RINs for 2025 to zero), particularly since the 0.09 billion total cellulosic RIN deficit from 2023 is 0.06 billion RINs greater than the 0.03 billion 2023 cellulosic RINs available for use in 2024, and CWCs would not be available to provide compliance flexibility.

Nevertheless, we also request comment on how we should consider 2023 cellulosic carryover RINs and the total cellulosic RIN deficit from 2023 in determining the magnitude of the 2024 cellulosic biofuel volume requirement reduction. Specifically, we request comment on: (1) Using the general waiver authority to reduce the 2024 cellulosic biofuel volume requirement to 0.88 billion RINs, as proposed; and (2) Alternatively, using the general waiver authority to reduce the 2024 cellulosic biofuel volume requirement to either 0.97 billion RINs (the projected cellulosic RIN generation for 2024) or 0.91 billion RINs (0.97 billion projected cellulosic RIN generation for 2024 plus 0.03 billion 2023 cellulosic carryover RINs less 0.09 billion total cellulosic RIN deficit from 2023). We also request comment on whether there is any other 2024 cellulosic biofuel volume requirement that we should consider (e.g., a volume lower than 0.88 billion RINs or a volume higher than 0.97 billion RINs).

Finally, while the general waiver authority allows EPA to reduce the volume requirements for other renewable fuel categories, we are not proposing to change the 2024 advanced biofuel and total renewable fuel standards. Based on RIN generation data through September 2024, we project that advanced and total RIN generation for 2024 will exceed the required volumes by over 2.6 billion RINs and 2.0 billion RINs, respectively, notwithstanding the projected shortfall in cellulosic biofuel production.[42] This is in contrast to the proposed reduction in cellulosic biofuel of 0.21 billion RINs. Thus, we believe reductions to the 2024

[42] See "Seasonality of RIN Generation (2019-2023) and Projected RIN Generation for 2024 Based on Data Through September 2024," available in the docket for this action.

advanced biofuel and total renewable fuel volume requirements are not necessary or warranted based on the available supply data, given that the market has already provided volumes in excess of the requirement established in the Set Rule. We seek comment on this determination.

The proposal to reduce the 2024 cellulosic biofuel volume requirement is expected to have an economic impact. However, quantitatively projecting the economic impact of this reduction is challenging for several reasons. First, the proposed partial waiver is due to an inadequate domestic supply of cellulosic biofuel in 2024. Higher volumes of cellulosic RINs cannot simply be made available at greater prices; instead, obligated parties will be unable to purchase additional quantities of 2024 cellulosic RINs at any price. The potential economic impact of this action is further complicated by the fact that while some obligated parties can defer some or all of their 2024 cellulosic biofuel obligation to 2025, other obligated parties that carried a cellulosic RIN deficit from 2023 into 2024 are required to fully satisfy their cellulosic biofuel obligations in 2024 (including the cellulosic RIN deficit carried forward from 2023). Any party that fails to do so would likely be in non-compliance and may be subject to penalties.

Despite the complications associated with estimating the economic impacts of this action, we can determine that it would result in cost savings. This action proposes to reduce only the 2024 cellulosic biofuel volume requirement. Because we are not proposing to reduce the 2024 advanced biofuel and total renewable fuel volume requirements, this action would effectively replace the waived cellulosic biofuel volume with additional volumes of advanced biofuel, which generally has a lower marginal cost than cellulosic biofuel.[43]

Finally, we can reasonably project that because this action would reduce demand for

[43] The nested nature of the RFS program allows cellulosic biofuel to be used to meet the advanced biofuel and total renewable fuel volume requirements. Any cellulosic that can be supplied beyond the required volume can be used in place of advanced biofuel.

cellulosic RINs, it is expected to directionally decrease cellulosic RIN prices. The exact magnitude of this price reduction depends on a wide range of market factors that prevent us from quantitively projecting a RIN price impact. At the same time, because this action incrementally increases demand for advanced RINs, it is projected to directionally increase BBD and advanced RIN prices. We note, however, that this price impact is expected to be relatively small, as this action would increase demand by only about 2 percent of the projected supply of advanced biofuel.[44]

V. Request for Comment on the Availability of the Cellulosic Waiver Authority for 2024

As discussed in Section II.C, the CAA also provides EPA with the ability to reduce the cellulosic biofuel volume requirement using the CAA section 211(o)(7)(D) cellulosic waiver authority in certain circumstances. The cellulosic waiver authority differs from the general waiver authority in several respects. This section discusses how the general and cellulosic waiver authorities differ, how EPA could use the cellulosic waiver authority to reduce the 2024 cellulosic biofuel volume requirement if it is available in this instance, and solicits comment on the implications of such use. Specifically, we request comment on whether the cellulosic waiver authority is available to EPA to reduce the required volume of cellulosic biofuel in the current circumstances. This section also discusses a methodological change that would be necessary for EPA to set the price of CWCs, if the cellulosic waiver authority is available to EPA and is used in the future.

[44] This action would increase the demand for advanced biofuel by the magnitude of the proposed partial waiver of the 2024 cellulosic biofuel volume requirement (0.21 billion RINs). This is approximately 2 percent of the projected supply of advanced biofuel (9.15 billion RINs). For more detail on this projection, see "Seasonality of RIN Generation (2019-2023) and Projected RIN Generation for 2024 Based on Data Through September 2024," available in the docket for this action.

A. Use of the Cellulosic Waiver Authority

In contrast to the general waiver authority, the cellulosic waiver authority provides more specificity as to when it is available and how the volume reduction should be determined when acting under the authority. When EPA determines that a waiver of the cellulosic biofuel volume requirement is appropriate under CAA section 211(o)(7)(D)(i), then EPA is to reduce the required cellulosic biofuel volume to "the projected volume available." We have previously interpreted the phrase "projected volume available" to exclude carryover RINs when determining the volume adjustment to be made; this interpretation was affirmed by the D.C. Circuit in *Sinclair*.[45]

If applied alone in the current circumstances—that is, if EPA were to use only the cellulosic waiver authority to reduce the 2024 cellulosic biofuel volume requirement and exclude consideration of the 0.09 billion total cellulosic RIN deficit from 2023 carried into 2024—then EPA could only reduce the cellulosic biofuel volume requirement to the projected volume available of 0.97 billion RINs in 2024. In accordance with the statute, EPA would also be required to make CWCs available to obligated parties, which could be used—along with additional BBD or advanced RINs—to cover the remaining shortfall. The availability of CWCs would help ensure RFS program stability by reducing the likelihood that obligated parties may be forced into non-compliance with their RFS obligations; any obligated party that is unable to acquire sufficient cellulosic RINs to comply with their 2024 cellulosic biofuel obligations—plus any cellulosic RIN deficit carried from 2023—would be able to purchase CWCs to cover the shortfall.[46] As discussed in detail in Section II.C, the availability of CWCs as an alternative

[45] *Sinclair*, 101 F.4th at 885.
[46] Unlike cellulosic RINs—which apply towards an obligated party's cellulosic biofuel, advanced biofuel, and total renewable fuel obligations—CWCs only apply towards an obligated party's cellulosic biofuel obligation and not

compliance mechanism, along with the value of an advanced RIN, would effectively serve as a cellulosic RIN price cap.

We request comment on whether the cellulosic waiver authority is available to partially waive the 2024 cellulosic biofuel volume requirement. The initial 2024 applicable volumes and associated percentage standards are already based on an EPA-calculated "projected volume available" pursuant to the CAA section 211(o)(2)(B)(ii) and (iv) set authority (i.e., not the table Congress established in CAA section 211(o)(2)(B)(i)(III)). While EPA explained its view in the Set Rule—which was the first rule promulgated using the set authority—that "our waiver authorities remain available as applied to the volumes set in this action,"[47] we also stated that, "Congress has instructed us to begin a new phase of the RFS program, one in which there are no statutory volume targets. This has important implications for the use of our cellulosic waiver authority and the availability of cellulosic waiver credits in future years . . . ."[48]

If a commenter believes that the cellulosic waiver authority is available in this instance, we additionally request comment on: (1) Exercising both the general and cellulosic waiver authorities concurrently to partially waive the 2024 cellulosic volume biofuel requirement to 0.97 billion RINs;[49] (2) Using the general and cellulosic waiver authorities sequentially, rather than concurrently, to first partially waive the 2024 cellulosic biofuel volume requirement from 1.09 billion RINs to 0.97 billion RINs under the cellulosic waiver authority, and then further waive the volume requirement using the general waiver authority—from 0.97 billion RINs to a

toward their nested advanced biofuel and total renewable fuel obligation. Obligated parties that satisfy their cellulosic biofuel obligations with CWCs would therefore also have to purchase additional BBD or advanced RINs to meet their associated advanced biofuel and total renewable fuel obligations.

[47] Set Rule RTC, p. 9.

[48] 88 FR 44513 (July 12, 2023).

[49] Although the general and cellulosic waiver authorities are separate and independent of each other, the two could potentially be used together; in the past, EPA has waived volume requirements using two distinct waiver authorities concurrently. See, e.g., 87 FR 39600, 39608 (July 1, 2022) (revising 2020 RFS volumes to the volumes actually used in that year using both the cellulosic waiver authority and the reset authority).

lower volume, such as 0.88 or 0.91 billion RINs; and (3) Whether to also reduce the 2024 advanced biofuel and total renewable fuel volume requirements by the same or lesser amount as the volume of cellulosic biofuel partially waived under the cellulosic waiver authority.

B. Change to Calculation of Cellulosic Waiver Credit Price

As discussed in Section II.C, for any year for which EPA uses the cellulosic waiver authority to reduce the required volume of cellulosic biofuel, EPA must provide obligated parties the opportunity to purchase CWCs. The price of these credits is determined using a formula specified in CAA section 211(o)(7)(D)(ii), which is "at the higher of $0.25 per gallon or the amount by which $3.00 per gallon exceeds the average wholesale price of a gallon of gasoline in the United States," adjusted for inflation. The RFS regulations specify that the "U.S. Total Gasoline Bulk Sales (Price) by Refiners as provided by the Energy Information Administration" is to be used to determine the average wholesale price of gasoline and the inflation adjustment.[50] However, this data source is no longer being issued by the EIA and has not been updated since March 2022.

While EPA is not proposing to use the cellulosic waiver authority in this action, EPA is nevertheless proposing to revise its regulations to point to a new data source for the average wholesale price of gasoline to be used in the calculation of the CWC price in the event the cellulosic waiver authority is used in the future. The only wholesale gasoline prices currently reported by EIA are spot prices for New York Harbor (conventional gasoline), U.S. Gulf Coast (conventional gasoline), and Los Angeles (RBOB regular gasoline).[51] EPA is proposing to calculate the average wholesale gasoline price using a weighted average of EIA's reported spot prices for wholesale gasoline using the following weighting factors:

[50] 40 CFR 80.1456(d)(2).
[51] This data is publicly available at: *https://www.eia.gov/dnav/pet/pet_pri_spt_s1_m.htm.*

Table V.B-1: Weighting Factors for Calculating the Average Wholesale Gasoline Price

EIA Spot Price	Weighting Factor[a]
New York Harbor (conventional gasoline)	37.5%
U.S. Gulf Coast (conventional gasoline)	37.5%
Los Angeles (RBOB regular gasoline)	25.0%

[a] Weighting factors based on approximate amounts of conventional gasoline (CG) and reformulated gasoline (RFG) sold in the United States, with an equal weighting factor for the New York Harbor and U.S. Gulf Coast CG prices. EPA currently estimates that approximately 25 percent of gasoline sold in the United States is RFG (*https://www.epa.gov/gasoline-standards/reformulated-gasoline*).

Consistent with the approach used for the previous EIA data source, EPA is proposing to calculate the CWC price using average monthly gasoline spot price data from the 12-month period ending June of the year prior to the relevant year (e.g., July 2022 to June 2023 for the 2024 CWC price). For illustration purposes, if EPA were to use the cellulosic waiver authority to partially waive the 2024 cellulosic biofuel volume requirement, using the proposed data sources and weighting factors would result in a 2024 CWC price of $1.61.[52] We request comment on the proposed amendment to 40 CFR 80.1456(d)(2) to identify new data sources and weighting factors for the average wholesale price of gasoline and welcome comments about any alternative data sources or approaches to the weighting factors.

VI. Calculation of 2024 Cellulosic Biofuel Percentage Standard

The obligated parties to which the percentage standards apply are producers and importers of gasoline and diesel, as defined by 40 CFR 80.2. Each obligated party multiplies the percentage standards by the sum of all non-renewable gasoline and diesel they produce or import to determine their Renewable Volume Obligations (RVOs).[53] The RVOs are the number of RINs that the obligated party is responsible for procuring and retiring to demonstrate compliance with the applicable standards for that year. As described in Section IV, we are proposing to use the general waiver authority to partially waive the 2024 cellulosic biofuel volume requirement down

[52] See "Proposed 2024 Cellulosic Waiver Credit Price Calculation," available in the docket for this action.
[53] 40 CFR 80.1407.

to 0.88 billion RINs.

The formula used to calculate the cellulosic biofuel percentage standard applicable to obligated parties as a function of their gasoline and diesel fuel production or importation is provided in 40 CFR 80.1405(c). Using the same values from the Set Rule for the variables in this formula other than RFV_{CB} (the cellulosic biofuel volume),[54] we have calculated the proposed revised cellulosic biofuel percentage standard for 2024 to be 0.51 percent, down from 0.63 percent.[55] This percentage standard is included in the proposed regulations at 40 CFR 80.1405(a) and would apply to producers and importers of gasoline and diesel.

VII. Extension of Compliance Deadlines

A. Extension of 2024 Compliance Reporting Deadline

While the current 2024 compliance reporting deadline of March 31, 2025, is still several months away, we expect that promulgation of the revised 2024 cellulosic biofuel standard will not occur until very close to or after this deadline. Therefore, in order to provide obligated parties with sufficient time to carry out and adjust their compliance strategies once we finalize the revised 2024 cellulosic biofuel standard, we are proposing to extend the 2024 compliance reporting deadline from March 31, 2025, to the next quarterly compliance reporting deadline after the effective date of the final rule establishing the revised 2024 cellulosic biofuel standard.[56] By operation of law, the 2024 attest engagement deadline would also be extended to the next June 1 annual attest engagement reporting deadline after the revised 2024 compliance deadline.[57] We request comment on the proposed 2024 compliance reporting deadline.

[54] 88 FR 44519–21 (July 12, 2023).
[55] See "Calculation of Proposed 2024 Cellulosic Biofuel Percentage Standard," available in the docket for this action.
[56] The quarterly reporting deadlines are March 31, June 1, September 1, and December 1. 40 CFR 80.1451(f)(2).
[57] 40 CFR 80.1464(d)(i)(i).

To illustrate the potential timing of these deadlines, if the final rule establishing the revised 2024 cellulosic biofuel standard is published in the *Federal Register* on May 15, 2025, then the effective date of the action would typically be 60 days later on July 14, 2025, and the 2024 compliance reporting deadline would be September 1, 2025, because that would be the next quarterly reporting deadline after the effective date of the revised 2024 cellulosic biofuel standard. The 2024 attest engagement reporting deadline would then be June 1, 2026, because that would the next June 1 annual attest engagement reporting deadline after the revised 2024 compliance deadline.

B. Extension of Future RFS Compliance Reporting Deadlines

In 2022, EPA finalized changes to the way the RFS compliance and attest engagement reporting deadlines are determined.[58] Prior to that action, the compliance and attest engagement reporting deadlines for a given compliance year were March 31 and June 1 of the subsequent year, respectively, even if EPA had not yet established the applicable RFS standards for that year. Any change to these deadlines required EPA to undertake a notice-and-comment rulemaking process to revise the RFS regulations on a case-by-case basis. However, under the new provisions finalized in 2022, the annual compliance reporting deadline is the latest date of the following:[59]

- March 31st of the subsequent calendar year;
- The next quarterly reporting deadline after the effective date of the subsequent compliance year's standards (typically 60 days after publication of the final rule in the *Federal Register*); or

[58] 87 FR 5696 (February 2, 2022).
[59] 40 CFR 80.1451(f)(1)(i)(A).

- The next quarterly reporting deadline under 40 CFR 80.1451(f)(2) after the annual compliance reporting deadline for the prior compliance year.

In this action, we are proposing to add a new provision that would automatically extend the annual compliance reporting deadline for a given compliance year if EPA proposes to revise an existing RFS standard for that year. Under this approach, the publication of a document in the *Federal Register* proposing to revise a renewable fuel standard in 40 CFR 80.1405(a) would automatically extend the annual compliance reporting deadline for that year to the next quarterly reporting deadline after either: (1) The effective date of the final rule that revises the existing standard (typically 60 days after publication of the final rule in the *Federal Register*); or (2) 60 days after the publication of a document in the *Federal Register* withdrawing the proposed revision. However, if EPA does not either finalize or withdraw the proposed revision within 12 months after the proposed rule is published, we are proposing to limit the extension in this specific circumstance to no more than the next quarterly reporting deadline that is 12 months after the date of publication of the proposed rule.[60] We believe that this provides sufficient time for EPA to either finalize or withdraw the proposed revision to an existing RFS standard and do not want to indefinitely extend the compliance reporting deadline for a compliance year with already established RFS standards.

Essentially this new provision means that the mere proposal—as opposed to a final action—by EPA to change an existing RFS standard would change the associated compliance reporting deadline. This change is being proposed because by the time the need is evident to extend the deadline, there is often inadequate time to both propose and finalize a rulemaking to

[60] We note that under any of these scenarios, the applicable compliance reporting deadline in 40 CFR 80.1451(f)(1)(i)(A) or (B) of this section would apply if it were later than the proposed extension (e.g., the deadline would be no earlier than March 31 of the subsequent calendar year or the next quarterly reporting deadline after the annual compliance reporting deadline for the prior compliance year).

do so. As an example, under this proposed approach, if the 2025 compliance deadline was originally established as March 31, 2026,[61] but then EPA proposed to revise the 2025 cellulosic biofuel standard on September 1, 2025, the 2025 compliance reporting deadline would be automatically extended until the first quarterly reporting deadline after the effective date of the final rule setting the revised 2025 cellulosic biofuel standard. And EPA would not have to separately propose to extend the 2025 compliance reporting deadline in that same action, because the deadline would be automatically extended by operation of law. If EPA then finalized the proposed revision to the 2025 cellulosic biofuel standard on January 15, 2026, with an effective date of March 15, 2026, the 2025 compliance reporting deadline would still be March 31, 2026 (i.e., the next quarterly reporting deadline after the effective date of the final rule). Alternatively, if EPA chose not to finalize the proposed revision to the 2025 cellulosic biofuel standard and published a document in the *Federal Register* to withdraw the proposed revision on February 15, 2026, the 2025 compliance reporting deadline would be June 1, 2026 (i.e., the next quarterly reporting deadline that is at least 60 days after publication of that document in the *Federal Register*). Finally, if EPA took no action after proposing to revise the 2025 cellulosic biofuel standard, the 2025 compliance deadline would be March 31, 2027 (i.e., 12 months later than the otherwise applicable compliance reporting deadline of March 31, 2026, under 40 CFR 80.1451(f)(1)(i)(A)).

Finally, we are also proposing to consolidate and simplify the existing provisions for the annual attest engagement deadline. Specifically, we are proposing to specify that the deadline is always the next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline. The current language at 40 CFR 80.1464(d)(1) contains redundant and year-

[61] Note that the 2025 compliance deadline will not be established until the 2026 RFS standards become effective in 40 CFR 80.1405(a).

specific attest engagement deadline language that, for a given compliance year, all result in the same June 1 deadline, making the existing structure unnecessarily complicated. The proposed simplified attest engagement deadline language would not change the deadline for any compliance year but would make it easier for obligated parties to understand when their annual attest engagement reports are due.

This proposed approach would provide regulatory certainty for obligated parties by clearly establishing future compliance deadlines when EPA proposes to change a previously established RFS standard, thereby preventing unnecessary burden on obligated parties to prepare, submit, and then possibly retract and revise compliance reports for deadlines that were later extended. This approach is consistent with EPA's prior rules extending RFS compliance reporting deadlines in different factual circumstances[62] and with D.C. Circuit's case law.[63] We request comment on all aspects of this proposal to extend future RFS compliance reporting deadlines as an operation of law.

VIII. Other RFS Amendments

In addition to waiving the 2024 cellulosic biofuel volume requirement, we are also proposing several revisions to the RFS program, as further discussed in this section.

A. Biogas Regulations

1. Measurement, Sampling, and Testing

We are proposing to align the testing frequency of pipeline-specified components for RNG with the reporting frequency. Currently, RNG producers must annually sample and test

[62] 86 FR 17073 (April 1, 2021); 87 FR 5696 (Feb. 2, 2022).

[63] *Wynnewood Refining Co., LLC, et al. v. EPA*, 77 F.4th 767, 779 (D.C. Cir. 2023) ("Thus, rather than task EPA with overseeing a fixed compliance schedule, the Act gives EPA flexibility to craft and adjust a compliance regime in service of the Act's core mandate: to ensure the Act's annual renewable fuel volumes are met."). See also *ACE*, 864 F.3d at 718–21; *Monroe Energy, LLC v. EPA*, 750 F.3d 909, 919–20 (D.C. Cir. 2014); *Nat'l Petrochemical & Refiners Ass'n v. EPA*, 630 F.3d 145, 154–58) (D.C. Cir. 2010).

their RNG to demonstrate that the RNG production facility is producing RNG that meets applicable pipeline specifications,[64] and they must submit these results as part of their three-year registration updates.[65] Stakeholders have highlighted the disconnect between the annual testing requirement and the three-year reporting requirement. Since we only collect this information during the three-year update, we believe it appropriate to only require sampling and testing of RNG once every three years, rather than each year, and are proposing revisions to 40 CFR 80.110(f)(2)(iii) to this end.

We are also proposing to clarify the regulations to reinforce that we may approve alternative test methods for testing components of RNG and that we may exempt the testing of a component that is not required under the RNG producer's applicable pipeline specifications. Specifically, we are proposing to revise the regulations at 40 CFR 80.135(d)(6), which contain the information related to RNG quality that RNG producers must provide (including certificates of analysis for RNG components), to allow alternatives to the test methods for individual RNG components that are specified at 40 CFR 80.155(b). We would assess alternative test methods based on whether the requested alternative test method provides results that are reasonably accurate to the results provided by the method specified at 40 CFR 80.155(b). While under 40 CFR 80.135(d)(6)(v) RNG producers can already request alternative methods and exemption from non-specified parameters, we believe that adding further clarification would help alleviate stakeholder confusion concerning the sampling and testing requirements for RNG.

In order to streamline the alternative measurement protocol approval and registration acceptance process, we are proposing to remove the requirement that biogas and RNG production facilities must demonstrate that their facility is incapable of using certain specified

[64] 40 CFR 80.110(f)(2)(iii).
[65] 40 CFR 80.135(d)(6).

meters in order to receive an alternative measurement protocol. After promulgation of the biogas regulatory reform provisions in the Set Rule, we have received dozens of alternative measurement protocol submissions and issued guidance for the application of the criterion that a facility demonstrate that it is incapable of using the specified meters.[66] We have determined that many of these meters are as accurate and precise as those specified in the regulations, and have also received a number of registration submissions for facilities that have demonstrated the appropriateness of using such meters.[67] Based on our review of the alternative measurement protocol and registration submissions and the new information we have obtained in the course of this review, we believe that the first criterion whereby a facility must demonstrate that they cannot use the specified meters is not necessary to ensure the accurate and precise measurement of biogas and RNG under the RFS program.[68] We are also proposing to remove the associated requirement that biogas producers and RNG producers demonstrate at registration that they are unable to use the meters specified.[69]

We are also proposing to clarify at 40 CFR 80.155(a) that the measurement of renewable CNG/LNG can be done through documentation (e.g., utility statements) obtained by the CNG/LNG dispenser. Because these statements are typically based on readings from meters that generally comport with the already-specified meter standards, we believe this is an appropriate approach for RNG RIN separators to determine the amount of renewable CNG/LNG used as transportation fuel.

Finally, we are proposing to modify the measurement requirements at 40 CFR 80.155(a)

[66] See "Biogas Regulatory Reform Rule Criteria for Qualifying for an Alternative Measurement Protocol Guidance," EPA-420-B-24-014, March 2024.
[67] A list of approved alternative measurement protocols can be found at: *https://www.epa.gov/fuels-registration-reporting-and-compliance-help/alternative-measurement-protocols-biogas-and*.
[68] 40 CFR 80.155(a)(3)(i).
[69] 40 CFR 80.135(c)(3)(iii)(A) and (d)(3)(iii)(A).

for the measurement of energy content of biogas, specifically.[70] This proposed revision would allow for the use of biogas quality analyzers accepted by EPA at registration instead of the currently specified gas chromatographs (GCs).[71] As noted when finalizing the current measurement requirements, we requested but did not receive standards for alternative measurement devices that commenters suggested we allow in addition to GCs.[72] In the absence of such standards, we provided only for the use of GCs. However, since then we have received much more extensive information and documentation on alternative devices for measuring both RNG and biogas. For biogas heat content measurement, in particular, analyzers differ from GCs both in terms of their cost to install and operate as well as in the types of gases and other constituents of biogas that are measured. And we have learned that, unlike GCs, for biogas measurement devices there is no readily available industry standard for these analyzers to be designed and operated to. We are therefore proposing to revise the regulations to provide a different set of requirements for biogas measurement devices.

While in theory it would be appropriate for biogas analyzers to measure the same constituents and meet the same standards of precision and accuracy as GCs, our review of recently received information has revealed that, at this time, it is more reasonable to evaluate biogas measurement devices differently. We are thus proposing that such devices may forgo the alternative measurement protocol process specified at 40 CFR 80.155(a)(3). Instead, EPA would assess biogas measurement devices on a case-by-case basis at registration. We believe that for the measurement of heat content for biogas, these biogas quality analyzers serve as a reasonable method to determine the volume of biogas produced at a biogas production facility. However, we

[70] The proposed revisions in this paragraph would not impact the measurement of RNG nor would they affect the measurement of flow for biogas.
[71] 40 CFR 80.155(a)(1).
[72] 88 FR 44535 (July 12, 2023).

continue to believe that the measurement of RNG through a GC or a method that a party has demonstrated to be as accurate, precise, and reliable as a GC is needed. The measurement of volume of RNG is integral to the determination of the number of RINs that an RNG producer can generate for such volume. As such, only methods that comport to established industry standards (e.g., GCs meeting ASTM D7164 as specified at 40 CFR 80.155(a)(1)) or those that have been demonstrated to be just as rigorous should be allowed.

Finally, we note that due to the numerous proposed changes to the provisions of 40 CFR 80.155(a) in this action, we are proposing to restructure 40 CFR 80.155(a) to ensure that the measurement requirements for biogas, treated biogas, RNG, and renewable CNG/LNG are clearly enumerated. We request comment on the proposed changes to the measurement, sampling, and testing requirements described in this section.

2. Other Amendments

We are proposing to clarify the provisions surrounding the annual attest engagement procedures for biogas producers, RNG producers, and RNG RIN separators at 40 CFR 80.165. These changes would clarify that annual attest engagements are only required for parties that engage in activities regulated under biogas regulatory reform in a given compliance year (e.g., an RNG RIN separator only needs to obtain an annual attest engagement if they separate RNG RINs in a compliance year).

We are proposing to clarify that all biogas production facilities registered under the previous biogas provisions (i.e., registered under 40 CFR 80.1450(b) to generate RINs under 40 CFR 80.1426(f)(10) or (11)) do not need updated engineering reviews as part of registering for the new biogas provisions. In the Set Rule, we intended to allow all previously registered biogas production facilities that did not undergo changes as a result of the new biogas provisions to rely

on their existing engineering reviews until their next three-year engineering review is due. However, after promulgation of the new biogas provisions, stakeholders noted that the language in the regulations appears to limit this allowance to only those biogas production facilities in a biogas closed distribution system. Therefore, we are proposing to revise 40 CFR 80.135(b)(2)(iii) to make it clear that all previously registered biogas production facilities can use their existing engineering review until the next one is due. We note, however, that if changes to the facility are needed that would otherwise require a new engineering review, the new engineering review must be submitted regardless of this flexibility.

We are also proposing two changes to the registration requirements for RNG RIN separators under 40 CFR 80.135(f). First, we are proposing that, as part of the information submitted at registration, RNG RIN separators must provide the location on the natural gas commercial pipeline system where the RNG is withdrawn, which is information we already require to be reported in periodic reports under 40 CFR 80.140(e)(1). In addition, as part of the forms and procedures established for those reports, we require that the RNG RIN separator include an EPA-issued facility registration system identification (FRS ID) number. While most withdrawal points have previously assigned FRS ID numbers, some do not. Due to how EPA's registration system is designed, the only way to obtain those new FRS ID numbers is at the point of registration. Therefore, to aid in the timely submittal of reports, we are clarifying that RNG RIN separators must supply the withdrawal locations at registration.

Second, we are proposing to remove the limitation at 40 CFR 80.115(b) that a CNG/LNG dispensing location may only be part of one RNG RIN separator's registration at a time. Based on our experience implementing the program, it is difficult for parties to know which RNG RIN separator has registered for a particular CNG/LNG dispensing location. Under the existing

framework, there is currently a perverse incentive for an RNG RIN separator to register for a CNG/LNG dispensing location in order to block another party from registering that location and prevent that party from separating RNG RINs for transportation fuel dispensed at that location—even though the registering party does not maintain an actual relationship to that location. Removing this restriction will allow a dispensing location to be in multiple parties' registrations, thereby avoiding the situation where one party that does not intend to actually dispense renewable CNG/LNG can block another party that does intend to dispense renewable CNG/LNG from separating RINs at that location. However, we are maintaining the limitation at 40 CFR 80.125(d)(2)(v) that only one party may actually separate RINs for a given CNG/LNG dispensing location during a calendar month. We continue to believe that this restriction is necessary to preclude double counting of RINs because it is the limitation that only one party can separate RINs for a volume dispensed at a station during a given month that avoids double-counting, not whether multiple parties reflect that station in their registration information on file with EPA. We request comment on the proposed changes to the registration requirements for RNG RIN separators.

B. Updated Standard Specification for Biodiesel

We are proposing to update the reference to ASTM D6751-20a—which is used in the definition of biodiesel in 40 CFR 80.2—to reference the most recent industry standard of ASTM D6751-24. ASTM D6751 is used to define the quality of biodiesel that may participate in the RFS program, and we periodically update industry standards codified in our regulations to be consistent with changes to these standards over time. However, since publication of the Set Rule, industry has updated ASTM D6751 in a way that has resulted in inconsistency of quality standards between the version currently specified in the RFS regulations (ASTM D6751-20a)

and the most recent version (ASTM D6751-24), which many states use. To address potential confusion on the part of stakeholders with regards to acceptable biodiesel quality under the RFS program, we are proposing to update the regulations to reference the most recent version of ASTM D6751. As also noted in Section IX.I, should a newer version of ASTM D6751 be released prior to finalization of this action, we will consider including a reference to that most recent version.

C. Technical Corrections

We are proposing several technical amendments to 40 CFR part 80. These amendments are being made to correct minor inaccuracies and clarify the current regulations. These proposed changes are described in Table VIII.C-1.

Table VIII.C-1: Miscellaneous Technical Corrections and Clarifications

Part and Section of Title 40	Description of Revision
80.2	Correcting a typo in the definition of "Glycerin".
80.105(j)(3) and 80.110(j)(3)	Clarifying that batch numbers are numbered based on the compliance year of the batch, rather than the calendar year.

IX. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is a "significant regulatory action" as defined in Executive Order 12866, as amended by Executive Order 14094. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for Executive Order 12866 review. Documentation of any changes made in response to the Executive Order 12866 review is available in the docket.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. OMB has previously approved the information collection activities related to this proposed rule and has assigned the following OMB control numbers 2060-0725, 2060-0740, and 2060-0749. This proposed action would reduce the required cellulosic biofuel volume for 2024, make minor revisions to the RFS program's biogas regulations, and would not impose new or different reporting requirements on regulated parties than already exist for the RFS program. In fact, this proposed rule is expected to reduce the recordkeeping and reporting burden that is currently approved under OMB control number 2060-0749, because it would reduce the frequency of sampling, testing, and measurements for RNG producers. The expected reduction is 1,560 hours and $358,800.[73] EPA intends to submit a non-substantive revision to OMB to reflect the reduction in hours and dollar cost with the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. In making this determination, EPA concludes that the impact of concern for this rule is any significant adverse economic impact on small entities and that the agency is certifying that this rule will not have a significant economic impact on a substantial number of small entities because the rule relieves regulatory burden on the small entities subject to the rule.

For the biogas regulations, we are modifying the biogas provisions to make compliance less burdensome for regulated parties. With respect to the other amendments to the RFS regulations, this action makes minor corrections and modifications to those regulations. As such,

[73] The currently approved burdens are 83,393 hours and $5,684,472. This proposed rule would result in 81,833 hours and $5,325,672. The difference is a reduction in burden 1,560 hours and $358,800.

we do not anticipate that there will be any significant adverse economic impact on directly regulated small entities as a result of these revisions.

The small entities directly regulated by the RFS program are small refiners, which are defined at 13 CFR 121.201. This action would decrease burden via a reduction in required cellulosic biofuel volume for 2024. We have therefore concluded that this action will relieve regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million (adjusted annually for inflation) or more (in 1995 dollars) as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action reduces the 2024 cellulosic biofuel volume requirement and we believe that this action represents the least costly, most cost-effective approach to achieve the statutory requirements of the rule.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have Tribal implications as specified in Executive Order 13175. This action will be implemented at the Federal level and affects transportation fuel refiners, blenders, marketers, distributors, importers, exporters, and renewable fuel producers and importers. Tribal governments would be affected only to the extent they produce, purchase, and use regulated fuels. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety

Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2-202 of the Executive Order. Therefore, this action is not subject to Executive Order 13045 because it reduces the 2024 cellulosic biofuel volume requirement and does not concern an environmental health risk or safety risk. Since this action does not concern human health, EPA's Policy on Children's Health also does not apply.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action would reduce the required cellulosic biofuel volume for 2024 consistent with the volume of such fuel projected to actually be made available in 2024. Therefore, it is not expected to have any impact on the supply, distribution, or use of energy. In general, the RFS program is designed to achieve positive effects on the nation's transportation fuel supply by increasing energy independence and security.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. Except for the standards discussed in this section, the standards included in the regulatory text as incorporated by reference were all previously approved for incorporation by reference (IBR) and no change is included in this action. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference the following standard from ASTM International (ASTM):

Table IX.I-1: Standard to Be Incorporated by Reference

Standard	Part and Section of Title 40	Summary
ASTM D6751–24, Standard Specification for Biodiesel Fuel Blendstock (B100) for Middle Distillate Fuels, approved March 1, 2024	80.2 and 80.12	This updated standard describes the characteristics of biodiesel.

A detailed discussion of this standard can be found in Section VIII.A.2. Copies of this standard may be obtained from ASTM International, 100 Barr Harbor Dr., P.O. Box C700, West Conshohocken, PA 19428-2959, by calling (877) 909-ASTM, or at *http://www.astm.org*. The ASTM standard referenced in this rule is also available for public review in read-only format in the ASTM Reading Room at *https://www.astm.org/epa.htm* only for the duration of the public comment period.

ASTM International regularly publishes updated versions of its standards and test methods, with the potential that there will be a published version of the document listed above before we adopt the final rule that is more recent than the document we identify in this proposed rule. For any such updated version, we will consider including a reference to the latest document when we finalize the revisions covered by this proposed rule.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

EPA believes that this type of action does not concern human health or environmental conditions and therefore cannot be evaluated with respect to potentially disproportionate and adverse effects on communities with environmental justice concerns. This action does not affect the level of protection provided to human health or the environment by applicable air quality standards; it addresses a shortfall in cellulosic biofuel production in 2024. This action does not

relax the control measures on sources regulated by the RFS program and renewable fuel production decisions for 2024 have largely already been made and are not expected to change as a result of this action. Therefore, this action would not cause emissions increases from these sources and is not expected to have any impact on environmental justice communities.

X. Statutory Authority

Statutory authority for this action comes from sections 114, 203-05, 208, 211, and 301 of the Clean Air Act, 42 U.S.C. sections 7414, 7522-24, 7542, 7545, and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Administrative practice and procedure, Air pollution control, Diesel fuel, Fuel additives, Gasoline, Imports, Incorporation by reference, Oil imports, Petroleum, Renewable fuel.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 80 as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7521, 7542, 7545, and 7601(a).

Subpart A—General Provisions

2. Amend § 80.2 by revising the definition for "Glycerin" to read as follows:

§80.2 Definitions.

* * * * *

Glycerin means a co-product from the production of biodiesel that primarily contains glycerol.

* * * * *

3. Amend § 80.12 by revising paragraph (c)(12) to read as follows:

§80.12 Incorporation by reference.

* * * * *

(c) * * *

(12) ASTM D6751–24, Standard Specification for Biodiesel Fuel Blendstock (B100) for Middle Distillate Fuels, approved March 1, 2024 ("ASTM D6751"); IBR approved for § 80.2.

* * * * *

Subpart E—Biogas-Derived Renewable Fuel

4. Amend § 80.105 by revising paragraph (j)(3) to read as follows:

§80.105 Biogas producers.

* * * * *

(j) * * *

(3) The biogas producer must assign 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 compliance 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 compliance year and each subsequent batch during the compliance year being assigned the next sequential number (e.g., 4321-54321-23-000001, 4321-54321-23-000002, etc.).

* * * * *

5. Amend § 80.110 by revising paragraphs (f)(2)(iii) introductory text, (j)(1), and (j)(3) to read as follows:

§80.110 RNG producers, RNG importers, and biogas closed distribution system RIN generators.

* * * * *

(f) * * *

(2) * * *

(iii) An RNG producer that injects RNG from an RNG production facility into a natural gas commercial pipeline system must sample and test a representative sample of all the following at least once every three years, as applicable.

* * * * *

(j) * * *

(1) A batch of RNG is the total volume of RNG injected into a natural gas commercial pipeline system from an RNG production facility under a single batch pathway for the calendar month, in Btu LHV, as determined under paragraph (j)(4) of this section.

* * * * *

(3) The RNG producer, RNG importer, or biogas closed distribution system RIN generator must assign a number (the "batch number") to each batch of RNG or biogas-derived renewable fuel consisting of their EPA-issued company registration number, the EPA-issued facility registration number, the last two digits of the compliance 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 compliance year and each subsequent batch during the compliance year being assigned the next sequential number (e.g., 4321-54321-23-000001, 4321-54321-23-000002, etc.).

* * * * *

6. Amend § 80.115 by revising paragraph (b) to read as follows:

§80.115 RNG RIN separators.

* * * * *

(b) *Registration*. The RNG RIN separator must register with EPA under §§ 80.135, 80.1450, and 40 CFR part 1090, subpart I, as applicable.

* * * * *

7. Amend § 80.125 by revising paragraph (c)(3) and adding paragraph (d)(5) to read as follows:

§80.125 RINs for RNG.

* * * * *

(c) * * *

(3) Each party that transfers title of an assigned RNG RIN has transferred the corresponding volume of RNG to the transferee.

(d) * * *

(5) An assigned RNG RIN must be separated by December 31 of the subsequent calendar year after the RNG RIN was generated.

* * * * *

8. Amend § 80.135 by:

a. Revising paragraph (b)(2)(ii);

b. Revising and republishing paragraphs (c)(3) and (d)(3);

c. Revising paragraph (d)(6)(v);

d. Adding paragraph (d)(6)(vi); and

e. Revising paragraph (f).

The revisions and addition read as follows:

§80.135 Registration.

* * * * *

(b) * * *

(2) * * *

(ii) A biogas closed distribution system RIN generator or biogas producer does not need to submit an updated engineering review for any facility before the next three-year engineering review update is due as specified in § 80.1450(d)(3).

* * * * *

(c) * * *

(3) The following information related to biogas measurement:

(i) A description of how biogas will be measured, including the specific standards under which the meters are operated.

(ii) A description of the biogas production process, including a process flow diagram that

includes metering type(s) and location(s).

(iii) For an alternative measurement protocol under § 80.155(a)(3), all the following:

(A) A description of how measurement is conducted.

(B) Any standards or specifications that apply.

(C) A description of all routine maintenance and the frequency that such maintenance will be conducted.

(D) A description of the frequency of all measurements and how often such measurements will be recorded under the alternative measurement protocol.

(E) A comparison between the accuracy, precision, and reliability of the alternative measurement protocol and the requirements specified in § 80.155(a)(1) and (2), as applicable, including any supporting data.

* * * * *

(d) * * *

(3) The following information related to RNG measurement:

(i) A description of how RNG will be measured, including the specific standards under which the meters are operated.

(ii) A description of the RNG production process, including a process flow diagram that includes metering type(s) and location(s).

(iii) For an alternative measurement protocol under § 80.155(a)(3), all the following:

(A) A description of how measurement is conducted.

(B) Any standards or specifications that apply.

(C) A description of all routine maintenance and the frequency that such maintenance will be conducted.

(D) A description of the frequency of all measurements and how often such measurements will be recorded under the alternative measurement protocol.

(E) A comparison between the accuracy, precision, and reliability of the alternative measurement protocol and the requirements specified in § 80.155(a)(1) and (2), as applicable, including any supporting data.

* * * * *

(6) * * *

(v)(A) EPA may approve an RNG producer's request of an alternative analysis in lieu of the certificates of analysis and summary table required under paragraphs (d)(6)(i) through (iv) of this section if the RNG producer demonstrates that the alternative analysis provides information that is equivalent to that provided in the certificates of analysis and that the RNG will meet all natural gas specifications required under paragraph (d)(5) of this section.

(B) EPA may approve an RNG producer's request of a method other than those specified at § 80.155(b)(2) if the RNG producer demonstrates that the alternative analysis provides information that is reasonably accurate to that determined by the applicable method specified at § 80.155(b)(2).

(vi) An RNG producer does not need to test for a parameter specified in § 80.155(b)(2) if the parameter is not included in the pipeline specifications submitted at registration under paragraph (d)(5) of this section.

* * * * *

(f) *RNG RIN separator*. In addition to the information required under paragraph (b) of this section, an RNG RIN separator must submit all the following information:

(1) A list of locations of any dispensing stations where the RNG RIN separator supplies

or intends to supply renewable CNG/LNG for use as transportation fuel.

(2) A list of the names and locations of each point where RNG will be withdrawn from the natural gas commercial pipeline system.

* * * * *

9. Amend § 80.155 by:

a. Revising paragraph (a); and

b. Removing paragraph (b)(2)(vii) and redesignating paragraph (b)(2)(viii) as paragraph (b)(2)(vii).

The revision reads as follows:

§80.155 Sampling, testing, and measurement.

(a) *Continuous measurement.*

(1) *RNG and treated biogas measurement*. Any party required to measure the volume of RNG or treated biogas under this subpart must continuously measure using meters as specified in paragraphs (a)(1)(i) and (ii) of this section or have an accepted alternative measurement protocol as specified in paragraph (a)(3) of this section.

(i) In-line GC meters compliant with ASTM D7164 (incorporated by reference, see § 80.12), including sections 9.2, 9.3, 9.4, 9.5, 9.7, 9.8, and 9.11 of ASTM D7164.

(ii) Flow meters compliant with one of the following:

(A) API MPMS 14.3.1, API MPMS 14.3.2, API MPMS 14.3.3, and API MPMS 14.3.4 (incorporated by reference, see § 80.12).

(B) API MPMS 14.12 (incorporated by reference, see § 80.12).

(C) EN 17526 (incorporated by reference, see § 80.12) compatible with gas type H.

(2) *Biogas measurement*. Any party required to measure the volume of biogas under this

subpart must continuously measure using meters as specified in paragraphs (a)(2)(i) and (ii) of this section or have an accepted alternative measurement protocol as specified in paragraph (a)(3) of this section.

(i) Flow meters compliant with one of the methods specified in paragraph (a)(1)(ii) of this section.

(ii) Gas quality analyzers accepted under the party's registration under § 80.135.

(3) *Alternative measurement protocols*. EPA may accept an alternative measurement protocol if the party demonstrates that the alternative measurement protocol is at least as accurate and precise as the applicable methods specified in paragraphs (a)(1) and (2) of this section.

(4) *Third-party measurement*. (i) A biogas producer or RNG producer may use measurements conducted by a third party using a method specified in paragraphs (a)(1) through (3) of this section if the producer obtains an affidavit from the third party stating that the third party will use such method and EPA accepts the affidavit as part of the producer's registration under § 80.135.

(B) A biogas producer or RNG producer relying on the measurement of biogas, treated biogas, or RNG by a third party under paragraph (a)(4)(i) of this section is deemed compliant with the continuous measurement requirements of this paragraph (a) if the producer receives measurement documentation from the third party that contains the daily (or more frequent) total measured volume of biogas, treated biogas, or RNG, as applicable.

(5) *RNG RIN seperator measurement*. An RNG RIN seperator must measure natural gas or renewable CNG/LNG using one of the following:

(i) A method specified in paragraphs (a)(1) through (3) of this section.

(ii) Documentation (e.g., a pipeline or utility statement) that establishes the volume of

natural gas or renewable CNG/LNG.

* * * * *

10. Amend § 80.165 by revising paragraph (a)(1) to read as follows:

§80.165 Attest engagements.

(a) * * *

(1) The following parties must arrange for annual attestation engagement using agreed-upon procedures:

(i) Biogas producers that supplied biogas to produce RNG or a biogas-derived renewable fuel within the compliance year.

(ii) RNG producers that generated RINs within the compliance year.

(iii) RNG importers that generated RINs within the compliance year.

(iv) Biogas closed distribution system RIN generators that generated RINs within the compliance year.

(v) RNG RIN separators that separated RINs from RNG within the compliance year.

(vi) Renewable fuel producers that use RNG as a feedstock within the compliance year.

* * * * *

Subpart M—Renewable Fuel Standard

11. Amend § 80.1405 by revising entry "2024" in Table 1 to paragraph (a) to read as follows:

§80.1405 What are the Renewable Fuel Standards?

(a) * * *

Table 1 to Paragraph (a)—Annual Renewable Fuel Standards

Year	Cellulosic biofuel standard (%)	Biomass-based diesel standard (%)	Advanced biofuel standard (%)	Renewable fuel standard (%)
*	* * *	* * *		

2024	0.51	2.82	3.79	12.50
* * * * * * *				

* * * * *

12. Amend § 80.1451 by:

a. Revising paragraph (f)(1)(i)(A) introductory text; and

b. Adding paragraphs (f)(1)(i)(B)(*5*) and (f)(1)(i)(C).

The revision and additions read as follows:

§80.1451 What are the reporting requirements under the RFS program?

* * * * *

(f) * * *

(1) * * *

(i) * * *

(A) Except as specified in paragraphs (f)(1)(i)(B) and (C) of this section, obligated parties must submit annual compliance reports by whichever of the following dates is latest:

* * * * *

(B) * * *

(*5*) For the 2024 compliance year, annual compliance reports must be submitted by the next quarterly reporting deadline under paragraph (f)(2) of this section after the date the revised 2024 cellulosic biofuel standard becomes effective in § 80.1405(a).

(C) If EPA publishes a document in the *Federal Register* that proposes to revise a renewable fuel standard in § 80.1405(a), annual compliance reports for that compliance year must be submitted by the following date, as applicable:

(*1*) If EPA publishes a document in the *Federal Register* that finalizes the proposed revision to the renewable fuel standard in § 80.1405(a), whichever of the following dates is

latest:

(*i*) The next quarterly reporting deadline under paragraph (f)(2) of this section after the date the revised renewable fuel standard becomes effective in § 80.1405(a).

(*ii*) The applicable compliance reporting deadline under paragraph (f)(1)(i)(A) or (B) of this section.

(*2*) If EPA publishes a document in the *Federal Register* that withdraws the proposed revision to the renewable fuel standard in § 80.1405(a), whichever of the following dates is latest:

(*i*) The next quarterly reporting deadline under paragraph (f)(2) of this section that is 60 days after the date the withdrawal is published.

(*ii*) The applicable compliance reporting deadline under paragraph (f)(1)(i)(A) or (B) of this section.

(*3*) If EPA does not publish a document in the *Federal Register* that either finalizes or withdraws the proposed revision to the renewable fuel standard in § 80.1405(a) within 12 months after the date the proposed rule was published, whichever of the following dates is latest:

(*i*) The next quarterly reporting deadline under paragraph (f)(2) of this section that is 12 months after the proposed rule was published.

(*ii*) The applicable compliance reporting deadline under paragraph (f)(1)(i)(A) or (B) of this section.

* * * * *

13. Amend § 80.1456 by revising paragraph (d)(2) to read as follows:

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

* * * * *

(d) * * *

(2) The wholesale price of gasoline is calculated by applying the weighting factors specified in Table 1 to this paragraph to the Energy Information Administration average monthly gasoline spot price values specified in Table 1 to this paragraph for the twelve-month period ending June of the year preceding the compliance period.

Table 1 to Paragraph (d)(2)—Wholesale Price of Gasoline Weighting Factors

Gasoline Spot Price Data Source	Weighting Factor
Conventional Gasoline – New York Harbor, Regular	37.5%
Conventional Gasoline – U.S. Gulf Coast, Regular	37.5%
RBOB Regular Gasoline – Los Angeles	25.0%

* * * * *

14. Amend § 80.1464 by revising paragraph (d)(1) to read as follows:

§80.1464 What are the attest engagement requirements under the RFS program?

* * * * *

(d) * * *

(1) *Obligated parties*. Obligated parties must submit annual attest engagement reports to EPA by the next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline under § 80.1451(f)(1)(i).

* * * * *