

fuel analyses to determine the non-fossil fraction of fuel made from separated municipal solid waste.

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

(k) A renewable fuel producer that generates RINs for biogas or electricity produced from renewable biomass (renewable electricity) for fuels that are used for transportation pursuant to § 80.1426(f)(10) and (11), or that uses process heat from biogas to generate RINs for renewable fuel pursuant to § 80.1426(f)(12) shall keep all of the following additional records:

(1) Contracts and documents memorializing the sale of biogas or renewable electricity for use as transportation fuel relied upon in § 80.1426(f)(10), § 80.1426(f)(11), or for use of biogas for use as process heat to make renewable fuel as relied upon in § 80.1426(f)(12), and the transfer of title of the biogas or renewable electricity and all associated environmental attributes from the point of generation to the facility which sells or uses the fuel for transportation purposes.

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

(3) Documents demonstrating the volume and energy content of biogas, or kilowatts of renewable electricity, relied upon under § 80.1426(f)(11), or biogas relied upon under § 80.1426(f)(12), that was placed into the common carrier pipeline (for biogas) or transmission line (for renewable electricity).

(4) Documents demonstrating the volume and energy content of biogas, or kilowatts of renewable electricity, relied upon under § 80.1426(f)(12) at the point of distribution.

(5) Affidavits from the biogas or renewable electricity producer and all parties that held title to the biogas or renewable electricity confirming that title and environmental attributes of the biogas or renewable electricity relied upon under § 80.1426(f)(10) and (11) were used for transportation purposes only, and that the environmental attributes of the biogas relied upon under § 80.1426(f)(12) were used for process

heat at the renewable fuel producer's facility, and for no other purpose. The renewable fuel producer shall create and/or obtain these affidavits at least once per calendar quarter.

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

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

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

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

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

(o) The records required in paragraphs (b)(3) and (c)(1) of this section must be transferred with any renewable fuel sent to the importer of that renewable fuel by any foreign producer not generating RINs for his renewable fuel.

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

[75 FR 14863, Mar. 26, 2010, as amended at 75 FR 26046, May 10, 2010]

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

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

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of this section, such production facilities and importers that do not generate and assign RINs to batches of renewable fuel are also exempt from all the following requirements of this subpart:

(1) The registration requirements of § 80.1450.

(2) The reporting requirements of § 80.1451.

(3) The EMTS requirements of § 80.1452.

(4) The recordkeeping requirements of § 80.1454.

(5) The attest engagement requirements of § 80.1464.

(6) The production outlook report requirements of § 80.1449.

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

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

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

(1) The registration requirements of § 80.1450.

(2) The reporting requirements of § 80.1451.

(3) The EMTS requirements of § 80.1452.

(4) The recordkeeping requirements of § 80.1454.

(5) The attest engagement requirements of § 80.1464.

(6) The production outlook report requirements of § 80.1449.

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

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

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

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

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

(1) The price of these cellulosic biofuel waiver credits will be set by EPA on an annual basis in accordance with paragraph (d) of this section.

(2) The total cellulosic biofuel waiver credits available will be equal to the reduced cellulosic biofuel volume established by EPA for the compliance year.

(b) *Use of cellulosic biofuel waiver credits.*

(1) Cellulosic biofuel waiver credits are only valid for use in the compliance year that they are made available.

(2) Cellulosic biofuel waiver credits are nonrefundable.

(3) Cellulosic biofuel waiver credits are nontransferable.

(4) Cellulosic biofuel waiver credits may only be used for an obligated party's current year cellulosic biofuel RVO and not towards any prior year deficit cellulosic biofuel volume obligations.