



January 7, 2021

Comments on Energy Information Administration, Agency Information Collection Extension, Notice and request for OMB review and comment, 85 Fed. Reg. 79,005 (Dec. 8, 2020)

Coalition for Renewable Natural Gas (RNG Coalition) appreciates the opportunity to submit comments on the U.S. Energy Information Administration's (EIA) Agency Information Collection Extension of various surveys under EIA's Natural Gas Data Collection Program. RNG Coalition represents the renewable natural gas (RNG) industry in North America. It is a non-profit association of companies and organizations dedicated to the advancement of RNG as a clean, green, alternative and domestic energy and fuel resource. These comments focus on EIA's changes to Form EIA-176, which collects data on natural, synthetic, and other supplemental gas supplies, their disposition, and certain revenues by state. EIA initially proposed changes to Form EIA-176 on April 28, 2020 (85 Fed. Reg. 23,511), and RNG Coalition submitted comments on these proposed changes. In this Agency Information Collection Extension, EIA is not finalizing the same changes as initially proposed, but, instead, is modifying the survey instructions to include RNG producers "who inject high-Btu RNG into an interstate pipeline, intra-state pipeline, or natural gas distribution company system" as respondents. 85 Fed. Reg. at 79,005. While RNG Coalition appreciates EIA's attempts to address its comments on the initial proposal, we remain concerned with the form, even as revised, and request that EIA work with the RNG Coalition to develop a survey form that would be clearer and more useful for the RNG industry.

In particular, we are concerned that the form will result in duplicative reporting, and we continue to have concerns with respect to EIA's claim that responses to the survey form are considered "public information and may be publicly released in company or individually identifiable form." Form EIA-176 Instructions, Expiration Date 1/31/2024, at 6. Although EIA claims that it is making this modification "because these facilities produce the equivalent of pipeline-quality natural gas that is not captured elsewhere in EIA's production statistics," 85 Fed. Reg. at 79,005, its supporting statement ignores the reporting already available and continues to fail to support its asserted finding that the information being requested is "public information." As the RNG Coalition's earlier comments explained, RNG production data is considered confidential business information and should be treated as such. EIA can, and has, reported data on an aggregate basis and, with respect to RNG production data, can report it at the State level (subject to having sufficient responses). Project- or company-specific RNG production data is not necessary to meet the information needs asserted by EIA with respect to Form EIA-176 (see EIA Supporting Statement, Section A.2.1.).

As it noted in its prior comments, RNG Coalition does not oppose collection of information on RNG and provided suggestions on how best to do so with respect to EIA's proposed survey form in comments dated June 29, 2020, which are attached hereto. RNG Coalition remains willing to work with EIA on how best to collect RNG information moving forward.

Revised Form EIA-176 Appears to Only Require Reporting of RNG as "Supplemental Gas"

In its June 29, 2020 comments, RNG Coalition expressed concerns that the initial proposed changes did not take into account the differences between the RNG industry and "conventional" natural gas production.¹ As a result, the Form and Instructions were not sufficiently clear as to how RNG producers were expected to respond. Among other things, the RNG Coalition's comments requested that: EIA distinguish between RNG and "biogas"; require reporting of RNG separate from "Synthetic" natural gas; and clarify what questions RNG producers needed to respond to, as many of the questions did not appear to apply or did not easily apply to RNG producers. Although EIA indicated it would be making clarifications in its response to the RNG Coalition's comments, the only express clarification it appears to have made is to distinguish RNG from biogas.

The revised Form removed the initially proposed changes, and the revised Instructions to Form EIA-176 merely reference producers of "high-Btu renewable natural gas" that inject into interstate or intrastate pipelines² or to a natural gas distribution system as required respondents and define RNG to be "[a] gaseous substance consisting mostly of methane, and chemically similar to conventional natural gas. Renewable natural gas can be produced by purifying biogas produced at landfills, wastewater treatment facilities, and digesters." Form EIA-176 Instructions, Expiration Date 1/31/2024, at 6. While we appreciate the apparent acknowledgement that RNG is distinct from "biogas," and is pipeline-quality fuel, there is no further explanation in the Instructions with respect to how RNG is to be reported or who must report RNG production.

Rather than make any of the suggested clarifications, EIA only includes a definition of RNG as a "gaseous substance" that appears to track the definition of "Supplemental Gas."³ As such, we read the revised Form to only require RNG producers to report supplemental gaseous

¹ EIA refers to "conventional" natural gas, which we believe to be "geologic" natural gas.

² RNG injected into on-site and local pipelines that deliver to a nearby end-user, such as to a CNG fueling station or power plant are not covered by the survey. See 85 Fed. Reg. at 79,005.

³ "Supplemental Gas" is defined as: "Any gaseous substance introduced into or commingled with natural gas that increases the volume available for disposition. Such substances include, but are not limited to, propane-air, refinery gas, coke oven gas, still gas, manufactured gas, biomass gas, or air or inerts added for Btu stabilization." Form EIA-176 Instructions, Expiration Date 1/31/2024, at 6. This definition refers to "biomass gas," although EIA's revised Instructions do not list RNG as an example of Supplemental Gas. While the Excel Spreadsheet of the current Form does have a drop-down menu, EIA has only provided a PDF version of the revised Form on which to review and comment.

fuel supplies under Part 4, Item 6.0, and possibly “Other disposition within the report state (not included above)” under Part 6, Item 18.0, of Form EIA-176.⁴ While these changes from those initially proposed may address some of the concerns raised in the RNG Coalition’s earlier comments by limiting what information RNG producers must report, we believe such information is being collected already, and, as such, remain concerned with duplicative reporting.

First, EIA is purporting to limit new survey respondents to RNG producers that “inject into an interstate or intra-state pipeline, or who deliver to a natural gas distributor.” But pipeline companies and natural gas distribution companies are already required to submit Form EIA-176. As explained in the RNG Coalition’s prior comments, the current definition of “Producer” in Form EIA-176 does not include RNG producer, and RNG production and distribution can include several entities depending on how the transaction is structured. If EIA believes pipelines or distributors are not sufficiently reporting RNG, then EIA need merely make clear that Supplemental Gas includes RNG with respect to these entities already reporting, rather than potentially create duplicative reporting or confusion as to who should report.

Second, the vast majority of RNG produced is being targeted for transportation fuel and, as such, is reported to the U.S. Environmental Protection Agency (EPA) under the Renewable Fuel Standard program. EPA makes public the aggregate volume of RNG produced in the U.S. under this program. Such fuel is typically injected into a pipeline, but can also be used internally or locally by, for example, fleets. EPA’s data on RNG production, therefore, may be more comprehensive than what would be reported on Form EIA-176. Experience with other EIA surveys addressing biofuels have shown inconsistencies with EPA data, which would not serve the information benefits sought by EIA. In addition, while we acknowledge that RNG may be used for other purposes outside transportation fuel, and we believe such uses will continue to grow, EIA expressly excludes RNG that goes into local or on-site pipelines and, as such, would not be capturing much of these other uses.⁵

Although EIA’s response to comments indicated that it would “provide more explicit justification” for its modifications to Form EIA-176, Public Comments For ROCIS Data Entry at 18, EIA’s supporting statement for the revised Form does not reference these other

⁴ In response to comments asking that EIA collect information on “The ‘end use’ of the biogas. For example: fueling vehicles, electricity generation (e.g., supplied to grid, used for EVs, industrial usage, etc.), storage, heat, or other,” EIA stated that its “proposed data collection will do this.” Public Comments For ROCIS Data Entry at 37-38. EIA further stated that: “Under the current survey design, any RNG producer that delivers to an end-user will have to report deliveries by sector, as you suggest. However, in instances where a midstream entity delivers a mixture of both conventional natural gas and RNG, there is no simple way to separate and allocate those volumes by sector.” *Id.* Where EIA is only including producers that inject RNG into a pipeline or natural gas distribution system as respondents, where this would be reported is not apparent on the face of the Form or Instructions.

⁵ EIA did recognize that other end uses may already be captured under the Survey, noting, in response to comments, that “RNG used in electricity will be captured as end-use deliveries to the electric sector.” Public Comments For ROCIS Data Entry at 38. EIA did not indicate how this RNG is reported. RNG Coalition provided suggestions on how to better capture RNG within Form EIA-176 to reflect fleet and other uses. As noted below, EIA appears to have declined, at this stage, to make these broader changes.

requirements with respect to the modification to Form EIA-176 (see Section A.4.1.) and provides no further explanation as to why this modification is necessary, except to say the information is not currently captured. But, a significant portion of RNG produced in the U.S. is injected into interstate pipelines, and there are over 100 RNG projects across the United States. EIA contends that there are only 20 new respondents under its modification, again, failing to explain why the RNG production information it is seeking is not already being collected (or cannot be collected) as part of the over 2000 entities already responding.

If EIA believes more reporting is required of RNG producers under the form as revised, then RNG Coalition, again, asks that it provide clear instructions to RNG producers. As previously explained, there are numerous RNG producers, some of which are small entities that do not have the same regulatory compliance structure as larger companies. EIA has noted it has conducted prior webinars on its revised surveys, and RNG Coalition requests EIA provide a similar webinar to its members to explain the Survey Form and Instructions.

EIA Must Protect Confidential Business Information

RNG Coalition submitted comments on EIA's proposed Form EIA-176 and Instructions, urging EIA to protect confidential business information. EIA responded that it takes its obligations to protect such information seriously. Yet, still without explanation, the Instructions to Form EIA-176 (page 6) continue to state: "Information reported on Form EIA-176 is considered public information and may be publicly released in company or individually identifiable form." In its supporting documentation, EIA merely states it views the information to be reported in Form EIA-176 as public (see Section A.10.). This statement ignores the concerns regarding confidential business information that were raised in public comments by RNG Coalition, as well as NGVAmerica. We have attached the comments submitted on the initial proposal and reiterate these same concerns here.

In short, EIA should not and cannot simply apply a conclusory and blanket determination it has made for conventional natural gas to RNG production data from RNG producers. As explained, this information has been claimed as confidential business information and treated as such, and EIA has provided no support for any claim that disclosure of company-level information is needed for any public purpose. Disclosure without giving the industry an opportunity to examine and comment on the basis for such a determination is counter to federal law protecting confidential business information. *See, e.g.*, 42 U.S.C. §7135(g); 10 C.F.R. §§1004.10-1004.11.

In its response to comments, EIA stated: "We would not intentionally release information that may cause harm to survey respondents." Public Comments For ROCIS Data Entry at 18. As such, EIA must make clear that, to the extent it continues to require RNG producers to submit the EIA survey, that such producers can continue to assert their claims of confidential business information and that EIA will respect those claims.

RNG Coalition Requests EIA Work with the RNG Industry in Developing Survey Forms and Instructions to Best Capture RNG

As noted above, RNG Coalition does not oppose collection of RNG information, subject to maintaining confidentiality of sensitive business information. Along those lines, RNG Coalition, which represents over 95% of RNG production in the United States, made several suggestions on how EIA could improve its survey to better collect information on RNG. While other comments submitted on the initial proposed changes to Form EIA-176 also made suggestions on what RNG information should be collected, EIA simply indicated that it would continue to review the survey forms and consider additional changes in the future. We appreciate EIA's continued interest in RNG and its acknowledgement that the RNG industry continues to grow. RNG Coalition looks forward to working with EIA, as it continues these efforts moving forward.

* * *

We thank the U.S. Energy Information Administration and the Office of Management and Budget for consideration of these comments. RNG Coalition stands ready to work with EIA to ensure proper reporting by its members. Any questions on these comments should be directed to David Cox, General Counsel, Coalition for Renewable Natural Gas, at 1017 L Street, #513, Sacramento, CA, 95814, (916) 588-3033, info@rngcoalition.com.

Attachment to Comments of
Coalition for Renewable Natural Gas on
Energy Information Administration, Agency Information Collection Extension,
Notice and request for OMB review and comment, 85 Fed. Reg. 79,005 (Dec. 8, 2020)
January 7, 2020



VIA ELECTRONIC MAIL

June 29, 2020

Michael Kopalek
U.S. Energy Information Administration
1000 Independence Avenue SW, EI-25,
Washington, DC 20585
michael.kopalek@eia.gov

RE: Agency Information Collection Proposed Extension,
Natural Gas Data Collection Program, 85 Fed. Reg. 23,511 (Apr. 28, 2020)

Dear Mr. Kopalek:

Coalition for Renewable Natural Gas (RNG Coalition) appreciates the opportunity to submit comments on the U.S. Energy Information Administration's (EIA) Agency Information Collection Proposed Extension of various surveys under EIA's Natural Gas Data Collection Program. These comments focus on EIA's proposed changes to Form EIA-176. As part of the proposed extension, EIA is proposing to add "[p]roducers of renewable natural gas or biogas, including landfill collection facilities, agricultural digesters, and wastewater treatment facilities" to its list of required respondents for Form EIA-176, Annual Report of Natural Gas and Supplemental Gas Supply and Disposition. 85 Fed. Reg. 23,511, 23,512 (Apr. 28, 2020). RNG Coalition represents the renewable natural gas (RNG) industry in North America. It is a non-profit association of companies and organizations dedicated to the advancement of RNG as a clean, green, alternative and domestic energy and fuel resource. RNG Coalition does not necessarily oppose expanding Form EIA-176 to include RNG producers, but we do not believe the proposed Instructions or revised Form accurately reflect the RNG industry or provide sufficient guidance to RNG producers and thus may not be appropriate to finalize without modifications, particularly with respect to protecting proprietary information.

EIA's notice does not explain the need for or provide the basis of the proposed changes to Form EIA-176. With the growth of the RNG industry, RNG Coalition, nonetheless, does believe it may be useful for EIA to collect information specific to RNG. But, in making its proposed changes, we do not believe EIA has adequately taken into account the differences

between the RNG industry and “conventional” natural gas production.¹ The Instructions to the Form provide little, if any, guidance with respect to RNG production, and uses terms inconsistently when considered from an RNG producer’s perspective. We believe finalizing the Form and Instructions as proposed would create confusion and could result in either underreporting or duplicative reporting, depending on the issue, rendering the data collection suspect. We are also concerned that EIA may be unintentionally undermining the industry’s rights to keep proprietary information confidential without even giving the industry an opportunity to assert its claims. RNG Coalition is willing and available to work with EIA to modify the Form as may be appropriate to address these concerns.

I. If EIA is Expanding the Survey Respondents, EIA Must Ensure it is Protecting the Confidential Business Information of those Respondents.

Under the proposed revisions, many companies would be reporting under Form EIA-176 for the first time.² The instructions for Form EIA-176 (page 6) state: “Information reported on Form EIA-176 is considered public information and may be publicly released in company or individually identifiable form.” Because this is a new requirement and the RNG industry is distinct from “conventional” natural gas that has largely been the focus of the survey, EIA should be required to analyze the potential impacts of releasing to the public company specific information obtained from the survey on the RNG industry. In particular, EIA must explain the basis for claiming the information that will now be collected is not eligible for treatment as confidential business information (CBI), which is generally protected under federal law.

While it is not entirely clear the extent of the information that RNG producers would be required to report (discussed further below), EIA does not explain its determination that the information reported “is considered public information” with respect to information being sought from RNG producers.³ Instead, EIA appears to be applying an earlier determination to RNG producers without even giving the RNG industry an opportunity to understand the basis of this determination or to defend its CBI claims. While we understand that EIA has released information obtained from Form EIA-176 on a company-specific basis, it has not reported *RNG* data. And, the bulk of the natural gas use reported is for electric power or industrial uses. According to EIA, only 0.2% is reported as going to transportation fuel in 2018.⁴ There may be a basis for the public obtaining information from its utility providers, but the vast majority of RNG is used in the transportation fuel market.⁵

¹ EIA refers to “conventional” natural gas in the revised Form, which we believe to be “geologic” natural gas.

² Certain RNG producers may have other operations for which they may be already submitting Form EIA-176. However, for many RNG producers, this would be a new requirement. EIA’s notice notes an increase in the number of respondents that would be submitting Form EIA-176 as part of the information collection request.

³ Nor could we find any explanation for this determination in prior Information Collection Request notices.

⁴ EIA, *Natural Gas Annual Respondent Query System (EIA-176 Data through 2018)*, release date October 2019, <https://www.eia.gov/naturalgas/ngqs/#?year1=2015&year2=2018&company=Name>.

⁵ As far as we can tell, petroleum production and supply is not reported on a company-specific basis, but on a PADD or State basis. See, e.g., *Petroleum Supply Annual*, Volume 1, release date September 30, 2019, <https://www.eia.gov/petroleum/supply/annual/volume1/>. Individual refining production capacity is reported.

Because the RNG industry is distinct from other natural gas production operations, EIA cannot and should not simply apply this blanket determination to information from RNG producers. This is counter to federal law protecting CBI. *See, e.g.*, 42 U.S.C. §7135(g). Indeed, U.S. Department of Energy (DOE) regulations recognize that CBI is exempt from disclosure under the Freedom of Information Act. 10 C.F.R. §1004.10. As such, before EIA can simply add RNG producers to Form EIA-176, EIA must revise the Instructions to the Form to make clear that RNG producers may claim CBI or EIA must provide the industry with an explanation of its authority and the factual basis for such a determination prior to forcing the industry to provide proprietary information by submitting these forms. In the latter case, EIA must provide the industry with an opportunity to comment on EIA's explanation prior to making a final determination.⁶

It is important to note that the transportation fuel market is distinct from the utility or power sector, which is subject to rates and reliability regulations for their coverage area. RNG production is growing due, in large part, to the Renewable Fuel Standard program and, as such, most RNG is likely to continue to go into the transportation fuel market. In particular, it does appear that EIA is seeking RNG production data. RNG production data from individual facilities is considered proprietary and is treated as confidential by the companies. Investments in and development of an RNG project are based on numerous factors, and, while the technology is well-established, each company may make its own modifications, improvements and efficiencies. As such, production data can reveal information regarding a company's operations. Other information sought on the form also could reveal a company's marketing and business operations. Revealing this company specific data could, then, provide competitors and customers with an advantage. This is quintessential proprietary and confidential information.

RNG data has been found to be entitled to treatment as CBI by other agencies. Production data is essentially reported to the U.S. Environmental Protection Agency (EPA) for purposes of generating Renewable Identification Numbers (RINs) under the Renewable Fuel Standard program. Generation of RINs is based on and represents production. EPA has found this data to be eligible for CBI protections.⁷ RNG customer information and other business sensitive information has also been found to be CBI by EPA and is treated as such by RNG producers. EIA should not undermine this determination. As such, EIA must not expand the survey until it can assure producers that it will provide adequate procedures to protect CBI.

On the other hand, RNG Coalition believes that protecting company-specific RNG data from public disclosure would not undermine EIA's information goals, as it can still provide aggregate information on RNG production and use to the public. EIA often releases aggregated data, while protecting individual company information, including with respect to other surveys

⁶ The Federal Register notice does not provide an adequate opportunity for producers to defend their CBI claims. It remains unclear the extent to which EIA is seeking data from RNG producers or how it will release such information. EIA also does not provide any explanation for the need to add RNG producers to the list of survey respondents much less the need/benefit to the public to release individual company information.

⁷ EPA has proposed to codify this determination. 81 Fed. Reg. 80,828, 80,943-80,945 (Nov. 16, 2016); *see also* 84 Fed. Reg. 36,762, 36,765 (July 29, 2019).

within the Natural Gas Data Collection Program, *see, e.g.*, Instructions for Form EIA-857 at 4; Instructions for Form EIA-910 at 2; Instructions for Form EIA-912 at 2. We believe EIA can do the same here. As such, we ask that EIA amend its Instructions to Form EIA-176 to allow RNG producers to assert CBI claims with respect to information being submitted under the Form and, as necessary, provide instructions on how to make such claims. Subject to clarifications regarding the information being sought (compared to why EIA believes Form EIA-176 generally does not involve CBI), RNG Coalition would be pleased to provide additional information on why this information should be entitled to treatment as CBI.

II. If EIA Includes RNG Producers as Respondents, It Must Modify the Definitions and Terms Used in the Instructions and Survey Forms to Better Reflect RNG Production.

The Instructions to Form EIA-176 make only one reference to RNG, which also references “biogas,” and the terms and definitions used in the Form and its Instructions are not always easily applied to RNG operations. Prior to adding RNG producers as survey respondents (and subject to the confidentiality concerns noted above), EIA must make clarifications to the Instructions and Form to better reflect RNG operations and make clear what parts of the survey RNG producers must answer.

A. EIA must distinguish biogas from RNG.

EIA’s Federal Register notice indicates it is seeking to add producers of RNG *and biogas* as respondents to Form EIA-176. Along those lines, EIA proposes revise the Form’s section on “Type of Operations” (Part 3.A.) to further define the entry for “Producer” to be “Producers (includes conventional and renewable natural gas).”⁸ However, EIA does not provide a definition of RNG or biogas, and Form EIA-176 does not otherwise reference biogas.⁹ As such, it appears that EIA may be improperly conflating RNG with biogas. RNG, however, is significantly different from biogas. RNG Coalition believes that the proposed reference to producers “of renewable natural gas or biogas” potentially conflates these very different fuel sources and can create confusion. We urge EIA to exclude biogas producers from having to respond to the survey, as potentially duplicative of the request for supplemental gas information. More important, EIA must keep RNG separate from biogas in the Instructions and Form and provide clear definitions reflecting the distinctions between RNG and biogas.

⁸ EIA has proposed to add, under “Who Must Submit” in the Instructions for Form EIA-176: “Producers of renewable natural gas or biogas, including landfill collection facilities, agricultural digesters, and wastewater treatment facilities.”

⁹ RNG Coalition notes that the reference to “biogas” also appears to be inconsistent with EIA’s use of the term “Supplemental Gas.” The Instructions for Form EIA-176 defines “Supplemental Gas” as “Any gaseous substance introduced into or commingled with natural gas that increases the volume available for disposition. Such substances include, but are not limited to, propane-air, refinery gas, coke oven gas, still gas, manufactured gas, biomass gas, or air or inerts added for Btu stabilization.” Although not defined in the Instructions, EIA’s glossary defines “biomass gas” as “A medium Btu gas containing methane and carbon dioxide, resulting from the action of microorganisms on organic materials such as a landfill.” (<https://www.eia.gov/tools/glossary/index.php?id=B> (last visited June 26, 2020)). The reference to “biomass gas” further confuses how and whether biogas is reported.

RNG is distinct from biogas. RNG, sometimes referred to as “biomethane,” is a high-BTU product gas predominantly composed of methane, and derived from biogas. The feedstocks that can be used to create RNG come from various sources, including, but not limited to, existing biogas production facilities at landfills, wastewater treatment plants, commercial food waste facilities, and agricultural digesters (dairies, pig farms, etc.). RNG production facilities process biogas to remove most of the carbon dioxide, nitrogen and other trace constituents that prevent biogas from otherwise being injected into natural gas pipelines or dispensed as a fuel into natural gas vehicles. RNG is also different from biogas in that significant capital is required to upgrade biogas to pipeline quality or transportation fuel grade, such that it can be blended with, or substituted for, geologic natural gas without any operational changes. Unlike biogas, RNG can be sold for use as a drop-in vehicle fuel, for renewable electric power and or heat generation for in-home, commercial and industrial uses. At least 75% of operational or planned RNG projects identified by RNG Coalition are connected to or plan to be connected to a pipeline with the remaining projects largely providing direct fueling for transportation use.¹⁰

Because of these significant differences and because only RNG (not biogas) is interchangeable with “conventional” natural gas, EIA should not treat RNG and biogas similarly, and, while RNG plants may be co-located at these sources of biogas, they are often separated facilities. As such, the references to sources of feedstock for RNG facilities may cause confusion as to who is the proper party that must submit the forms. Subject to the comments on the definition of “producer” below, we believe EIA should simply reference “Producers of renewable natural gas” under “Who Must Submit” in the Instructions for the Form by making the changes shown below (deletions in ~~strike through~~):

WHO MUST SUBMIT

Form EIA-176 is mandatory pursuant to Section 13(b) of the Federal Energy Administration Act of 1974 (Public Law 93-275) and must be completed by:

...

(9) Producers of renewable natural gas ~~or biogas, including landfill collection facilities, agricultural digesters, and wastewater treatment facilities.~~

In addition, to ensure RNG data is collected (as compared to biogas), RNG Coalition believes EIA also should include a definition of RNG in the Instructions for Form EIA-176. RNG Coalition supports the following definition:

Renewable natural gas: Gaseous fuel derived from biomass or other renewable sources that is interchangeable with natural gas.¹¹

¹⁰ RNG Coalition keeps a list of RNG projects at its website, <http://www.rngcoalition.com/rng-production-facilities>.

¹¹ By contrast, RNG Coalition believes biogas is best defined as: “A mixture of carbon dioxide and hydrocarbons derived from biological decomposition or organic materials that is not interchangeable with natural gas, but can be treated to produce renewable natural gas.” As noted above, however, EIA does use the term “biomass gas” elsewhere, and it is unclear if EIA is seeking to distinguish “biogas” from “biomass gas.”

RNG is interchangeable with natural gas because it is pipeline quality. Since biogas is not interchangeable with natural gas, we do not believe it is beneficial to collect information on biogas with this form. To the extent EIA believes such information is necessary, EIA should either also breakout biogas or clarify that biomass gas is biogas to be separately reported from RNG as “supplemental gaseous fuels supplies.”

- B. EIA should clarify the definition of “producer” of RNG and who should report RNG production.

RNG Coalition is also concerned that the current definition of producer in the Instructions for Form EIA-176 may not accurately reflect the different ways RNG operations may be structured. This could cause confusion as to who, with respect to RNG production and sales, is required to submit the survey responses. In addition, the current terms and definitions appear to reflect “conventional” natural gas, rather than “renewable” natural gas, requiring modification to ensure proper reporting.

The Instructions currently define “Producer” as “A company engaged in the production and sale of natural gas from gas or oil wells with delivery generally at or near the wellhead, the field, or the tailgate of a gas processing plant. For the purpose of company classification, a company primarily engaged in the exploration, development, or production of oil and natural gas.” EIA, however, appears to be treating RNG differently from “natural gas,” and RNG typically is not produced from “wells.”¹² In addition, an RNG producer may have its facility co-located with other operations or an RNG facility may have different owners and operators. As such, RNG Coalition believes EIA should revise the definition of “producer” to better reflect and incorporate the RNG industry, which should also clarify who needs to submit the reports (*e.g.*, operator of the RNG facility) to avoid duplicative reporting. RNG Coalition suggests that EIA either use a different term than “Producer,” as it did with the reporting requirements for synthetic natural gas (“Synthetic natural gas (SNG) plant operator”)—*i.e.*, Renewable Natural Gas plant operator—or add a new definition “Producer of Renewable Natural Gas” in the Instructions to Form EIA-176, which could be defined as the “operator” of the RNG facility. Referencing the “operator” of the RNG facility (rather than the RNG “producer”) may provide more clarity as to who must submit the reports. In such a case, EIA would need to amend the definition of “Operator” in the Instructions to read as follows (deletions in ~~strike through~~ and additions in bold):

The company responsible for the management and day-to-day operations of natural gas production, gathering, treating, processing, transportation, storage, distribution facilities, ~~or a~~ synthetic natural gas plant, **or a renewable natural gas plant.**

¹² See, *e.g.*, DOE, *Natural Gas Production*, https://afdc.energy.gov/fuels/natural_gas_production.html (last visited June 26, 2020) (explaining distinction between source of “conventional natural gas” and “renewable natural gas”).

- C. EIA need not require RNG Producers to respond to Part 6 of Form EIA-176 on disposition of natural gas, but could clarify whether RNG distribution must be reported by others.

Where the definitions and terms used in the Instructions and Form appear geared toward “conventional” natural gas, whether and how other parts of the survey apply to RNG producers is unclear. EIA’s notice does not provide an explanation as to the purpose of the expanded list of respondents to include RNG producers, and the only reference to “renewable natural gas” in Form EIA-176 under EIA’s proposal would be under Part 4 Item 1.0. Under Part 4 Item 1.0, EIA separates RNG from “natural gas.” As such, it is unclear when EIA only refers to “natural gas,” if other portions of the survey must be completed with respect to RNG. In particular, Part 6 (Natural and Supplemental Gas Disposition for the Report State) only requests information on disposition of “natural gas.” And, several of the terms used in Part 6 are either undefined or defined in a way that would not easily lend themselves to RNG or transportation fuel use.¹³ Further, if RNG is to be reported under Part 6, failure to explain the terms used and the reporting requirements as they apply to RNG may result in double counting volumes that are reported by others marketing or distributing the fuel to the end-user. As such, it is unclear if EIA intends this section to apply to RNG producers and, moreover, it is unclear whether (and how) RNG is to be reported at all under this Part.

Thus, on the face of Form EIA-176, RNG Coalition does not believe EIA should require RNG producers to respond to Part 6 and urges EIA to make clear that RNG producers need not respond to it. The bulk of RNG produced today is for transportation fuel use. A significant portion is injected into common carrier pipelines for distribution with most of the remainder sold through direct fueling. Indeed, EIA does not explain the need for getting information on the “disposition” of RNG from RNG producers, particularly given that the survey form already applies to, among others, natural gas pipeline companies and natural gas distributors. And, given that EIA only proposes to add RNG to Part 4 for purposes of reporting production, RNG Coalition believes EIA should make clear that RNG producers need only respond to Parts 3 and 4 of the survey (subject to the other comments outlined herein).

If EIA intended that RNG producers also fill out Part 6, EIA should make that clear and must make changes to the Form to clarify whether and how RNG producers should respond.¹⁴ Examples of such needed clarifications follow.

- EIA must clarify whether *renewable* “natural gas” should also be reported or just *conventional* “natural gas” (as the current terms appear to suggest).

¹³ As one example, the Instructions for Form EIA-176 define “Delivered” as “The physical transfer of natural, synthetic, or supplemental gas from facilities operated by the responding company to facilities operated by others or to consumers.” This definition does not specifically reference RNG, as EIA does elsewhere in the proposed revisions to the Form and its Instructions.

¹⁴ Form EIA-176 specifies that only certain entities (not producers) need to respond to Part 6 Items 13 and 14.

- EIA must clarify who the “consumers” and “customers” for RNG producers would be under Part 6 Items 9-11, which refer to “consumer,” “end-use consumers,” and “customers.” While RNG Coalition questions the need for identifying the number of customers and revenue, it is simply not clear who is the “consumer” or who is the “customer” (which is undefined) where the RNG is typically injected into a pipeline for use in transportation fuel downstream and where the pipeline (or distributor) may also be reporting this information.
- Part 6 Item 12 requests information on “natural gas” consumed in the company’s operations. Some facilities may utilize natural gas in their operations, but, for some of these applications, it is likely that only estimated amounts would be available to RNG producers. As noted above, EIA should clarify what “natural gas” use must be reported. EIA also should clarify whether Part 4 Item 5.0 (which requests volumes of “any other receipts of natural gas”) or Part 4 Item 6.0 (which requests volumes of “supplemental gaseous fuels supplies”) includes natural gas or supplemental gas used for operations. If so, then Part 6, Item 12 would be redundant information.
- Part 6 Items 15-17 relate to lease use, returned gas, and leaks. But, on their face, these survey items appear to be designed for conventional natural gas not RNG. EIA should clarify whether these survey items apply to RNG producers and, if so, provide further guidance as to how they should respond.

In short, we believe Part 6, as currently structured, should not apply to RNG producers. If EIA is seeking additional information on disposition of RNG, then it should clarify that RNG data is also being requested and, like it did in Part 4, separate RNG from natural gas. Doing so, however, would not necessarily require RNG producers to respond to Part 6. As noted above, distributors and pipelines may be in a better position to identify the “consumers” and “customers” using RNG and could report that information in a manner consistent with how they submit the reports for “conventional” natural gas.

III. Subject to RNG Coalition’s Concerns Regarding Confidentiality, EIA Should Request RNG Production Data Separately From Synthetic Gas (or “Conventional” Natural Gas).

EIA proposes to have RNG production reported with “Synthetic natural gas” production under Part 4 Item 1.0 of the survey. Again, EIA provides no explanation as to the basis for the proposed change. RNG Coalition believes RNG should be reported and tracked separately from “Synthetic natural gas.” As such, assuming EIA can properly address the concerns noted above, we recommend that EIA add “Renewable natural gas” as a separate category to report those volumes (in the aggregate) separately. The survey item would appear as follows (deletions in ~~strikethrough~~ and additions in **bold**):

Part 4. Natural and Supplemental Gas Supply for the Report State

...

1.0 If you are a producer, report production within the report state of:

1.1 Natural gas (if reporting natural gas production, lease use data should also be reported on line 15.0)

1.2 Synthetic natural gas (SNG) ~~or renewable natural gas (RNG)~~

1.3 Renewable natural gas (RNG)

Since RNG Coalition believes it would be helpful to report RNG production separately, we believe this change would make it easier for EIA to collect and aggregate the information. This would also facilitate subsequent changes that may further break out RNG production such as by feedstock source (*e.g.*, landfill, agricultural digester, wastewater treatment facility digesters). RNG Coalition is also willing to work with EIA on whether other parts of the survey should similarly request RNG data separately. As noted above, it would appear the term “natural gas,” as used elsewhere in the survey Form EIA-176 does not include RNG.

IV. Additional Clarifications are Needed to Provide More Guidance on How to Respond to the Survey Regarding RNG.

Because Form EIA-176 will be new to many RNG producers, RNG Coalition reviewed each question in the form to make suggestions on how to improve or clarify the form from an RNG producer’s perspective. We believe EIA also could clarify whether other parts of Form EIA-176 applies to RNG, either in the form itself or as part of the instructions. We welcome any guidance EIA can provide to RNG producers to ensure accurate reporting.

A. Vehicle Fleet Fuel Use (Part 3.B.).

Part 3.B. (Vehicles Powered by Natural Gas) of Form EIA-176 requests information on company vehicle fleets and their fuel use. Additional information is needed on how to report company fleet fuel use. For example, “Company fleet” is not defined. Does this include any vehicles owned by the company or only when the company owns a large group of vehicles, such as a fleet of garbage trucks? It is also unclear if the information is to be reported for the applicable state being addressed in the responses or total fleet usage. If the former, how are vehicles used for interstate commerce to be reported? If the latter, how does EIA avoid duplicative responses when the company has operations in more than one state?

Notwithstanding some of the questions we have as to how to report vehicle fleet fuel use, RNG Coalition does see a benefit in EIA obtaining more robust data on RNG usage in company fleets. However, it is unclear if EIA is seeking information on fleet usage of RNG. As such, similar to the comment above on Part 6, EIA could revise the survey to breakout RNG use by any respondent’s fleets (versus “conventional” or other natural gas). EIA should recognize, however, that these surveys may be limited and may not address the totality of RNG usage in fleets or for transportation fuel.

B. Customer Choice Programs (Part 3.C.).

Part 3.C. asks for information on the company's "customer choice program." As noted above, RNG is typically used for transportation fuel and customers always have a choice as to their supplier. Although this appears only relevant to utilities, EIA should clarify whether or not this section applies to RNG producers. As some RNG may still be used for non-transportation fuel, EIA should, at a minimum, clarify that "fuel" for purposes of responding to this survey item does not mean RNG sold for use as transportation fuel.

C. Sales/Acquisitions (Part 3.D.).

Part 3.D. requests information on whether a "distribution territory" increased or decreased. As with Part 3.C., this appears relevant to utilities only, although "distribution territory" is not defined. EIA should clarify whether or not this section applies to RNG producers. As some RNG may still be used for non-transportation fuel, EIA should, at a minimum, clarify that this does not apply to RNG sold for use as transportation fuel.

D. LNG Storage (Parts 3.F. and 5)

Part 3.F. and Part 5 relate to LNG Storage. RNG may be sold as liquified natural gas or compressed natural gas. But, RNG is not clearly identified in the survey form or the Instructions with respect to discussions of LNG storage or LNG facilities. As such, EIA should clarify the definitions to reflect renewable LNG or make clear that RNG producers need not respond to these questions.

V. Conclusion.

EIA does not provide sufficient information to determine whether its assessed burdens are accurate. We do believe, however, that adding RNG producers could add several new reporters that are unfamiliar with the report. As such, we urge EIA to provide more guidance regarding how the form applies to RNG producers.

We thank EIA for consideration of these comments. RNG Coalition stands ready to work with EIA to ensure proper reporting by its members.

Respectfully submitted,

A handwritten signature in cursive script that reads "David Cox".

David Cox
General Counsel
Coalition for Renewable Natural Gas