

February 10, 2023

Attention: Docket ID No. EPA-HQ-OAR-2021-0427; FRL-8514-01-OAR

The Honorable Michael Regan
Administrator
U.S. Environmental Protection Agency
EPA Docket Center
Office of Air and Radiation Docket
Mail Code 28221T
1200 Pennsylvania Ave NW
Washington, DC 20460

Via: www.regulations.gov

Re: Comments on the Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes [EPA-HQ-OAR-2021-0427; FRL-8514-01-OAR].

Dear Administrator Regan,

EcoEngineers appreciates the opportunity to submit comments regarding the U.S. Environmental Protection Agency's (EPA) Renewable Fuel Standard (RFS) Program: Standards for 2023–2025 and Other Changes [EPA-HQ-OAR-2021-0427; FRL-8514-01-OAR].

EcoEngineers is one of the nation's leading auditing, verification and consulting firms for renewable fuel and clean energy technologies. We are accredited under the EPA Renewable Fuel Standard, the California Low Carbon Fuel Standard and the Oregon Clean Fuel Standard. We are also in the process of becoming accredited by the Canadian Government for the Clean Fuel Regulation. We appreciate the opportunity to share some of our thoughts and comments on the proposed rule.

We would also like to take this opportunity to express our appreciation for Byron, Kurt, Jamie and the entire QAP team at EPA. We provide hundreds of EPA regulated companies with verification and QAP services. We appreciate your team -- because creating protocols that match the requirement of the regulation can sometime be difficult -- and your team has always patiently worked through each of these issues with us.

EcoEngineers strongly supports the advancement of policies, regulations and programs that address the global crisis of greenhouse gas (GHG) emissions across all sectors. The US RFS continues to be a vital tool that can assist the US in meeting its climate reduction goals.

To support the rapid deployment of low-carbon solutions while maintaining the integrity of the Renewable Fuel Standard, EcoEngineers presents the following comments to encourage a robust, scientifically based approach that provides an even playing field for all current and potential GHG reduction solutions.

1. Life Cycle Analysis

There are many items in the proposed rule where life cycle analysis (LCA) and carbon intensity (CI) are prevalent – and that EPA has asked for comment. We strongly believe it is important to write policies that align the flow of credits and incentives with measurable reductions in life cycle greenhouse gas emissions. There are many opportunities within the RFS to reward fuel producers who are investing in operational improvements and making procurement decisions that reduce emissions. EcoEngineers can help EPA shape effective LCA guidance that can appropriately align the generation of renewable identification numbers (RINs) with actual carbon emissions reductions. We have a tremendous amount of experience and knowledge related to LCA principles and GHG measurement, reporting, and validation protocols – which may be invaluable to the implementation of the US RFS program.

2. Proposed changes to Third Party Validation and Third-Party Professional Engineer requirements

EcoEngineers is committed to providing clients with impartial and professional audit services. We pride ourselves on exceeding all program requirements by having stringent internal rules and procedures that ensure the reliable delivery of quality verifications to EPA and other fuel programs.

EcoEngineers supports the proposed changes to the requirements for professional engineers (PE) as well as the timeframe limitations for Three-Year Updates. These requirements do not differ from our current practices, and we believe they will add to the overall integrity of the program.

However, we ask EPA to consider the following when implementing the Final Rule:

- a) The proposal indicates that EPA will require *“third-party professional engineers provide documents and more detailed engineering review write-ups that demonstrate the professional engineer performed the required site visit and independently verified the information through the site visit and independent calculations.”* EcoEngineers requests that the EPA provide specific details regarding additional information requirements and new processes to ensure they are well understood. By providing clear guidance and specifications, professional engineers will be able to adapt and adhere to the new requirements quickly and efficiently.
- b) The employment restrictions proposed for third-party auditors and professional engineers should be re-evaluated. There is a tight labor market for experienced verifiers and professional engineers, and excessively strict regulations may deter potential employees from working for an auditor due to future job limitations. An alternative would be to consider specifying that these limitations only apply if the individual is leading auditing at the 3rd party verification company or at the auditee. Another consideration would be to reduce the restriction to a 6-month time period.
- c) EcoEngineers requests that EPA provide detailed guidance in the final rule on how it would like independent verifiers to ensure they *“independently evaluate and confirm the information and cannot rely on representations made by the renewable fuel producer.”* Currently EcoEngineers relies on invoices and documentation from relevant third parties provided by the auditee. Any requirement to contact these third parties directly could pose a challenge and extend the time required to complete audits. We encourage EPA to evaluate the benefits of this additional requirement versus the administrative burden.

3. Proposed changes to the Quality Assurance Program (QAP)

EcoEngineers stands ready to support our clients by providing QAP verifications that meet the requirements of the US RFS. This includes the proposed requirements for eRINs. We believe that a robust, well defined QAP is a key component of the US RFS and are proud to provide this additional assurance to fuel producers, obligated parties, off-takers and the EPA. We urge EPA to continue to work towards a balanced approach in terms of reporting requirements, administrative burden and the integrity of the program in areas such as UCO feedstock tracking/recordkeeping and re-registrations. We encourage EPA to continue to provide clear direction regarding requirements for QAP protocols. Renewable fuel producers are placed under tremendous financial stress if they are unable to generate QRINs when they begin producing fuel. Therefore, it is of utmost importance that EPA continue to provide clear direction on pathway-specific QRIN protocols and maintain a high level of support in a timely manner.

4. Proposed eRIN Program

The requirements for third-party audits and the high probability of an increase in QAP requests is something EcoEngineers has considered carefully and has already begun to prepare for. We applaud the EPA for incorporating these important validation components into the eRIN program and support the flexibility provided in the proposal that allows for additional registration time. As discussed in the proposal, the increased number of PEs that will be needed to conduct the site visits will require a swift increase of staff for firms such as EcoEngineers, but we are up to the challenge and ready to support this exciting new program. Currently, we have the capacity to handle 200 registrations but hoping to increase this to 250-300 registrations with additional PEs and staff during 2023 to support the registration process. However, our staffing decisions are dependent on the timeline of final rule approval; therefore, it is important that we receive confident directions from EPA on the timeline of the final rulemaking to respond adequately to the increase in demand for registrations.

We ask EPA to consider the following suggestions when implementing the Final Rule:

- a) To assist in simplifying the registration process for new and updated facilities, EcoEngineers recommends EPA consider accepting applications and allowing site visits for new registrations related to eRINs on the day of publication rather than 60 days post-publication. All parties involved in the registration process (EPA, verifiers, registrants etc.) would benefit from additional time in preparation for the January 2024 start date.
- b) To further support a streamlined approach, EPA should consider allowing site visits to occur prior to the publication date of the final rule. This will reduce the burden on both verifiers and EPA.
- c) EPA should work towards accommodating multiple New Facility Requests from the same operator. This will reduce a potential backlog of requests.

5. Proposed RNG Reform

EcoEngineers supports a large majority of the biogas and RNG industry through development planning, verification and auditing within the US and abroad. To best support these industries while maintaining the integrity of the US RFS, EcoEngineers asks EPA to consider the following when implementing the Final Rule:

- a) Provide clarification on the proposed gas storage approach. Producers rely on the ability to store RNG using Qualified Storage Facilities while they wait for USEPA approval of their pathway application. At times, producers must store gas for 1-3 months while they wait for pathway approval. If EPA removes this option, it will shrink RIN generation which could reduce progress towards the goals of the US RFS. A potential solution is to allow for RNG storage using a Qualified Storage Facility (as is currently allowed) while waiting for EPA pathway approval only. And then storage of RNG can cease after approval. Alternatively, EPA could allow the retroactive generation of RINs from gas production in the period between submittal and approval of a facility RFS registration, provided the gas production during this period meets all the requirements of the RFS and a QAP protocol.
- b) To support a streamlined registration approach, EPA may consider a simplified re-registration process for biogas facilities who want to add an eRIN pathway to an existing facility registration that is producing RNG or RCNG if the proposed requirements are adopted. The added burden of re-registering existing facilities if a full engineering review is required will cause additional strain to professional engineer resources.

Thank you once again for the opportunity to comment on the proposed rule and please do not hesitate to contact me for more details. We look forward to continuing to work with EPA on implementing a successful program.

Shashi Menon
Chief Executive Officer