

# Summary of Renewable Fuel Standard Technical Amendments

EPA

Office of Transportation and  
Air Quality

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# When do the technical amendments go into effect?

The technical amendments to RFS are effective on **December 1, 2008.**

# Correction of typographical errors

- The technical amendments correct typographical errors in the following sections:
  - 80.1101(d)(2)
  - 80.1141(a)(1) (corrected calendar year)
  - 80.1165
  - 80.1166
  - 80.1167
- The correction to the equation in 40 CFR 80.1127(b)(2) was misprinted in the October 2, 2008 Federal Register notice (see the FR notice correction at 73 FR 71560)
  - The proper equation is:
    - $D_i = RVO_i - [(\sum RINNUM)_i + (\sum RINNUM)_{i-1}]$

# Allowable volume of denaturant

- Changes made to 80.1101(d)(3):
  - This amendment clarifies that no more than 5 volume percent denaturant may be included in the volume of ethanol produced, imported or exported for purposes of determining compliance with the requirements under the RFS program

# RVO calculations

- Changes made to 80.1107(c):
  - This amendment clarifies that the gasoline products to be included in an obligated party's renewable volume obligation (RVO) calculation should not be double-counted

# Batch-RIN generation

- Changes to 80.1126(a)(1):
  - This amendment clarifies that this provision, which states that a RIN must be assigned by a renewable fuel producer or importer for every batch of renewable fuel produced by a facility located in the contiguous 48 states of the United States, or imported into the contiguous 48 states, applies to RIN generation, not RIN transfers

# Batch-RINs

- Changes made to 80.1126(d)(1):
  - This amendment clarifies that the RIN that must be generated for each batch of renewable fuel that is produced or imported is referred to in RFS as a “batch-RIN”

# Small renewable fuel producers

- Changes made to 80.1126(b) and 80.1154(a)(4) and (b):
  - These amendments clarify that renewable fuel producers that are below the 10,000 gallon threshold are exempt from the attest engagement requirements in 80.1164 as well as other reporting and recordkeeping requirements



# Small refiners and small refineries

- Changes made to 80.1141(a)(1) and 80.1142(a)(1):
  - This amendment clarifies that a refinery with an approved small refinery exemption or a refiner with a small refiner exemption is exempt from requirements that apply to obligated parties during the period of time that the small refinery or small refiner exemption is in effect

# Small refiners and small refineries, cont'd

- Changes made to 80.1141(a)(4) and 80.1142(a)(4):
  - This amendment clarifies that the small refiner and small refinery exemptions *only* apply to refiners or refineries that process crude oil, or feedstocks derived from crude oil, through refinery processing units

# Small refiners and small refineries, cont'd

- Changes made to 80.1141(b)(2)(ii):
  - This provision is revised to clarify that small refinery status can be transferred with the sale of a refinery
  - The provision requires that the letter sent from the owner of a small refinery must state that the refinery was small as of the applicable date
  - Thus, any refinery that qualifies for small refinery status retains its status even if the refinery is sold to another company

# Small refiners and small refineries, cont'd

- Changes made to 80.1142(e):
  - The provision is revised to clarify that a refiner who is disqualified as a small refiner must notify EPA in writing no later than 20 days following the disqualifying event

# Equivalence values

- Changes made to 80.1128(a)(5)(ii), (iii), (iv) and (v):
  - These sections are revised to allow parties to use an equivalence value of 2.5 RINs per gallon for any type of renewable fuel for purposes of calculating the end-of-quarter check
  - These revisions eliminate the situation in which a party could receive fuel with more assigned RINs than would be calculated for that volume of fuel using its equivalence value, resulting in the party being out of compliance with the end-of-quarter check requirement in Sec. 80.1128(a)(5), unless the party had enough fuel to sell with the excess RINs by the end of the quarter

# RIN transfer requirements for producers and importers

- Changes made to 80.1128(a)(6) and (7):
  - The technical amendments delete paragraph (a)(6), which requires that a producer or importer of renewable fuel must transfer ownership of assigned gallon-RINs whenever it transfers ownership of a volume of renewable fuel such that the ratio of gallon-RINs to gallons is equal to the equivalence value for the renewable fuel
  - Based on experience with the program to date, EPA believes the requirements in 80.1128(a)(6) are not necessary to fulfill the goals of the program
    - Sec. 80.1128(a) has also been renumbered to adjust for this change
  - Renewable fuel producers and importers are still subject to the other RIN distribution requirements of 80.1128(a) and may only separate RINs from renewable fuel according to 80.1129

# Separation of RINs

- Changes made to 80.1129(b)(2):
  - This provision is revised to clarify that up to 2.5 gallon-RINs may be separated when a volume of renewable fuel is blended into gasoline or diesel to produce a motor vehicle fuel
  - This amendment codifies a previous interpretation of 80.1129(b)(2) published as Q&A 4.11 in the RFS Question & Answer document dated April 2008 (go to <http://www.epa.gov/otaq/renewablefuels/420f08006.pdf>)

# Separation of RINs generated by obligated parties

- Changes made to 80.1129(b)(6):
  - Under this regulation, an obligated party who generates RINs may separate such RINs from volumes of renewable fuel only up to the level of the party's RVO
  - This amendment modifies the regulation to apply only to neat (unblended) fuel for which an obligated party generates RINs, not to renewable fuel already blended in gasoline or diesel for which an obligated party generates RINs



# Separated RINs on PTDs

- Changes made to 80.1129(d):
  - The technical amendments allow separated RINs to be transferred on a product transfer document that is used to transfer a volume of renewable fuel, since it will be clear from other information required on the PTD whether or not any assigned RINs have also been transferred with the fuel

# PTDs for fuel transfers with no assigned RINs

- Changes made to 80.1153(a)(5):
  - This provision is revised to clarify the language required to be included on product transfer documents for transfers of fuel with no assigned RINs
    - PTD should read “No assigned RINs transferred”

# Retiring RINs for renewable fuel that is spilled or disposed of

- Changes made to 80.1132(a), (b), and (c):
  - These provisions are revised to clarify that the requirements in section 80.1132 to retire RINs apply to fuel that has been disposed of as well as fuel that has been spilled

# Expired RINs

- Changes made to 80.1151(a)(3)(i), (b)(4)(i) and (d)(3)(i):
  - The requirements to retain records of “expired RINs” are deleted since it is apparent when a RIN has expired from the date that is contained in the RIN
- Changes made to 80.1152(c)(1)(iii), (c)(1)(v) and (c)(2):
  - The technical amendments delete the requirement to report “expired RINs” since it will be apparent when a RIN has expired from other information provided in a party’s reports

# Reporting on a facility basis

- Changes made to 80.1152(c)(1)(iii), (c)(1)(v) and (c)(2):
  - The technical amendments delete provisions relating to the submission of transaction and quarterly gallon-RIN reports on a facility-by-facility basis, since RIN trading activities are conducted on a company basis

# Prohibited acts under the RFS program

- Changes made to 80.1160(a), (b)(1), and (f):
  - These provisions are revised to clarify specific acts that are prohibited under the RFS program:
    - Except as provided in Sec. 80.1154, no person shall produce or import a renewable fuel without generating a batch-RIN as required under Sec. 80.1126
    - No person shall improperly generate a RIN (for example, generate a RIN for which the applicable renewable fuel volume was not produced)
    - No person shall fail to meet any requirement that applies to that person

# Attest engagements

- Changes made to 80.1164:
  - For audits of the obligated party compliance demonstration reports, the attest auditor is required to calculate the total number of RINs used for compliance by year of generation and reconcile that total with the information reported to EPA
  - For audits of the RIN transaction and RIN activity reports, the amendment specifies the type of documentation that is required to be provided to the attest auditor for purposes of verifying the information contained in the reports
  - The attest auditor is required to review PTDs for a representative sample of RINs used for compliance and for a representative sample of renewable fuel batches that any party sells to another party

# Attest engagements, cont'd

- Changes made to 80.1164:
  - For owners of assigned RINs, the documentation required for the attest audit of the RIN activity reports must include the volume of renewable fuel owned at the end of the quarter in order to verify the accuracy of information relating to compliance with the end-of-quarter inventory check in Sec. 80.1128(a)(5)
  - Similar to attest procedures under other fuels programs, a company representative must provide the attest auditor with a written representation that the copies of the EPA reports provided to the auditor are complete and accurate copies of the reports
  - The attest auditor is required to identify the commercial computer program used by the regulated party to track the data required for purposes of compliance with the RFS requirements



# Which technical amendments are not going into effect?

- The following proposed regulation changes, which received adverse comments, *do not* go into effect on December 1, 2008:
  - **80.1129(b)(1) and (b)(8)**, which provide that a party with a small refinery or small refiner exemption may only separate RINs that have been assigned to a volume of renewable fuel that the party blends into motor vehicle fuel
  - **80.1129(b)(4)**, which provides that any party may separate the RINs from renewable fuel that it produces or markets for use in motor vehicles in neat form, or uses in motor vehicles in neat form
  - **80.1131(a)(8) and 80.1131(b)(4)**, which change the location in the RFS regulations of a provision stating that a RIN that is transferred to two or more parties is considered an invalid RIN
- See the Federal Register notice withdrawing these proposed provisions at 73 FR 71940

For additional information on RFS  
and the technical amendments:

EPA's Renewable Fuel Standard Program  
website:

<http://www.epa.gov/otaq/renewablefuels/>