

Small Entity Compliance Guide for “Changes to Renewable Fuel Standard Program (RFS2)”

(40 CFR Part 80 Subpart M, March 26, 2010)

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U.S. Environmental Protection Agency

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NOTICE

This guide was prepared pursuant to section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”), Public Law 104-121. The statements in this document are intended solely to aid regulated entities in complying with the published national regulation “Regulations of Fuels and Fuel Additives: Changes to Renewable Fuel Standard Program (RFS2)” (40 CFR Part 80, March 26, 2010)

Final authority rests with the regulation and this guide is not intended to replace, and may not cover all parts of, the regulation. However, in any civil or administrative action against a small business, small government, or small non-profit organization for violation of any parts of the aforementioned regulation, the content of this guide may be considered as evidence of the reasonableness or appropriateness of proposed fines, penalties, or damages. EPA may decide to revise this guide without public notice to reflect changes in EPA’s approach to implementing Changes to Renewable Fuel Standard Program requirements or to clarify and update text. To determine whether EPA has revised this guide and/or to obtain copies, contact EPA’s Tia Sutton at (734) 214-4018, sutton.tia@epa.gov.

Acronyms used throughout this guide:

§	Section
CAA	Clean Air Act
CDX	Central Data Exchange
CFR	Code of Federal Regulations
DOE	U.S. Department of Energy
EISA	Energy Independence and Security Act of 2007
EMTS	EPA Moderated Transaction System
EPA	U.S. Environmental Protection Agency
EPAct	Energy Policy Act of 2005
EV	Equivalence Value
FR	Federal Register
GHG	Greenhouse Gas
LCA	Lifecycle Assessment
MVNRLM	Motor Vehicle, Nonroad, Locomotive, and Marine
OMB	Office of Management and Budget
PTD	Product Transfer Document
RFA	Regulatory Flexibility Act
RFS	Renewable Fuel Standard Program
RFS1	First Renewable Fuel Standard Rule (May 1, 2007)
RFS2	Changes to Renewable Fuel Standard Program Final Rule (March 26, 2010)
RIN	Renewable Identification Number
(RIN) D code	A number identifying the renewable fuel type (per §§80.1125 and 80.1425)
(RIN) RR code	A number representing the equivalence value of a renewable fuel multiplied by 10 (per §§80.1125(f) and 80.1425(f))
RVO	Renewable Volume Obligations
SBA	Small Business Administration
SBAR Panel	Small Business Advocacy Review Panel
SBREFA	Small Business Regulatory Enforcement Fairness Act of 1996
SER	Small Entity Representative

1.0 Introduction

This document was published by the Environmental Protection Agency (EPA) as our official compliance guide for small entities, as required by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). Before you begin using the guide you should know that the information in this guide was compiled and published on March 26, 2010 (75 FR 14670). EPA is continually improving and updating its rules, policies, compliance programs, and outreach efforts. You can determine whether EPA has revised or supplemented the information in this guide by checking the Renewable Fuel Standard web page (www.epa.gov/otaq/fuels/renewablefuels) for the rule, any technical amendments, and related information.

Under the Energy Independence and Security Act of 2007 (EISA), EPA was required to revise and expand the national Renewable Fuel Standard (RFS) program created by the Energy Policy Act of 2005 (EPAct). EISA mandated a significant increase in the amount of renewable fuel used in transportation fuel – 36 billion gallons by 2022 - and specified the respective volumes of cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel. While EISA sets annual renewable fuel targets, EPA is responsible for assessing domestic supply and setting appropriate percentage standards each year. EPA established the 2010 standards as part of its final rule (75 FR 14670, March 26, 2010).

The EISA fuel program, referred to hereafter as RFS2, makes a number of changes to the previous EPAct renewable fuel program (known as RFS1) while retaining many elements of the compliance and trading system already in place. The final regulations modify definitions and criteria for feedstocks and renewable fuels made from those feedstocks, most notably the new greenhouse gas emission thresholds for renewable fuels and the new limits on renewable biomass feedstocks. The RFS2 rule marks the first time that greenhouse gas emission performance was applied in a regulatory context for a nationwide program.

Obligated parties under RFS2 include domestic and foreign producers and importers of transportation fuel used in the United States. However, the RFS2 program continues to exempt certain small refiners until the end of 2010. The final rule is effective July 1, 2010, and the percentage standards apply to all gasoline and diesel fuel produced or imported in 2010.

If you are a small refiner (per §80.1442), are a blender who handles and blends less than 125,000 gallons of renewable fuel annually (§80.1440), or are a small volume renewable fuel production facility/importer (per §80.1455) under this rule, we encourage you to continue to contact EPA if you should have any further questions or concerns (see contact information in section 6, below).

1.1 Who should use this guide?

This guide is mainly for producers and importers of transportation fuel (i.e., gasoline and diesel fuels) that qualify as small entities for the RFS2 rule (§80.1442). However, this guide also includes information for blenders who handle and/or blend less than 125,000 gallons of renewable fuel annually (§80.1440) and small volume renewable fuel production facilities/importers (§80.1455). If you are not sure whether or not you qualify as a small entity, or meet the small blender or small volume producer/importer requirements, please refer to section 2 of this guide for the criteria.

The Small Business Regulatory Enforcement Act (SBREFA) requires that EPA prepare Small Entity Compliance Guides to help small businesses comply with the regulation. The regulation also has hardship flexibility provisions specific to small entities in the fuel industry, and this guide should help to clarify those provisions.

1.2 How do I obtain a complete copy of the rule?

A complete copy of the rule can be found in the Federal Register (75 FR 14670, published March 26, 2010): <http://edocket.access.gpo.gov/2010/pdf/2010-3851.pdf>. A copy of the final rule can also be found on the Renewable Fuel Program Regulations and Standards page: www.epa.gov/otaq/fuels/renewablefuels/regulations.htm

1.3 How do I use this guide?

This guide is organized as follows:

1. Introduction and general information
2. Description of entities that are subject to the rule (including criteria for qualifying as a small refiner)
3. Overview of the RFS2 regulatory requirements
4. Specific provisions for small refiners, small blenders, and small volume producers
5. Registration, reporting, and recordkeeping requirements
6. Contact information for further assistance

2.0 Entities Subject to the Rule

2.1 Entities subject to the RFS2 regulations

Table 1, below, lists the NAICS and SIC codes of those entities that may be subject to the RFS2 rule:

Table 1. NAICS and SIC Codes		
Industry	NAICS¹ Codes	SIC² Codes
Petroleum Refineries	324110	2911
Ethyl alcohol manufacturing	325193	2869
Other basic organic chemical manufacturing	325199	2869
Chemical and allied products merchant wholesalers	424690	5169
Petroleum bulk stations and terminals	424710	5171
Petroleum and petroleum products merchant wholesalers	424720	5172
Other fuel dealers	454319	5989
¹ NAICS- North American Industry Classification System		
² SIC- Standard Industrial Classification		

2.2 Criteria for qualification as a small entity

Although most petroleum refining companies are not considered small businesses, several refining companies were identified that do appear to qualify under the applicable Small Business Administration (SBA) definition of a small entity. Table 2 below lists the small business size standards SBA has established for each type of economic activity under the SIC and NAICS systems. In this table, the industry categories listed below the “Petroleum Refiners” category have some role in refining, distributing, and/or marketing gasoline and/or diesel fuel (both highway and nonroad) and are directly affected by the RFS2 rulemaking.

Table 2. Small Business Definitions			
Industry	Defined as small entity by SBA if less than or equal to:	NAICS¹ codes	SIC Codes²
Gasoline and diesel fuel refiners	1,500 employees ³	324110	2911
¹ North American Industrial Classification System			
² Standard Industrial Classification			
³ EPA has included in past fuels rulemakings a provision that, in order to qualify for the small refiner flexibilities, a refiner must also produce no greater than 155,000 bpcd crude capacity			

Who is eligible?

Under this rule, the small entities that may be significantly impacted by the rule are small refiners, since they are obligated parties under the RFS program. (However, we do recognize that some small volume blenders and some small volume renewable fuel producers and importers will have obligations under the rule, therefore provisions were provided for these entities in the RFS2 rule; please see Section 4 for more information on these provisions.) The criteria for consideration as a small business are listed in Table 2, above. In addition to the information in the table, entities eligible for qualification as a small refiner must demonstrate that they meet the following criteria:

- produced transportation fuel at its refineries by processing crude oil through refinery processing units from January 1, 2006 through December 31, 2006
- had an average of no more than 1,500 employees corporate-wide, based on the average number of employees for all pay periods from January 1, 2006, to January 1, 2006 for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners¹; and
- had a corporate-average crude oil capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 2006².

Who is not eligible?

The following are not eligible for consideration as a small business under the rule:

- entities that do not own or operate a refinery;
- entities that do not produce transportation fuel from crude; and
- refiners who qualify as small refiners and who subsequently employ more than 1,500 people as a result of merger³ with, or acquisition of, another entity.

How do I determine the total number of employees/crude oil capacity?

In determining its total number of employees and crude oil capacity, a refiner must include the number of employees and crude oil capacity of any subsidiary companies, any parent company and subsidiaries of the parent company, and any joint venture partners.

¹ As with earlier fuel programs, the effective dates for the determination of employee count and for calculation of the crude capacity represent the most recent complete year prior to the issuing of the proposed rulemaking (2006, in this case).

² Ibid.

³ However, small refiners that merge with another small refiner (and thus do not combine crude oil processing capacities or gain any financial advantage) may retain their status as a small refiner.

I believe that I meet the definition, however I am not already an approved small refiner with EPA; what is the application process?

To be considered a small refiner under RFS2, a refiner must meet all of the criteria above, and must also submit a verification letter to EPA by July 1, 2010. **However, refiners that submitted verifications letters under the RFS1 program do not need to resubmit verification letters for the RFS2 program.** The detailed requirements for verification letters are located in §80.1442(b) of the regulations. These criteria are summarized in Table 3, below, but applicants should also refer to the details in the regulations.

For refiners that have been approved as a small refiner for previous EPA fuels programs, but not for the RFS1 rule, a verification letter must be submitted to be considered a small refiner under the RFS2 rule.

Table 3. Requirements for Small Refiner Verification Letters	
<i>For all small refiners:</i>	
	The annual average aggregate daily crude oil throughput for the period January 1, 2006 through December 31, 2006 (as determined by dividing the aggregate throughput for the calendar year by the number 365)
	A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the letter is true to the best of his/her knowledge, and that the refinery was small as of December 31, 2006
All the following for a corporate contact person: Address Phone number Facsimile number E-mail address	
<i>Additional requirements for foreign small refiners:</i>	
	Must submit a small refiner application (containing all the requirements listed above for small refiner verification letters)
	Must satisfy the requirements of §80.1465(f)-(i)

Verification letters do not need to be in a specific format. They simply need to convey the information listed above in a clear and concise manner. The RFS2 small refiner exemption is effective immediately, however verification letters are still required to verify that you meet the criteria for being considered a small refiner for this rule. However, if EPA finds that a refiner provided false or inaccurate information regarding a refinery's crude throughput in its small refinery verification letter, the exemption will be void as of July 1, 2010.

NOTE: Foreign small refiners will not be automatically approved- they must still submit a small refiner status application (containing all the requirements for verification letters), and also must satisfy the requirements of §80.1465(f)-(i).

Where do I send my verification letter?

Small refiner verification letters must be sent to one of the following addresses:

US mail:	Overnight or courier services:
U.S. EPA Attn: RFS Program, 6406J 1200 Pennsylvania Avenue, NW. Washington, DC 20460	U.S. EPA Attn: RFS Program, 6406J 1310 L Street, NW., 6th floor Washington, DC 20005 (202) 343-9038.

2.3 Loss of small refiner status

Refiners that no longer meet the criteria for small refiner status as described above may lose their status as a small refiner, and thus will be subject to the general program requirements.

These instances are:

- **Acquisitions**
 - » Refinery owned by small refiner being purchased by 'large' refiner

A small refinery that is acquired by a 'non-small' refiner will cause the newly acquired refinery to lose its status as a small refinery. However, since the acquired refinery was most likely previously subject to the small refiner standards, we feel that it is necessary for there to be some additional time afforded to the purchasing refiner to bring the acquired refinery into compliance with the larger program standards. Therefore, we are allowing a period of 30 months⁴ from the purchase date for the purchasing refiner to bring the previously small refinery into compliance.

In the instance of any sort of technical hardship, we have also provided a provision in the rule for refiners to apply for up to six months of additional lead time. Such requests should be provided to EPA in a timely manner and will be considered on a case-by-case.
 - » Small refiner purchasing another refinery (owned by either a small or non-small) refiner

If such a transaction causes the refiner's total employee count and/or crude capacity to exceed the small refiner criteria, then the refiner will lose its small refiner status (and likewise, the newly acquired small refinery will also lose its status as a small).

However, a small refiner that exceeds the small refiner employee count or crude capacity by normal business practice, and not through merger or acquisition, may retain its small refiner status.

- **Mergers**

- » The merger of a small refiner with a non-small refiner
A small refiner merging with a non-small refiner is similar to the case of acquisition by a non-small refiner, and thus we are also affording the 30 months lead time in these situations, as the small refiner would lose its status as a small in this situation.

NOTE: *In the case of a merger of two small refiners/refineries, status as a small refiner will remain in place for both parties. During discussions with small refiners, it was brought to our attention that the merging of two small refiners would not provide any financial benefit to either refiner, and the original compliance plans of both refiners would not be affected by the merger. Therefore, in the case of a merger of two small refiners, each refiner (and thus, their respective refineries) may retain its status as a small refiner.*

3.0 What Does the Regulation Require?

3.1 Background

While EISA made a number of changes to Clean Air Act (CAA) section 211(o) that impacted the RFS program, it left many of the basic provisions intact, including the mechanism for translating national renewable fuel volume requirements into applicable standards for obligated parties, requirements for a credit trading program, geographic applicability, treatment of small refineries, and general waiver provisions. As a result, many of the RFS1 requirements remain largely or, in some cases, entirely unchanged. These include the distribution of RINs, separation of RINs, use of RINs to demonstrate compliance, provisions for exporters, recordkeeping and reporting, deficit carryovers, and the valid life of RINs.

3.2 Overview of New RFS2 Requirements

EISA expanded the RFS program to cover “transportation fuel”, not just gasoline. Therefore, under RFS2, obligated fuel volumes will include all gasoline and all motor vehicle, nonroad, locomotive, and marine (MVNRLM) diesel fuel. Other fuels, such as jet fuel and fuel intended for use in ocean-going vessels, are not obligated fuels under RFS2. However, renewable fuels used in jet fuel or heating oil can be used in meeting the renewable fuel volume mandates. Likewise, natural gas, propane, and electricity used for transportation are not considered to be obligated fuels under RFS2; however, we will allow renewable forms of these fuels to qualify under the program for generating RINs under certain circumstances.

EISA also expanded the RFS program to require a substantial increase in the total volume of renewable fuel required over time. It also divides the total renewable fuel requirement into four separate categories, each with its own respective volume requirement. A summary of the combined RFS1/RFS2 volume requirements from 2008 forward are shown in Table 4.

Table 4.
Renewable Fuel Volume Requirements
(in billion gallons)

Year	Cellulosic Biofuel	Biomass-Based Diesel	Total Advanced Biofuel	Total Renewable Fuel
2008	n/a	n/a	n/a	9.0
2009	n/a	0.5 ^a	0.6	11.1
2010	0.1	0.65 ^a	0.95	12.95
2011	0.25	0.80	1.35	13.95
2012	0.5	1.0	2.0	15.2
2013	1.0	b	2.75	16.55
2014	1.75	b	3.75	18.15
2015	3.0	b	5.5	20.5
2016	4.25	b	7.25	22.25
2017	5.5	b	9.0	24.0
2018	7.0	b	11.0	26.0
2019	8.5	b	13.0	28.0
2020	10.5	b	15.0	30.0
2021	13.5	b	18.0	33.0
2022	16.0	b	21.0	36.0
2023+	c	c	c	c

a The compliance demonstration for the 2009 biomass-based diesel requirement was extended to 2010, so the 2009 and 2010 requirements were combined into a single requirement of 1.15 billion gallons for which compliance demonstrations must be made by February 28, 2011.

b To be determined by EPA through a future rulemaking, but no less than 1.0 billion gallons.

c To be determined by EPA through a future rulemaking.

In addition to the to-be-determined standards indicated in the footnotes above, EPA has the authority to adjust the level of cellulosic biofuel standard (and, if necessary, the total advanced biofuel standard) if it appears there will be a shortfall in supply. As part of the RFS2 final rule, EPA reduced the 2010 cellulosic biofuel standard from 100 million gallons to 6.5 million ethanol-equivalent gallons. EPA will be setting the next year's standards in the Federal Register on an annual basis each November—with a proposed rule in the summer and the final rule by November 30 of each year.

A significant aspect of the new RFS2 program is the requirement that the lifecycle GHG emissions of a qualifying renewable fuel must be less than the lifecycle GHG emissions of the 2005 baseline average gasoline or diesel fuel it is replacing. Different reductions are required for the four different categories of renewable fuel as shown in Table 5.

Table 5. Lifecycle GHG Thresholds Specified in EISA (Percent Reduction from 2005 Baseline)	
Renewable Fuel ^a	20% Reduction
Advanced Biofuel	50% Reduction
Biomass-Based Diesel	50% Reduction
Cellulosic Biofuel	60% Reduction
^a The 20% reduction criterion generally applies to renewable fuel from new facilities that commenced construction after December 19, 2007.	

The RFS2 program also requires that all renewable fuel be made from feedstocks that meet the new definition of “renewable biomass.” EISA’s definition of the term “renewable biomass” limits the types of biomass as well as the types of land from which the biomass may be harvested. The definition generally applies restrictions to two feedstock sectors: the agricultural sector (planted crops and crop residues) and the non-agricultural sector (planted trees and tree residues, animal waste material and byproducts, slash and pre-commercial thinnings).

To determine which renewable fuels could qualify under the RFS2 program, EPA has assessed the lifecycle GHG impacts of a number of different biofuels produced from various feedstock sources and production processes. EPA has assigned qualifying fuels that meet the specified EISA GHG thresholds with D codes in the lookup table found at §80.1426(f). If a biofuel producer makes a fuel that meets the criteria in the lookup table, then the producer can generate RINs with the corresponding D code and trade/sell them to obligated parties to meet their annual renewable volume obligation (RVO).

EPA reserves the right to amend the lookup table if new information becomes available and/or additional lifecycle modeling is conducted that suggests that certain biofuel pathways do not meet the EISA specified GHG threshold requirements. Similarly, companies may petition EPA under §80.1416 if their biofuel/process has not been evaluated by EPA and assigned a D-code and they believe it meets the EISA GHG threshold requirements.

3.3 Requirements for Obligated Parties

Under RFS1, each obligated party was required to determine its RVO based on the applicable percentage standard and its annual gasoline volume. The RVO represented the volume of renewable fuel that the obligated party was required to ensure was used in the U.S. in a given calendar year. Obligated parties were required to meet their RVO through the accumulation of RINs which represent the amount of renewable fuel used as motor vehicle fuel that was sold or introduced into commerce within the U.S. Each gallon-RIN counted as one gallon of renewable fuel for compliance purposes. This approach was maintained in the RFS2 final rule except, as

3.0 What Does the Regulation Require?

mentioned above, each obligated party now has four RVOs instead of one (through 2012) or two (starting in 2013) under the RFS1 program, and RVOs under RFS2 are now calculated based on production or importation of transportation fuels (gasoline and diesel).

Obligated parties meet their obligations by acquiring RINs and applying them to their RVOs. RVOs can be determined using the formulas at section 80.1407 of the regulations. Obligated parties are not required to physically blend the renewable fuel into gasoline or diesel fuel themselves. The accumulation of RINs will continue to be the means through which each obligated party shows compliance with its RVOs and thus with the renewable fuel standards. If an obligated party acquires more RINs than it needs to meet its RVOs, then in general it can retain the excess RINs for use in complying with its RVOs in the following year (the RFS program allows for 20% RIN rollover), or its excess RINs can be transferred to another party. Also, if an obligated party has not acquired sufficient RINs to meet its RVOs, then under certain conditions it can carry a deficit into the next year.

How do RINs work under RFS2?

Under RFS1, all RINs had the same compliance value and thus it did not matter what the RR or D code was for a given RIN when using that RIN to meet the total renewable fuel standard. However, under RFS2 only RINs with specified D codes can be used to meet each of the four standards. As mentioned above, the volume requirements in EISA are generally nested within one another (any fuel that satisfies the advanced biofuel requirement also satisfies the total renewable fuel requirement, and fuel that meets either the cellulosic biofuel or the biomass-based diesel requirements also satisfies the advanced biofuel requirement); thus, the RINs that can be used to meet the four standards are likewise nested. Using the D codes defined in Table 6, the RFS2 RINs that can be used to meet each of the four standards are shown in Table 7. RFS1 RINs generated in 2010 and identified by a D code of 1 or 2 can also be applied to these standards.

The nested nature of the four standards also means that in some cases we must allow the same RIN to be used to meet more than one standard in the same year. Thus, for instance, a RIN with a D code of 3 can be used to meet three of the four standards (cellulosic biofuel, advanced biofuel, and renewable fuel), however, a D code of 6 can only be used to meet the renewable fuel standard. We are continuing to prohibit the use of a single RIN for compliance purposes in more than one year or by more than one party (the exception to this general prohibition is for the specific and limited case of 2008 and 2009 biodiesel and renewable diesel RINs used to demonstrate compliance with both the 2009 total renewable fuel standard and the 2010 biomass-based diesel standard; described in section II.E.2.a of the preamble to the final rule).

Table 6. Final D Code Definitions for RFS2		
D value	Meaning under RFS1	Meaning under RFS2
1	Cellulosic biomass ethanol	Not applicable
2	Any renewable fuel that is not cellulosic biomass ethanol	Not applicable
3	Not applicable	Cellulosic biofuel
4	Not applicable	Biomass-based diesel
5	Not applicable	Advanced biofuel
6	Not applicable	Renewable fuel
7	Not applicable	Cellulosic diesel

Table 7. RINs That Can Be Used to Meet Each Standard		
Standard	Obligation	Allowable D codes
Cellulosic biofuel	RVO_{CB}	3 and 7
Biomass-based diesel	RVO_{BBD}	4 and 7
Advanced biofuel	RVO_{AB}	3, 4, 5, and 7
Renewable fuel	RVO_{RF}	3, 4, 5, 6, and 7

Can RFS1 RINs be used to satisfy RFS2 RVOs?

In 2009 and from January through June 2010, the RFS1 regulations will continue to apply. RFS1 RINs that were generated in 2009 or 2010 representing cellulosic biomass ethanol are valid for use in satisfying the 2010 cellulosic biofuel standard; and RFS1 RINs that were generated in 2009 or 2010 representing biodiesel and renewable diesel are valid for use in satisfying the 2010 biomass-based diesel standard. We have used information contained in the RR and D codes of RFS1 RINs to determine how those RINs should be treated under RFS2. The RR code is used to identify the Equivalence Value of each renewable fuel, and under RFS1 these Equivalence Values are unique to specific types of renewable fuel. For instance, biodiesel (mono-alkyl ester) has an Equivalence Value of 1.5, and non-ester renewable diesel has an Equivalence Value of 1.7, and both of these fuels may be valid for meeting the biomass-based diesel standard under RFS2. Likewise, RINs generated for cellulosic biomass ethanol under RFS1 regulations must be identified with a D code of 1, and these fuels will be valid for meeting the cellulosic biofuel standard under RFS2 (D code 3). The treatment of RFS1 RINs for compliance under RFS2 is shown in Table 8.

Table 8. Treatment of RFS1 RINs for RFS2 Compliance Purposes	
RINs Generated Under RFS1^a	Treatment Under RFS2^b
Any RIN with D code of 2 and RR code of 15 or 17	Equivalent to RFS2 RINs with D code of 4
All other RINs with D code of 2	Equivalent to RFS2 RINs with D code of 6
Any RIN with D code of 1	Equivalent to RFS2 RINs with D code of 3
<i>a- See RFS1 RIN code definitions at §80.1125.</i>	
<i>b- See RFS2 RIN code definitions at §80.1425.</i>	

Are deficit carryovers from RFS1 to RFS2 allowed?

Yes. The calculation of RVOs in 2010 under the RFS2 regulations will be somewhat different than the calculation of RVOs in 2009 under RFS1, since 2009 RVOs were based on gasoline production only, while 2010 RVOs will be based on volumes of gasoline and diesel. As a result, 2010 compliance demonstrations that include a deficit carried over from 2009 will combine obligations calculated on two different bases. Although RVOs in 2009 and 2010 will be calculated differently, obligated parties must acquire sufficient RINs in 2010 to cover any deficit carried over from 2009 (in addition to that portion of their 2010 obligation which is based on their 2010 gasoline and diesel production). As a result, the 2009 nationwide volume requirement of 11.1 billion gallons of renewable fuel will be consumed over the two year period concluding at the end of 2010. Thus, we are not implementing any special treatment for deficits carried over from 2009 to 2010.

A deficit carried over from 2009 to 2010 will only affect a party's total renewable fuel obligation in 2010, as the 2009 obligation is for total renewable fuel use, not a subcategory. The RVOs for biomass-based diesel or advanced biofuel will not be affected, as they do not have parallel obligations in 2009 under RFS1 (there is no cellulosic biofuel standard for 2010).

3.4 Requirements for Renewable Fuel Producers, Importers, and Blenders

For both domestic and foreign non-agricultural sector feedstocks, renewable fuel producers can comply with recordkeeping and reporting requirements for their individual facilities by collecting and maintaining appropriate records from their feedstock suppliers that their feedstocks comply with the renewable biomass requirement. Producers may also, as an alternative to these individual recordkeeping and reporting requirements, opt to form a consortium to fund an independent third party to conduct annual renewable biomass quality-assurance surveys, based on a plan approved by EPA.

For agriculturally-based feedstocks produced in the U.S., renewable fuel producers will be in compliance based on EPA's aggregate compliance determination. EPA will monitor agricultural land data yearly and should the baseline level of approved

agricultural land be exceeded, the individual recordkeeping and reporting requirements imposed on the non-agricultural sector would then be required.

The RFS2 program provides an option for a similar, future aggregate determination for renewable fuel produced from foreign-based agricultural feedstocks, if the source region can provide sufficient data to support an effective aggregate analysis and monitoring program. Otherwise, foreign producers must register and conduct a third-party engineering review pursuant to §80.1450. Additionally, such foreign producers must meet the requirements under §80.1466 (additional requirements under RFS2 for RIN-generating foreign producers and importers of renewable fuels for which RINs have been generated by the foreign producer) prior to generating any RINs for their fuel. This includes requirements such as posting a bond, committing to allow EPA inspections of the foreign production facility, and segregating the renewable fuel for which RINs are generated from non-renewable fuel and other renewable fuel that is not being imported into the U.S.

4.0 Provisions for Small Entities

4.1 Small Refiners

What are the regulatory options that are available to small refiners?

The following provisions were finalized in the RFS2 final rule to assist small entities with compliance with the RFS program:

- **Small Refiner (and Small Refinery) Temporary Exemption.** As required by the Energy Policy Act of 2005 (EPAAct), the final RFS1 rule regulations exempted gasoline produced by small refineries from the renewable fuels standard through December 31, 2010 (§80.1141). Since EISA did not alter that exemption in any way, we retained the small refinery temporary exemption in the RFS2 final rule without change (except for the fact that all transportation fuel produced by small refineries will be exempt, as EISA also covers diesel and nonroad fuels). The RFS1 final rule also offered the temporary exemption to small refiners (to allow the few small refiners who did not meet the definition of a small refinery to also receive the exemption). Similarly, in the RFS2 rule, we finalized a continuation of the small refiner temporary exemption for transportation fuel produced by small refiners through December 31, 2010.
- **Case-by-Case Hardship for Small Refiners (and Small Refineries).** Small refineries and small refiners may also apply for an extension of the temporary exemption, based upon disproportionate economic hardship, on a case-by-case basis. Any small refinery or small refiner may apply for this case-by-case hardship at any time. In evaluating applications for this hardship provision, EPA will take into consideration information such as: information gathered from annual reports, RIN system progress updates, information provided by the petitioner, and information gathered through consultation with the Department of Energy (DOE).
- **Program Review.** In the RFS2 final rule, we finalized a provision to provide information/updates on RIN system progress (e.g., RIN trading, publicly-available information on RIN availability, etc.) to help alleviate some uncertainty regarding the RIN system, especially for small refiners. Such information may be included in the Federal Register notice of applicable RFS standards that must be published annually; however, there may be instances where we would want to report out RIN system information on a more frequent basis than once a year, so we may periodically report out elements of RIN system progress via other means as well (e.g., the RFS Web site, the EMTS homepage, etc.).

Could the provisions for small refiners change based on the updated DOE Study?

EPA required that DOE perform a study by December 31, 2008 on the impact of the renewable fuel requirements on small refineries (section 211(o)(9)(A)(ii)(I)), and whether or not the requirements would impose a disproportionate economic hardship on these refineries. In the small refinery study, “EPACT 2005 Section 1501 Small Refineries Exemption Study,” DOE’s finding was that there is no reason to believe that any small refinery would be disproportionately harmed by inclusion in the RFS program. This finding was based on the fact that there appeared to be no shortage of RINs available under RFS1 at that time, and that EISA provided flexibility through waiver authority (section 211(o)(7)) and cellulosic biofuel allowances that can be provided from EPA at prices established in EISA (see §80.1456). DOE thus determined that small refineries would not be subject to disproportionate economic hardship under the RFS2 program, and that the small refinery exemption should not automatically be extended for all small refineries (including those small refiners who own refineries meeting the small refinery definition) beyond December 31, 2010. DOE noted in the study that, if circumstances were to change and/or the RIN market were to become non-competitive or illiquid, individual small refineries have the ability to petition EPA for an extension of their small refinery exemption (pursuant to Section 211(o)(9)(B)).

In Senate Report 111–45, the Senate Appropriations Committee directed DOE to “reopen and reassess the Small Refineries Exemption Study,” noting a number of factors that the Committee requested that DOE consider in the revised study. The Final Conference Report 111–278 to the Energy & Water Development Appropriations Act (H.R. 3183), referenced the language in the Senate Report, noting that the conferees “support the study requested by the Senate on RFS and expect the Department to undertake the requested economic review.” At the present time, the DOE study has not been revised; however we are aware that DOE is currently developing a revised study. If DOE finds that there is a disproportionate economic impact for any small refinery in the revised Small Refinery Study, we will revisit the issue of an exemption extension at that point in accordance with section 211(o)(9)(A)(ii).

What is the difference between a small refiner and a small refinery?

The Congressional small *refinery* definition is “...a refinery for which the average aggregate daily crude oil throughput for a calendar year...does not exceed 75,000 barrels.”⁴ As shown in Table 2 above, this term is different than SBA’s small business category for gasoline and diesel fuel refiners, which is what the Regulatory Flexibility Act (RFA) is concerned with. EPA is required under RFA to consider impacts on small entities meeting SBA’s small business definition—these entities are referred to as “small *refiners*”—for our regulatory flexibility analysis under SBREFA. A small refinery,

⁴ As defined in Title XV (Ethanol and Motor Fuels) of EPAct, Section 1501(a)(2) [42 U.S.C. 7545(o)(1)(D)]; this definition was also included in EISA (Title II (Energy Security Through Increased Production of Biofuels), Section 201 [42 U.S.C. 7545(o)(1)(K)]), but the text of the definition remained unchanged.

per EPA Act, is a refinery where the annual crude throughput is less than or equal to 75,000 barrels (i.e., a small-capacity refinery), and could be owned by a larger refiner that exceeds SBA's small entity size standards. The small refinery definition is facility-based, whereas the small refiner definition is company-wide. The small business employee criteria were established for SBA's small business definition to set apart those companies which are most likely to be at an inherent economic disadvantage relative to larger businesses due to their size.

4.2 Provisions for other entities

We also finalized provisions in the RFS2 final rule for some entities that were not a part of the SBREFA process, but who we believe could benefit from some additional flexibility in compliance with the RFS program. These provisions are discussed below in sections 4.2.1 and 4.2.2.

4.2.1 Small blenders

What regulatory options are available to small blenders?

Blenders who only blend a small amount of renewable fuel into gasoline or diesel fuel will be permitted to delegate their RIN-separation responsibilities to the party directly upstream of them on their behalf. This provision is solely for the case of blenders who handle and blend less than 125,000 total gallons of renewable fuel per year (i.e., a company that blends 100,000 gallons and trades another 100,000 gallons would not be able to use this provision) and is available to any blender who must separate RINs from a volume of renewable fuel under §80.1429(b)(2) (see below for regulatory language from section 80.1429).

From §80.1429(b):

(b)(2) Except as provided in paragraph (b)(6) of this section, any party that owns a volume of renewable fuel must separate any RINs that have been assigned to that volume once the volume is blended with gasoline or diesel to produce a transportation fuel, heating oil, or jet fuel. A party may separate up to 2.5 RINs per gallon of blended renewable fuel.

(b)(4) Any party that produces, imports, owns, sells, or uses a volume of neat renewable fuel, or a blend of renewable fuel and diesel fuel, must separate any RINs that have been assigned to that volume of neat renewable fuel or that blend if:

(i) The party designates the neat renewable fuel or blend as transportation fuel, heating oil, or jet fuel; and

(ii) The neat renewable fuel or blend is used without further blending, in the designated form, as transportation fuel, heating oil, or jet fuel.

(b)(6) RINs assigned to a volume of biodiesel (mono-alkyl ester) can only be separated from that volume pursuant to paragraph (b)(2) of this section if such biodiesel is blended into diesel fuel at a concentration of 80 volume percent biodiesel (mono-alkyl ester) or less.

(i) This paragraph (b)(6) shall not apply to biodiesel owned by obligated parties or to exported volumes of biodiesel.

(ii) This paragraph (b)(6) shall not apply to parties meeting the requirements of paragraph (b)(4) of this section.

How does the upstream delegation work?

For such upstream delegation, both parties must sign a quarterly written statement (which must be included with the reporting party's reports) authorizing the delegation and copies of these statements must be retained as records by both parties. The supplier would then be allowed to retain ownership of RINs assigned to a volume of renewable fuel when that volume is transferred, under the condition that the RINs be separated or retired concurrently with the transfer of the volume. This statement would apply to all volumes of renewable fuel transferred between the two parties. Thus, the two parties would enter into a contract stating that the supplier has RIN-separation responsibilities for all transferred volumes between the two parties, and no additional permissions from the small blender would be needed for any volumes transferred. A blender may enter into such an agreement with as many parties as they wish.

4.2.2 Small volume production facilities and importers

What regulatory options are available for small volume production facilities and importers?

Under the RFS1 rule, parties who produce or import less than 10,000 gallons of renewable fuel in a year are not required to generate RINs for that volume, and are not required to register with EPA if they do not take ownership of RINs generated by other parties; this exemption from RIN-related responsibilities was finalized under the RFS2 rule as well. Additionally, renewable fuel producers who produce less than 125,000

gallons of renewable fuel annually from new production facilities will also be temporarily exempt—for a period of up to three years (beginning with the calendar year in which the production facility produces its first gallon of renewable fuel).

What does the small volume producer/importer exemption cover?

Small volume production facilities and importers that are permanently exempt (production/importation of less than 10,000 gallons annually) or temporarily exempt (production of less than 125,000 annually) are exempt from: generating RINS, registration, reporting, recordkeeping, and attest engagement requirements. The exemption only applies as long as a small volume production facility or importer does not own RINs or voluntarily generate and assign RINs.

5. Registration, Reporting, Recordkeeping and Other Compliance Requirements for Obligated Parties and Exporters of Renewable Fuel

This section is focused on those parties that have Renewable Fuel Obligations and does not cover compliance for renewable fuel producers, blenders, marketers, or other RIN owners; please see the regulations for compliance requirements for these entities.

5.1 Registration requirements for obligated parties and exporters

As stated in the regulations at 40 CFR 80.1450(a), any obligated party or exporter of renewable fuel must provide EPA with the information specified for registration under §80.76 (and listed in Table 9 below), if they are not already registered for the RFS program. EPA will supply both a company ID number and a facility ID number, which shall be used in all reporting; further, an obligated party or an exporter of renewable fuel must receive EPA-issued identification numbers before engaging in any transaction involving RINs. Registration information may be submitted to EPA at any time after March 26, 2010, but must be submitted and accepted by EPA by July 1, 2010, or 60 days prior to RIN ownership, whichever date comes later.

Table 9 Registration Requirements (§80.1450 and §80.76)	
The refiner, importer, or oxygenate blender's:	<ul style="list-style-type: none">• Name• Business address• Contact name• Telephone number
For each separate refinery and oxygenate blending facility:	<ul style="list-style-type: none">• Facility name• Physical location• Contact name• Telephone number• Type of facility
For each separate refinery and oxygenate blending facility, and for each importer's operations in a single PADD:	<ul style="list-style-type: none">• Whether records are kept on-site or off-site of the refinery or oxygenate blending facility, or in the case of importers, the registered address• If records are kept off-site, the primary off-site storage facility name, physical location, contact name, and telephone number• The name, address, contact name and telephone number of the independent laboratory used to meet the independent analysis requirements of 40 CFR 80.65

5.0 Registration, Reporting, Recordkeeping and Other Compliance Requirements

To register, please visit the Obligated Parties and Exporters of Renewable Fuel page of the RFS webpage at: <http://www.epa.gov/otaq/regs/fuels/obligatedparties.htm>. On this site, you will find:

- Instructions for registration based on your user type (First Time User, New User with Existing Company, or Existing User)
- A detailed registration user guide
- Information on registering for EPA's Central Data Exchange (CDX)- the Agency's electronic reporting site
- The continuously updated "Programs, Company and Facility ID Master List", a listing of registered entities and facilities

After completing the online registration through CDX, the forms must be printed and signed by a Responsible Corporate Officer and mailed to one of the following addresses:

US Mail:	Commercial Delivery:
U.S. Environmental Protection Agency Fuels Programs Registration (6406J) 1200 Pennsylvania Avenue, NW Washington, DC 20460	U.S. Environmental Protection Agency Fuels Programs Registration Room 647C, 202-343-9038 1310 L Street, NW Washington, DC 20005
NOTE: Please be aware that sending forms via US Mail will require an irradiation process and could possibly delay delivery.	

NOTE: If you are not sure if your company is registered for the RFS program, please visit the Fuels and Fuel Additives Fuels Program Registration page for updated registration lists at: <http://www.epa.gov/otaq/regs/fuels/fuelsregistration.htm>.

5.2 Reporting requirements for obligated parties and exporters

Obligated parties and exporters of renewable fuel must submit reports to EPA containing all of the information listed in Table 10, below. Please note that Table 10 merely provides a summary of recordkeeping requirements that apply to obligated parties and exporters. Please see section 80.1451 of the regulations for a complete list of reporting requirements for all regulated entities under the RFS2 rule.

Table 10. Reporting Requirements for Obligated Parties & Exporters (§80.1451(a))	
Requirements for annual compliance reports:	
• Annual compliance reports are due by February 28 of each year	
• The obligated party's or exporter's name	
• The EPA company registration number	
• Whether you are complying on a corporate (aggregate) or facility-by-facility basis	
• The EPA facility registration number, if complying on a facility-by-facility basis	
The production volume and import volume of all of the following products for the reporting year:	
• Reformulated gasoline, whether or not renewable fuel is later added to it	
• Conventional gasoline, whether or not renewable fuel is later added to it	
• Reformulated gasoline blendstock that becomes finished reformulated gasoline upon the addition of oxygenate (RBOB)	
• Conventional gasoline blendstock that becomes finished conventional gasoline upon the addition of oxygenate (CBOB)	
• Blendstock (including butane and gasoline treated as blendstock (GTAB)) that has been combined with other blendstock and/or finished gasoline to produce gasoline	
• Any gasoline, or any unfinished gasoline that becomes finished gasoline upon the addition of oxygenate, that is produced or imported to comply with a state or local fuels program	
• All products meeting the definition of MVNRLM diesel fuel (§80.2(qqq)), except as specified in §80.1407(f)	
• The Renewable Volume Obligations (RVOs) (as defined in §80.1427(a) for obligated parties and §80.1430(b) for exporters of renewable fuel), for the reporting year	
• Any deficit RVOs carried over from the previous year	
• The total current-year RINs by category of renewable fuel (cellulosic biofuel, biomass-based diesel, advanced biofuel, renewable fuel, and cellulosic diesel), retired for compliance	
• The total prior-year RINs by renewable fuel category (cellulosic biofuel, biomass-based diesel, advanced biofuel, renewable fuel, and cellulosic diesel) retired for compliance	
• The total cellulosic biofuel waiver credits used to meet the party's cellulosic biofuel RVO	
• A list of all RINs retired for compliance in the reporting year (including RIN information provided by the EPA Moderated Transaction System (EMTS))	
• Any deficit RVO(s) carried into the subsequent year	
• Any additional information required by EPA	
• Reports must be signed and certified by the owner, or a responsible corporate officer	
Requirements for quarterly RIN transaction reports (beginning July 1, 2010):	
Quarterly reports are due (on or before) two months after the reporting period, on the last day of the month:	
• January–March report- due by May 31st	
• April–June report- due by August 31st	
• July–September report- due by November 30th	
• October–December report- due by February 28th	
• RIN transaction information listing each RIN transaction shall be submitted to the EMTS	
• The submitting party's name	
• The EPA company registration number	
• The applicable reporting period	
• Transaction type (i.e., RIN buy, RIN sell, RIN separation, RIN retire, reinstated 2009	

5.0 Registration, Reporting, Recordkeeping and Other Compliance Requirements

RIN)
<ul style="list-style-type: none"> The transaction date
<ul style="list-style-type: none"> For a RIN purchase or sale: the trading partner's name, the trading partner's EPA company registration number, and the per gallon RIN price and/or the per gallon price of renewable fuel price with RINs included
<ul style="list-style-type: none"> For all other transactions, the submitting party's EPA company registration number
<ul style="list-style-type: none"> RIN subject to the transaction
<ul style="list-style-type: none"> The reason code for RINs being retired, separated, bought, or sold
<ul style="list-style-type: none"> Any additional information required by EPA
<ul style="list-style-type: none"> Reports must be signed and certified as meeting all the applicable requirements of this subpart by the RIN owner or a responsible corporate officer of the RIN owner
<ul style="list-style-type: none"> Reports generated by EMTS must be reviewed, supplemented, and/or corrected (if not complete and accurate), and verified by the owner or responsible corporate office prior to submittal
Requirements for quarterly RIN activity reports:
<p>Quarterly reports are due (on or before) two months after the reporting period, on the last day of the month:</p> <ul style="list-style-type: none"> <i>January–March report- due by May 31st</i> <i>April–June report- due by August 31st</i> <i>July–September report- due by November 30th</i> <i>October–December report- due by February 28th</i>
<ul style="list-style-type: none"> The submitting party's name
<ul style="list-style-type: none"> The submitting party's EPA company registration number
<ul style="list-style-type: none"> The number of current-year RINs owned at the start of the quarter
<ul style="list-style-type: none"> The number of prior-year RINs owned at the start of the quarter
<ul style="list-style-type: none"> The total current-year RINs purchased
<ul style="list-style-type: none"> The total prior-year RINs purchased
<ul style="list-style-type: none"> The total current-year RINs sold
<ul style="list-style-type: none"> The total prior-year RINs sold
<ul style="list-style-type: none"> The total current-year RINs retired
<ul style="list-style-type: none"> The total prior-year RINs retired
<ul style="list-style-type: none"> The number of current-year RINs owned at the end of the quarter
<ul style="list-style-type: none"> The number of prior-year RINs owned at the end of the quarter
<ul style="list-style-type: none"> The number of RINs generated
<ul style="list-style-type: none"> The volume of renewable fuel (in gallons) owned at the end of the quarter
<ul style="list-style-type: none"> The total 2009 retired RINs reinstated
<ul style="list-style-type: none"> Any additional information that the Administrator may require
<ul style="list-style-type: none"> Reports must be signed and certified as meeting all of the RFS2 requirements by the RIN owner or a responsible corporate officer of the RIN owner
<ul style="list-style-type: none"> Each report shall summarize RIN activities for the reporting period, separately for RINs separated from a renewable fuel volume and RINs assigned to a renewable fuel volume

5.3 EPA Moderated Transaction System (EMTS) requirements

What is EMTS?

To support the RFS program, the EPA Moderated Transaction System (EMTS) was developed to screen and manage the generation and transfer of RINs between renewable fuel producers, importers, exporters, obligated parties, and non-obligated RIN owners. While we believe that EMTS will simplify and reduce burdens on the regulated community, it is important to point out that EMTS is strictly a RIN tracking and managing tool designed to facilitate reporting under the RFS program—product transfer documents (PTDs) and attest engagements will still be required. PTDs are the commercial documents used to memorialize transactions of RINs between a buyer and a seller in the market, and EMTS will rely on references to these documents (but it is not capable of replacing them). Attest engagements are used to verify that the records required to be kept by regulated parties, including information retained by a regulated party as well as information reported to EPA such as laboratory test results, contracts between renewable fuel/RIN buyers and sellers, feedstock documentation, etc. are correctly maintained or reported. The information reported via EMTS is but a subset of the information required to be maintained in a regulated party's records, and both PTDs and attest engagements are necessary to ensure that the information collected and tracked in EMTS concurs with actual events.

Parties who use EMTS must first register with EPA in accordance with the RFS2 registration program as described above in section 5.1. Parties will also have to create an account (i.e., register) via EPA's Central Data Exchange (CDX), as users will access EMTS via CDX, a secure and central electronic portal through which parties may submit compliance reports. Once registration occurs, individual accounts will be established within EMTS and the system will enable a party to submit transactions based on their registration information.

How does EMTS work?

A renewable fuel producer will electronically submit, in “real time,” a volume of renewable fuel produced or imported, as well as a number of the RINs generated and assigned. EMTS will automatically screen each batch based on the producer's registration information, and either reject the information or allow RINs created in the RIN generator's account as one of the five types of RINs. After RINs have entered the system, parties may then trade them based on agreements outside of EMTS. EMTS will simplify trading by allowing RINs to be traded generically; only some specifying information will be needed to trade RINs, such as RIN quantity, fuel type, RIN assignment, RIN year, RIN price, or price per gallon. The unique identification of the RIN will exist within EMTS, but parties engaging in RIN transactions will no longer have to worry about incorrectly recording or using 38-digit RIN numbers.

5.0 Registration, Reporting, Recordkeeping and Other Compliance Requirements

What are the EMTS requirements?


All parties required to submit information to EMTS (§80.1452 of the regulations) must establish an EMTS account at least 60 days prior to making any RIN transactions, or July 1, 2010, whichever is later.

Beginning on July 1, 2010, any time that a domestic producer or importer of renewable fuel (or a foreign renewable fuel producer who generates RINs) produces or imports a batch of renewable fuel, all of the information listed in the first half of Table 11, below, must be submitted to EPA via the submitting party's EMTS account within five (5) business days. Similarly, beginning on July 1, 2010, each time any party engages in a transaction involving RINs, all of the information listed in the second half of Table 11, below, must be submitted to EPA via the submitting party's EMTS account within five (5) business days.

Table 11. EMTS Requirements	
<i>Required EMTS information for domestic producers or importers of renewable fuel (and foreign renewable fuel producers who generate RINs):</i>	
•	The renewable fuel producer's, foreign renewable fuel producer's, or importer's name
•	The renewable fuel producer's or foreign renewable fuel producer's EPA company registration number
•	The importer's EPA company registration number, if applicable
•	The renewable fuel producer's or foreign renewable fuel producer's EPA facility registration number
•	The importer's EPA facility registration number
•	The RIN type (i.e., D code) of the batch
•	The production process(es) used for the batch
•	The production date of the batch
•	The category of renewable fuel of the batch
•	The volume of the batch
•	The volume of denaturant and applicable equivalence value of each batch
•	Quantity of RINs generated for the batch
•	The type and volume of feedstock(s) used for the batch
•	An affirmation that the feedstock(s) used for each batch meets the definition of renewable biomass (as defined in §80.1401)
•	The type of co-products produced with the batch of renewable fuel
•	Any additional information required by EPA
<i>Required EMTS information that must be submitted via EMTS each time any party engages in a transaction involving RINs:</i>	
•	The submitting party's name
•	The submitting party's EPA company registration number
•	The generation year of the RINs
•	The RIN assignment information (Assigned or Separated)

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• The RIN type, or D code
• Transaction type (i.e., RIN buy, RIN sell, RIN separation, RIN retire)
• Transaction date as per §80.1453(a)(4)
• For a RIN purchase or sale, the trading partner's name
• For a RIN purchase or sale, the trading partner's EPA company registration number
• For an assigned RIN purchase or sale, the renewable fuel volume associated with the sale
• Quantity of RINs involved in a transaction
• The per gallon RIN price or the per-gallon price of renewable fuel with RINs included
• The reason for retiring RINs, separating RINs, buying RINs, or selling RINs
• Any additional information required by EPA

 **NOTE:** For more information on EMTS (including Q&As, presentations, and to download the EMTS User Guide), please visit the EMTS page of the RFS Program website at: www.epa.gov/otaq/fuels/renewablefuels/epamts.htm

5.4 Product Transfer Document (PTD) requirements for obligated parties and exporters

When any party transfers ownership of renewable fuels or separated RINs, they must provide product transfer documents (PTDs) identifying the renewable fuel and any RINs (whether assigned or separated) transferred to the receiving party, and including all of the information included in Table 12 below. Note that Table 12 merely provides a summary of PTD requirements that apply to obligated parties and exporters. Please see section 80.1453 of the regulations for a complete list of the PTD requirements for all regulated entities under the RFS2 rule.

5.0 Registration, Reporting, Recordkeeping and Other Compliance Requirements

Table 12. PTD Requirements for Obligated Parties and Exporters (§80.1453)	
<ul style="list-style-type: none"> • The name and address of the transferor and transferee • The transferor's and transferee's EPA company registration numbers • The volume of renewable fuel that is being transferred, if any • The date of the transfer • For assigned or separated RINs, the per gallon RIN price or the per gallon renewable fuel price if the RIN price is included • The quantity of RINs being traded • The RIN type (i.e., D code) • The Assignment Code (Assigned or Separated, or K code = 1 or 2) • The year the RIN was generated • The reason for the RIN sell or buy transaction 	
Whether any RINs are assigned to the volume, as follows:	
<ul style="list-style-type: none"> • If the assigned RINs are being transferred on the same PTD used to transfer ownership of the renewable fuel, then the assigned RINs shall be listed on the PTD • If the assigned RINs are being transferred on a separate PTD from that which is used to transfer ownership of the renewable fuel, then the PTD which is used to transfer ownership of the renewable fuel shall state the number of gallon-RINs being transferred as well as a unique reference to the PTD which is transferring the assigned RINs • If no assigned RINs are being transferred with the renewable fuel, the PTD used to transfer ownership of the renewable fuel must state "No assigned RINs transferred." • If RINs have been separated from the renewable fuel or blend per section 80.1429(b)(4) of the regulations, then all PTDs that are used to transfer ownership of the renewable fuel or blend must state "This volume of fuel must be used in the designated form, without further blending." 	
<ul style="list-style-type: none"> • Except for transfers to truck carriers, retailers, or wholesale purchaser-consumers, product codes may be used to convey the information required for PTDs (under §80.1454(a)(1) through (a)(11)) if such codes are clearly understood by each transferee 	
<ul style="list-style-type: none"> • For renewable fuel (other than ethanol), that is not registered as motor vehicle (i.e., highway) fuel under 40 CFR Part 79, the PTD used to transfer ownership of the renewable fuel must state "This volume of renewable fuel may not be used as a motor vehicle fuel." 	

5.5 Recordkeeping requirements for obligated parties and exporters

As with all existing EPA fuels programs, parties subject to the RFS2 rule are subject to recordkeeping requirements. Beginning July 1, 2010, obligated parties and exporters of renewable fuel must keep all of the records listed in Table 13 below. Note that Table 13 merely provides a summary of recordkeeping requirements that apply to obligated parties and exporters. Please see section 80.1454 of the regulations for an entire list of recordkeeping requirements for all regulated entities under the RFS2 rule.

Table 13. Recordkeeping Requirements for Obligated Parties and Exporters (§80.1454)	
<ul style="list-style-type: none"> • PTDs associated with the obligated party's or exporter's activity, if any, as transferor or transferee of renewable fuel or separated RINs 	
<ul style="list-style-type: none"> • Copies of any and all reports submitted to EPA under regulation sections 80.1449 (renewable fuel producer/importer Production Outlook Reports) and 80.1451(a) (obligated party/exporter annual compliance reports, RIN transaction reports, and quarterly RIN activity reports), as applicable 	
Records related to each RIN transaction, including all of the following:	
<ul style="list-style-type: none"> • A list of the RINs owned, purchased, sold, separated, retired, or reinstated • The parties involved in each RIN transaction including the transferor, transferee, and any broker or agent • The date of the transfer of the RIN(s) • Additional information related to details of the RIN transaction and its terms 	
Records related to the use of RINs (by facility, if applicable) for compliance, including all of the following:	
<ul style="list-style-type: none"> • Methods and variables used to calculate the Renewable Volume Obligations (§80.1407 for obligated parties, or §80.1430 for exporters) • List of RINs used for compliance • Additional information related to details of RIN use for compliance 	
<ul style="list-style-type: none"> • Records related to the separation of assigned RINs from a renewable fuel volume 	
<ul style="list-style-type: none"> • All records, including PTDs, must 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 	
<ul style="list-style-type: none"> • Copies of all attest engagement reports (per §80.1464) 	
<ul style="list-style-type: none"> • On request by EPA, all required records must be made available to EPA; for records that are electronically generated and/or maintained, the equipment or software necessary to read the records must be made available or electronic records shall be converted to paper documents if requested by EPA 	

5.6 Attest engagement requirements for obligated parties and exporters

The requirements regarding annual attest engagements in sections 80.125 through 80.127, and 80.130, also apply to any attest engagement procedures required under the RFS2 rule. In addition to any other applicable attest engagement procedures, such as the requirements in sections 80.1465 and 80.1466 of the regulations (requirements for foreign small refiners, foreign small refineries, and importers of RFS–FRFUEL⁵ and RIN-generating foreign producers, and importers of renewable fuels for which RINs have been generated by the foreign producer; respectively), the annual

⁵ RFS-FRFUL is transportation fuel produced either at a foreign refinery that has received a small refinery exemption (under §80.1441) or a by a foreign refiner with a small refiner exemption (under §90.1442).

5.0 Registration, Reporting, Recordkeeping and Other Compliance Requirements

attest engagement procedures listed below in Table 14 are required by the RFS program. Note that Table 14 merely provides a summary of attest engagement requirements that apply to obligated parties and exporters. Please see section 80.1464 of the regulations for a complete description of the attest engagement requirements for all regulated entities under the RFS2 rule.

For more detailed information on attest engagements, please visit the attest engagement page of the RFS program webpage at:
www.epa.gov/otaq/regs/fuels/attestengage.htm

Table 14. Attest Engagement Requirements for Obligated Parties and Exporters (§80.1464)	
<i>Annual compliance demonstration report requirements:</i>	
Obtain and read a copy of the annual compliance demonstration report required under §80.1451(a)(1) which contains information about:	
<ul style="list-style-type: none">• The obligated party's volume of all products listed in §80.1407(c) and (e), or the exporter's volume of each category of exported renewable fuel identified in §80.1430 (b)(1)(i), (b)(1)(ii), (b)(2)(i), and (b)(2)(ii)• Renewable volume obligations (RVOs)• RINs used for compliance	
<ul style="list-style-type: none">• Obtain documentation of any volumes of renewable fuel used in products listed in §80.1407(c) and (e) at the refinery or import facility or exported during the reporting year; compute and report the total volumes of renewable fuel represented in these documents	
For obligated parties:	
<ul style="list-style-type: none">• Compare the volumes of products listed in §80.1407(c) and (e) reported to EPA in the annual compliance report (as required under §80.1451(a)(1)) with the volumes, excluding any renewable fuel volumes, contained in the inventory reconciliation analysis under §80.133 and the volume of nonrenewable diesel produced or imported• Verify that the volumes reported to EPA agree with the volumes in the inventory reconciliation analysis and the volumes of non-renewable diesel produced or imported, and report any exception(s)	
For exporters, perform all of the following:	
<ul style="list-style-type: none">• Obtain the database, spreadsheet, or other documentation that the exporter maintains for purposes for all exported renewable fuel• Compare the volume of products identified in these documents with the volumes reported to EPA• Verify that the volumes reported to EPA agree with the volumes identified in the database, spreadsheet, or other documentation, and report any exception(s)	
<ul style="list-style-type: none">• Compute and report the obligated party's or exporter's RVOs, and any deficit RVOs carried over from the previous year or carried into the subsequent year, and verify that the values agree with the values reported to EPA	
<ul style="list-style-type: none">• Obtain the database, spreadsheet, or other documentation for all RINs by type of renewable fuel used for compliance during the year being reviewed; calculate the total number of RINs associated with each type of renewable fuel used for compliance by year of generation represented in these documents; state whether this information agrees with the report to EPA; and report any exception(s)	

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For exporters, perform all the following:

- Select sample batches in accordance with the guidelines in §80.127 from each separate category of renewable fuel exported and identified in the annual compliance reports, RIN transaction reports, and quarterly RIN activity reports (required under §80.1451(a))
- Obtain invoices, bills of lading, and other documentation for the representative samples; calculate the RVO for the exported fuel; state whether this information agrees with the report to EPA; and report any exception(s)
- State whether any of these documents refer to the exported fuel as advanced biofuel or cellulosic biofuel, and report whether or not the exporter calculated an advanced biofuel or cellulosic biofuel RVO for these fuels per §80.1430(b)(2)(i) or (ii)

RIN transaction reports:

- Obtain and read copies of a representative sample (selected in accordance with the guidelines in §80.127) of each RIN transaction type (RINs purchased, RINs sold, RINs retired, RINs reinstated) included in the RIN transaction reports required under §80.1451(a)(2) for the compliance year
- Obtain contracts, invoices, or other documentation for the representative samples of RIN transactions; compute the transaction types, transaction dates, and RINs traded; state whether the information agrees with the party's reports to EPA and report any exceptions

RIN activity reports:

- Obtain and read copies of all quarterly RIN activity reports required under §80.1451(a)(3) for the compliance year
- Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples that were reviewed with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, purchased, sold, retired and reinstated, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume and type of renewable fuel (as defined in §80.1401) of renewable fuel owned at the end of each quarter; as represented in these documents; and state whether this information agrees with the party's reports to EPA

Additional attest engagement requirements:

- For each compliance year, any party subject to attest engagement requirements for the RFS program must submit all reports required under the attest engagement requirements to EPA by May 31 of the year following the compliance year
- The party conducting required attest engagement procedures must obtain a written representation from a company representative that the copies of the reports required by the attest engagements are complete, and that accurate copies of the reports were filed with EPA
- The party conducting the procedures of the attest engagement requirements must identify and report the commercial computer program that it used to track the data required by the regulations of the RFS program, if any

6. For More Information

Where can I go if I have questions or need further assistance?

- For all questions related to the RFS2 program, please contact the EPA Fuels Programs Support Line at:
EPAFuelsPrograms@epa.gov
(202) 343-9755
- For compliance help information, presentations, guidance documents, and to view the Frequently Asked Questions, please visit the RFS Program Compliance Help page at:
www.epa.gov/otaq/fuels/renewablefuels/compliancehelp

Where can I find rulemaking documents?

- All rulemaking documents and information regarding the RFS2 Program can be found on the RFS Regulations and Standards page at:
www.epa.gov/otaq/fuels/renewablefuels/regulations.htm
- Additional information on the RFS Program can be found on the RFS Program home page at:
www.epa.gov/otaq/fuels/renewablefuels