

EPA Issues Final Rule to Establish a Voluntary Quality Assurance Program for Verifying the Validity of Renewable Identification Numbers Under the RFS Program

In today's action we are finalizing a voluntary quality assurance program for verifying the validity of Renewable Identification Numbers (RINs) under the Renewable Fuel Standard (RFS) program.

For RINs that have been verified according to an approved quality assurance plan (QAP), the program will provide an affirmative defense against liability for civil violations under certain conditions for the transfer or use of invalidly generated RINs, and specifies both the conditions under which invalid RINs must be replaced with valid RINs, and by whom. The program includes elements to allow verification of RINs beginning January 1, 2013.

We are also finalizing modifications to the exporter provisions of the RFS program to ensure that an appropriate number and type of RINs are retired whenever renewable fuel is exported. Finally, we are finalizing a number of changes to other RFS regulations governing the transfer and use of RINs that become invalid downstream of the producer.

Background

The RFS program, which was established under Energy Policy Act of 2005 (EPAAct) and subsequently modified through the Energy Independence and Security Act of 2007 (EISA), requires that specified volumes of renewable fuel be used as transportation fuel, home heating oil, and/or jet fuel each year. To accomplish this, EPA publishes applicable percentage standards annually (for advanced biofuel, biomass-based

diesel, cellulosic biofuel, and total renewable fuel) that apply based on the sum of all gasoline and diesel produced or imported. RINs are generated by renewable fuel producers and importers and represent volumes that meet the requirements for renewable fuel under the RFS program. Once RINs have been generated, they can be transferred between parties and used by petroleum refiners and importers (“obligated parties”) to show compliance with their volume obligations. Cases of fraudulently generated RINs, however, led to a reduction in the overall liquidity in the RIN market and in smaller renewable fuel producers having difficulty selling their RINs.

Summary of Major Provisions

Today’s action finalizes a voluntary third-party quality assurance program option for RINs that regulated parties may exercise as a supplement to the “buyer beware” liability as prescribed under existing regulations. The program provides a means for ensuring that RINs are properly generated through audits of renewable fuel production conducted by independent third-parties using quality assurance plans (QAPs), provides an affirmative defense for the transfer or use of invalid RINs that had been verified under an approved QAP, defines the conditions when RINs must be replaced, and a process for determining who will replace the RINs.

For the interim period only, which runs from February 21, 2013 (the publication date of the notice of proposed rulemaking) through December 31, 2014, we are finalizing both of the proposed QAP program options, QAP A and QAP B.

Beginning January 1, 2015, after the interim period is over, the program will consist of a single QAP option, with its associated verified RINs referred to as Q-RINs. To this end, we are finalizing the following for the single QAP:

- Minimum requirements for a QAP, including such things as verification of feedstocks, verification that volumes produced are consistent with amount of feedstocks processed, and verification that RINs generated are appropriately categorized and match the volumes produced
- Qualifications for independent third-party auditors
- Requirements for audits of renewable fuel production facilities, including minimum frequency, site visits, review of records, and reporting
- Conditions under which a regulated party could assert an affirmative defense to civil liability for transferring or using an invalid RIN
- Identification of the party or parties who are responsible for replacing invalid RINs with valid RINs and the timing of such replacement
- A limited exemption for calendar years 2014, 2015, and 2016 that exempts two percent of a party’s Renewable Volume Obligation (RVO) from the replacement requirement if the RINs were used for compliance and were verified through a QAP
- Changes to the EPA Moderated Transaction System (EMTS) that would accommodate the quality assurance program

We are finalizing certain provisions exclusive to QAP A in the interim period, such as the RIN replacement mechanism that provides for invalid A-RINs to be replaced, the RIN replacement cap for auditor replacement of invalid A-RINs, and the elements of an affirmative defense specific to A-RINs. Additionally, we are finalizing provisions exclusive to QAP B in the interim period, such as the elements of an affirmative defense specific to B-RINs, and a two percent limited exemption for B-RINs for calendar years 2013 and 2014.

We are also finalizing modifications to the exporter provisions of the RFS program. These modifications will help ensure that an appropriate number and type of RINs are retired whenever renewable fuel is exported. Finally, we are finalizing a number of changes to other aspects of the RFS regulations governing the transfer and use of RINs that become invalid downstream of the producer.

Impacts

The voluntary quality assurance program is intended to improve RIN market liquidity and efficiency and improve the ability of smaller renewable fuel producers to sell their RINs. As the program is voluntary, there would be no required costs. Today's action would not affect the volumes of renewable fuel required to be produced or the associated greenhouse gas or energy security benefits of the RFS program.

For More Information

For more information, please visit the RFS website at:

www.epa.gov/otaq/fuels/renewablefuels

To submit a question on the RFS program, and to view Frequently Asked Questions, please visit:

www.epa.gov/otaq/fuels/renewablefuels/compliancehelp/index.htm