

EPA Issues Final Rule for Renewable Fuel Standard (RFS) Pathways II and Modifications to the RFS Program, Ultra Low Sulfur Diesel Requirements, and E15 Misfueling Mitigation Requirements

The U.S. Environmental Protection Agency (EPA) is taking final action to qualify additional fuel pathways that the Agency has determined meet the lifecycle greenhouse gas (GHG) reduction requirements for cellulosic biofuel under the National Renewable Fuel Standard (RFS) program. This final rule also provides guidance regarding the feedstocks that EPA considers to be crop residues, including clarification that EPA considers corn kernel fiber to be a crop residue.

EPA is also finalizing other minor amendments related to survey requirements associated with the ultra-low sulfur diesel (ULSD) program and misfueling mitigation regulations for 15 volume percent ethanol blends (E15).

New Pathways

This action qualifies the following as cellulosic and advanced fuel pathways under the Renewable Fuels Standards (RFS):

- Compressed natural gas produced from biogas from landfills, municipal wastewater treatment facility digesters, agricultural digesters, and separated MSW digesters
- Liquefied natural gas produced from biogas from landfills, municipal wastewater treatment facility digesters, agricultural digesters, and separated MSW digesters

- Electricity used to power electric vehicles produced from biogas from landfills, municipal wastewater treatment facility digesters, agricultural digesters, and separated MSW digesters

These pathways have the potential to provide notable volumes of cellulosic biofuel for use in complying with the RFS program, since significant volumes of advanced biofuels are already being generated for fuel made from biogas, and in many cases this same fuel will qualify for cellulosic RINs when this rule becomes effective.

Other Amendments to the RFS Program

This final rule clarifies or amends a number of RFS program regulations that define terms or address registration, recordkeeping, or reporting requirements. These include amendments related to:

- Use of crop residue as renewable fuel feedstock: This final rule specifies producers must include in their registration specific information about the types of residues which will be used, and record and report to EPA the quantities and specific types of residues used during production.
- Definition of “small refinery”: EPA is modifying the definition of small refinery so that the crude throughput threshold of 75,000 barrels per day must apply in the most recent full calendar year prior to an application for hardship.
- Provisions for small blenders of renewable fuels: EPA is changing the threshold for small blenders of renewable fuels that want to delegate renewable identification numbers (RIN) responsibilities from 125,000 gallons to 250,000 gallons.
- When EPA may deactivate a company registration: EPA is specifying that the agency may deactivate a company registration if a company has reported no activity in EMTS for twenty-four calendar months.
- The use for registration purposes of “nameplate capacity” for certain production facilities that do not claim exemption from the 20% GHG reduction threshold; and
- Clarifying what penalties apply under the RFS program.
- Specifies the number of cellulosic biofuel renewable identification numbers that may be generated for fuel made from various cellulosic feedstocks.

Non RFS related Amendments

EPA is also taking action to reduce the number of samples required under the existing ultra-low sulfur diesel survey program which is expected to reduce costs to industry. In addition, this rule makes various changes to the E15 misfueling mitigation regulations.

Changes from Proposed Rule

Portions of the June 14, 2013 proposal are not being finalized at this time, including proposed compliance requirements for non-RIN-generating foreign renewable fuel producers and the definition of “producer” for renewable CNG/LNG and renewable electricity. EPA is also not finalizing the proposed advanced butanol pathway, the proposed pathways for the production of renewable diesel, naphtha and renewable gasoline from biogas, the definition of responsible corporate officer, or the proposed amendments to compliance related provisions in Section 80.1452 (requirements related to the EPA Moderated Transaction System (EMTS)). The Agency is deferring a final decision on these matters until a later time.

Rulemaking Process

EPA published a Notice of Proposed Rulemaking on June 14, 2013 (78 FR 36045) and accepted public comments until July 15, 2013. Public comments received can be viewed online at www.regulations.gov. The public docket for this rulemaking is EPA-HQ-OAR-2012-0401.

For More Information

For more information, please visit the RFS website at:

www.epa.gov/otaq/fuels/renewablefuels/regulations.htm

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