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**Question and Answer Guidance on  
EPA's E15 RVP and RIN Market  
Reform Regulations**

# Question and Answer Guidance on EPA's E15 RVP and RIN Market Reform Regulations

Compliance Division  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency

## NOTICE

This guidance addresses implementation questions regarding EPA's recent rule allowing gasoline blended with up to 15 percent ethanol (E15) to take advantage of the 1-pound per square inch Reid Vapor Pressure waiver afforded under the Clean Air Act, and modification of the Renewable Fuel Standard compliance system to increase transparency and deter market manipulation in the Renewable Identification Number market.

# Question and Answer Guidance on EPA’s E15 RVP and RIN Market Reform Regulations

## Introduction

On June 10, 2019, EPA published a final rule entitled “Modifications to Fuel Regulations to Provide Flexibility for E15; Modifications to RFS RIN Market Regulations.” 84 Fed. Reg. 26980.<sup>1</sup> This rule adopted a new interpretation of section 211(h)(4) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7545(h)(4), and finalized two approaches for section 211(f) of the Act, 42 U.S.C. § 7545(f). The rule also amended 40 C.F.R. Part 80, Subparts B, N and M. Entities potentially affected by this final rule include those involved with the production, importation, distribution, marketing, and retailing of transportation fuels, including gasoline and diesel fuel or renewable fuels such as ethanol, biodiesel, and renewable diesel.

To assist regulated parties, we have collected questions pertaining to a variety of implementation issues and generated responses to those questions. This list includes questions on compliance with E15 regulatory requirements but is primarily focused on implementation of the new requirements in the Renewable Identification Number (RIN) Market Reform portion of the final rule.

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

We have attempted to answer many of the questions submitted to us. Questions that merely require a justification of the regulations or that have been previously answered in the preamble to the regulations and require no further elaboration have generally been omitted.

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<sup>1</sup> For purposes of this document, we will refer to this rule as the “E15/RMR rule.”

# Questions and Answers on EPA’s E15 RVP and RIN Market Reform Regulations

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# 1. Questions Related to E15

## 1. What does the E15/RMR rule mean for E15 and parties selling E15?

The final rulemaking removed the regulatory barrier to using gasoline blended with up to 15 percent ethanol during the summer driving season. More specifically, prior to the E15/RMR rule, parties could not sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline-ethanol blended fuels containing more than 10 and no more than 15 volume percent ethanol (E15) during the regulatory control period<sup>2</sup> that exceeded the 9.0 pound per square inch (“psi”) Reid vapor pressure (RVP) requirements in 40 CFR 80.27. More specifically, E15 was not given the same treatment as gasoline-ethanol blends containing 9 to 10 volume percent ethanol (E10) with respect to the use of the 1.0 psi waiver (“the 1-psi waiver”) under CAA section 211(h)(4). As a result of the E15/RMR rule, parties may now use the 1-psi waiver that previously applied only to E10 to make, distribute, and sell E15 during the regulatory control period. This means that E15 may be 1.0 psi higher than the applicable RVP requirements in 40 CFR 80.27 provided the provisions in 40 CFR 80.27(d)(2)-(3) are met.

This rule does not change the requirement that fuel and fuel additive manufacturers that introduce E15 into commerce or ethanol for use in producing E15 have an EPA-approved misfueling mitigation plan (MMP) in place prior to introducing E15 into commerce nor does it change the components that make up a valid MMP. Similarly, parties subject to regulation under 40 CFR part 80, subpart N, must comply with those requirements. For example, retailers and wholesale purchaser-consumers must label E15 dispensers under 40 CFR 80.1501, blenders of gasoline-ethanol blended fuels must use product transfer document (PTD) language requirements at 80.1503, and the prohibition on the use of E15 in model year 2000 and older motor vehicles, heavy-duty vehicles, highway or off-highway motorcycles, and nonroad vehicles, engines, and equipment still applies. However, the E15/RMR rule did make changes to the PTD language requirements at 40 CFR 80.1503 to effectuate E15 now receiving the 1-psi waiver.

Finally, the E15/RMR rule does not change the regulations at 40 CFR part 79 requiring fuel and fuel additive manufacturers to register E15 or the ethanol used to produce the E15.

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<sup>2</sup> “Regulatory control periods” mean June 1 to September 15 for retail outlets and wholesale purchaser-consumers and May 1 to September 15 for all other facilities.

**2. When can parties start taking advantage of the 1-psi RVP waiver for E15?**

All parties may start taking advantage of the 1-psi waiver for E15 beginning June 1, 2019. For the 2020 regulatory control period, all parties may take advantage of the 1-psi waiver for E15 beginning May 1, 2020. Other restrictions on the allowance of the 1-psi waiver still apply. For example, state implementation plans approved under the CAA which preclude the allowance of the 1-psi waiver for gasoline-ethanol blended fuels still apply.

**3. Is gasoline now required to be E15 as a result of this rule?**

No. The E15/RMR rule enables E15 to take advantage of the 1-psi waiver under CAA section 211(h)(4) during the regulatory control period. The E15/RMR rule does not require that any party make, distribute, use, or sell E15.

**4. Can a BOB certified to be blended to E10 now be blended to E15?**

Yes, provided the E15 meets all other statutory and regulatory requirements. See the following Q&A for more information: <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/may-party-add-more-oxygenate-rbob-specified-product>.

**5. I am interested in introducing E15 into commerce. Are there resources available where I can learn more about the applicable regulatory requirements?**

Additional information and links to compliance assistance documents are available here: <https://www.epa.gov/renewable-fuel-standard-program/compliance-overview-e15-rvp-and-rin-market-reform-final-rule>.

## **2. Effective Date of New RIN Market Reform Requirements**

**6. The final rule says these changes take effect July 10, 2019. Is that when parties will need to comply?**

No. The July 10, 2019 date is when the Code of Federal Regulations (CFR) was updated to reflect the changes to the regulations resulting from the rule. The new regulatory text states that parties will need to comply with the new recordkeeping and reporting requirements beginning January 1, 2020. The first quarterly report including the new information is due by June 1, 2020, per 40 CFR 80.1451.

**7. Will EPA be conducting more stakeholder outreach leading up to the January 1, 2020 implementation date?**

We are continuing to evaluate the need for additional resources and will make them available on a rolling basis here: <https://www.epa.gov/renewable-fuel-standard-program/compliance-overview-e15-rvp-and-rin-market-reform-final-rule>. We will continue to work with stakeholders as questions arise and develop additional outreach materials as needed. Additional stakeholder questions may be submitted online via our Fuels Program Helpdesk at <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/forms/fuels-program-helpdesk>.

### **3. Corporate Affiliates**

**8. The language in the corporate affiliate definition at 40 CFR 80.1401 says two parties are corporate affiliates if one “owns or controls ownership” of more than 20 percent of the other. How does EPA interpret the phrase “owns or controls ownership”?**

Ownership and control of ownership could take many forms, including but not limited to: parent-subsidary relationships, common management and managing members, shared ownership structures, shared officers and directors, and joint ventures. Examples of scenarios that may indicate ownership or control of ownership could include, but are not limited to, scenarios where:

- One party has more than 20 percent of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity.
- One party has more than 20 percent of common owners, directors, or officers of the other entity.
- One party has more than 20 percent of the voting power of the other entity.
- In the case of a partnership other than a limited partnership, more than 20 percent of the interests of the partnership.
- In the case of a limited partnership, more than 20 percent of control over the general partner or more than 20 percent of the voting rights to select the general partner.
- In the case of a limited liability corporation, more than 20 percent of ownership in the other entity regardless of how the interest is held.

**9. How would EPA view situations of successive corporate ownership and/or control? For example, if Company A owns 25 percent of Company B, which controls 50 percent of Company C's actions, would EPA consider Companies A and C to be corporate affiliates?**

In this scenario, EPA would likely not consider Companies A and C to be corporate affiliates per the definition at 40 CFR 80.1401, however, they would likely be in the same corporate affiliate group. If A, B, and C are in the same corporate affiliate group, each company's end-of-day separated D6 RIN holding calculations should yield the same result. Although, because A and C are only in the same corporate affiliate group and not actual corporate affiliates, neither should report as being corporate affiliates on the quarterly RFS activity report.

**10. Are two parties corporate affiliates if they enter into a joint venture or shared third-party company structure?**

Yes, two parties could be considered corporate affiliates under 40 CFR 80.1401 provided both parties owned or controlled ownership of more than 20 percent on the joint venture (JV) or shared third-party. If two parties form a JV or shared third-party where each owns or controls ownership of more than 20 percent of the new entity, then all three parties could be in the same corporate affiliate group by virtue of their shared affiliation with the new entity.

However, EPA recognizes that parties entering into a JV or shared third-party structure may not share common trading-level control and/or information sharing and are occasionally in direct competition with each other. Thus, we have included a RIN holding aggregation exemption at 40 CFR 80.1435(e) which parties may utilize in such situations.

## **4. Contractual Affiliates**

**11. Are contractual affiliates limited only to separated D6 RINs, or other D-code RINs?**

Two parties could be considered contractual affiliates under 40 CFR 80.1401 if they have an agreement in place to purchase, hold on behalf of, or deliver separated RINs of all D-codes. Two parties would likely not be considered contractual affiliates if they only deliver or sell RINs assigned to a volume of renewable fuel.



**12. Would a broker, with whom a party may have a contractual agreement (to pay commissions) but the agreement may not be for the purchase or sale of actual RINs be included under the definition of a contractual affiliate?**

Yes, a broker could be considered a contractual affiliate under 40 CFR 80.1401. Although the broker may not take title of the RINs (and therefore would not purchase or sell them), the broker would be acting to deliver RINs to the other party, thus potentially making the broker and other party contractual affiliates per the definition at 40 CFR 80.1401.

**13. Should parties with contracts to buy/sell renewable fuel with RINs assigned be included in the list of contractual affiliates?**

No, contractual affiliates should be limited to parties that transact separated RINs only. A party that only delivers or sells RINs assigned to a volume of renewable fuel would likely not meet the definition of contractual affiliate at 40 CFR 80.1401.

**14. Would a company that submits an unsuccessful bid for a quantity of separated RINs from a seller need to report the seller as a contractual affiliate?**

If this was the extent of both parties' interaction during the compliance period, then neither party should report the other as a contractual affiliate. If both parties had a separate contract in place to purchase, hold RINs on behalf of, or deliver RINs to the other, then they would likely be contractual affiliates as defined at 40 CFR 80.1401.

**15. Most, if not all, RIN trades have some type of contract associated with them. Does that mean every party I trade RINs with is my contractual affiliate?**

No, a party is likely only a contractual affiliate under 40 CFR 80.1401 if the agreement to purchase, hold on behalf of, or deliver RINs to the other party does not result in a transaction with a fixed price, fixed quantity, and single delivery (i.e. a "spot" type transaction).

**16. I am under contract to purchase separated RINs from a party, but the RINs have not yet been generated. Would we be considered contractual affiliates?**

If Party A has a contract to purchase or hold RINs on behalf of Party B or to deliver RINs to Party B, both parties would likely be considered contractual affiliates per the definition at 40 CFR 80.1401, regardless of whether the RINs have been generated or not. In this scenario, Party A is exercising control over Party B's un-generated RINs which is one of the types of scenarios the E15/RMR rule intended to identify via the contractual affiliate reporting requirements at 40 CFR 80.1451.

## 5. RIN Holdings Calculations

### **17. Are parties required to perform the RIN holdings calculation on a daily basis?**

No, although they may choose to if it suits their business structure and internal processes. Parties may perform their calculations after a longer period, such as at the end of each week, month, or quarter, as long as they maintain records of their end-of-day separated D6 RIN holdings for each day in that period. Parties are required to submit the quarterly RFS activity report, per 40 CFR 80.1451, documenting whether they exceeded the applicable thresholds on any given day during the quarter. Parties will also be required to keep records related to their end-of-day separated D6 RIN holdings and any associated calculations, per 40 CFR 80.1454.

### **18. Do I need to perform the calculations at 40 CFR 80.1435 if I do not hold separated D6 RINs but I do hold RINs of another D-code?**

Yes. The regulations at 40 CFR 80.1435 require that any party that holds RINs must calculate the RIN holdings and RIN holding thresholds.

### **19. How can I determine my end-of-day separated D6 RIN holdings, other than by logging into EMTS at the end of each day and manually recording the holdings?**

Parties with an EMTS account also have the ability to generate RIN holding reports directly in EMTS that provide an overview of RIN holdings over a given time period. For more information, see the EMTS user guide at <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/users-guide-epa-moderated-transaction-system-emts>.

### **20. Are the RIN holdings of contractual affiliates included in the threshold calculations?**

No, per the formulas in 40 CFR 80.1435, the end-of-day separated D6 RIN holdings of contractual affiliates are not included. Only the holdings of corporate affiliates should be included.

- 21. The primary test formula at 40 CFR 80.1435(b)(i) states that “unless otherwise specified, [the  $CNV\_VOL_{TOT,i}$ ] is 15 billion gallons.” Is this the number EPA specifies each year in its annual rulemaking? If not, how does EPA intend to otherwise specify the total expected conventional renewable fuel volume for use in performing the RIN holding calculations?**

In the annual RFS rulemakings, EPA determines the required volume for each of the four categories of renewable fuel: cellulosic biofuel, biomass-based diesel, advanced biofuel, and total renewable fuel. EPA either affirms the statutory targets for each of these categories or uses our statutory waiver authorities to make reductions to the statutory targets. While conventional biofuel ( $CNV\_VOL_{TOT,i}$ ) is not one of the four categories for which EPA establishes a required volume, it can be calculated by subtracting the advanced biofuel volume from the total renewable fuel volume.

- 22. How should parties account for pending trades in EMTS when performing the RIN holding calculations?**

The RIN seller should account for reserved, pending, and canceled trades until the transactions are cleared in EMTS. Until the seller relinquishes control of the RINs in EMTS (i.e. the trade clears), they are held by the seller. Therefore, the RINs should be accounted for by the seller in their RIN holding calculations. The buyer should not account for pending, reserved, or canceled RIN purchases in their RIN holding calculations.

- 23. How should parties account for RINs that have transferred title, but the transaction has not yet been submitted in EMTS (i.e. transactions that occurred within the past five days)?**

As with reserved, pending, and canceled trades, the RIN seller should account for the RIN holdings until the transaction is reported and cleared in EMTS. Until the seller relinquishes control of the RINs in EMTS (i.e. the trade clears), they are held by the seller. Therefore, the RINs should be accounted for by the seller in their RIN holding calculations. The buyer should not account for pending, reserved, or canceled RIN purchases in their RIN holding calculations.

- 24. Regarding their RIN holdings calculations, how should parties handle corporate affiliates from different time zones? E.g., “end of day” may be a different time for different affiliates in the same corporate affiliate group.**

The term “end of day” is defined in 40 CFR 80.1401 as 7:00am Coordinated Universal Time (UTC). All corporate affiliates, regardless of their local time zone, should base their daily RIN holdings calculations using the RIN holdings of each party at 7:00am UTC.

**25. Some corporate affiliates are prohibited from sharing information for various reasons. How should a situation like this be handled when performing the daily RIN holding calculations?**

There is an exemption at 40 CFR 80.1435(e) that parties may claim based on certain situations that prohibit or limit information sharing between corporate affiliates. Any parties claiming this exemption are required to retain detailed, explanatory documentation supporting their exemption per 40 CFR 80.1454(v)(3) and provide the documentation to the attest auditor as part of their annual audit per 40 CFR 80.1464(a)(6).

**26. Under the aggregation exemption requirements at 40 CFR 80.1435(e), what does EPA mean by “an absence of common trading-level control and information sharing”?**

40 CFR 80.1435(e) provides an exclusion from the corporate affiliate aggregation requirements when there is an absence of common trading-level control and information sharing, or when the sharing of information regarding aggregation with the affiliate could lead either party to violate state or Federal law, or the law of a foreign jurisdiction.

“The absence of common trading-level control and information sharing” language addresses those situations where screens exist that prevent parties from sharing RIN information with each other and where there would be no means of performing the daily RIN holding calculation across potential corporate affiliates. The provision is meant to avoid disruption of affiliate relationships where robust screens exist that would prevent coordination and aggregation of RIN holdings in a manner that could affect the RIN market. Commenters on the notice of proposed rulemaking had expressed concern that, without such an exclusion, existing and functioning screens would be jeopardized.

**27. When comparing RIN holdings against the secondary threshold (130% of prior year RVO), how should refiners handle extraordinary situations that significantly changed their gasoline or diesel production volumes at some point during the previous year such that it is not an accurate representation of their projected current year production volumes? For example, a refinery fire, purchase/sale, etc.**

We have included provisions at 40 CFR 80.1435(d) for obligated parties to use alternate gasoline and diesel production volumes when comparing their RIN holdings against the secondary threshold in instances of extraordinary events.

**28. Do the provisions at 40 CFR 80.1435(d) apply to imported and/or exported volumes?**

Yes, parties may claim an alternative import or export volume allowance for any of the reasons listed under 40 CFR 80.1435(d), provided they meet all the requirements of that section.

**29. Does every party in a corporate affiliate group need to calculate their daily end-of-day separated D6 RIN holdings to compare against the primary threshold?**

Yes. All parties that hold RINs should calculate their daily separated D6 RIN holdings using the applicable formulas in 40 CFR 80.1435 for comparison against the primary threshold (three percent of the prior year implied conventional renewable fuel volume requirement).

**30. Does every party in a corporate affiliate group need to calculate their daily end-of-day separated D6 RIN holdings to compare against the secondary threshold?**

Yes, if the primary threshold has been exceeded and at least one of the parties in the group is an obligated party, then every member of the affiliate group should conduct the secondary threshold test at 40 CFR 80.1435(b)(2) and report whether it was exceeded on any day per 40 CFR 80.1451(c)(2)(ii).

**31. How should parties aggregate RINs held by joint ventures and shared company ownership structures?**

If the parent companies of a joint venture (JV) or shared company structure are corporate affiliates of the JV or shared company, as defined at 40 CFR 80.1401, each parent company should account for the percentage of the RINs held by the shared company or JV equivalent to their percent of ownership and/or control of ownership of the JV or shared company.

For example, if Party A and Party B enter into a 60/40 joint venture and the JV holds 100,000 separated D6 RINs on a given day, Party A should account for 60,000 of those RINs in its daily holdings and Party B should account for 40,000.

**32. Is a non-obligated party with an obligated party as a corporate affiliate required to perform the secondary threshold calculation if the first threshold is exceeded?**

All parties in a corporate affiliate group, as defined at 40 CFR 80.1401, should perform the secondary threshold calculations if one or more parties in the group has an obligation under the RFS.

## 6. RIN Holdings Thresholds

**33. Does an obligated party need to exceed both thresholds for EPA to publish its name?**

Yes, an obligated party or a non-obligated party with an obligated party in its corporate affiliate group needs to exceed both thresholds on the same day for EPA to publish its name. If only the primary threshold is exceeded on a day, EPA would likely not publish the name of that obligated party or the members of its group.

**34. If an obligated party exceeds the primary threshold, do they need to calculate against the secondary threshold only for that day, or for every day in the quarter?**

If an obligated party exceeds the primary threshold at any point during the reporting period, they should calculate their aggregated end of day RIN holdings against the secondary threshold (130% of their previous year RVO) for every day in the quarter, regardless of when in the quarter they exceeded the primary threshold. See page 100 for more discussion: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100WR63.pdf>.

**35. An obligated party exceeds both thresholds on one day and is forced to calculate against both thresholds for every day in the quarter. What happens if on other days in the quarter, they exceed the secondary threshold but not the primary? Will their name be published by EPA?**

If an obligated party exceeds both thresholds on any given day, EPA would likely publish its name regardless of whether they exceed either threshold again in that quarter. However, that party should continue to perform the calculations as part of the recordkeeping requirements at 40 CFR 80.1454(u).

**36. Can an obligated party and its corporate affiliate group hold more than 130% of its RVO without EPA publishing its name?**

Yes, provided the obligated party does not also exceed the primary threshold on the same day (3.00% of the total renewable fuel RVO for the applicable compliance period).

## 7. RIN Price Matching and Reporting in EMTS

- 37. Is a trade merely an exchange of RINs between parties or is a trade considered to be an exchange of value between the parties? For example, if Party A gave RINs to Party B rather than make Party B pay for the RINs, would that qualify as a trade or merely a transfer of RINs?**

EPA would consider a “trade” to be any exchange of RINs that would normally be reported to EPA via EMTS per 40 CFR 80.1452.

- 38. How will the RIN price match requirement be enforced?**

Business rules in EMTS will be updated to prevent separated RIN trades with mismatching prices from processing and clearing.

- 39. How does EPA recommend parties assign value to the RIN in instances where assigned RINs are sold at a single price for both renewable fuel and the RIN?**

Parties can either report in EMTS the price per gallon of renewable fuel including RINs or the price per RIN, whichever matches their business practices.

- 40. In what instance could a price of \$0.00 be entered for a transaction in EMTS?**

Two transfer types allow a price of \$0.00 to be entered for separated RINs: intra-company transfers and consignment type transactions. See section five of this document and the EMTS User’s Guide at <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/users-guide-epa-moderated-transaction-system-emts> for an additional explanation of these codes.

- 41. Many smaller renewable fuel producers use RIN aggregation services to bring their RINs to market. Generally, these services take RINs from multiple producers and bundle them for sale on the open market. In such a scenario, how should this series of transactions and prices be reported in EMTS?**

In such a scenario, the transaction between the initial RIN-holding party and the RIN aggregator should be reported in EMTS with a \$0.00 price using the consignment transaction code. Once the RIN aggregator finds a buyer for the bundled RINs, the RIN aggregator and the buyer should report the sale in EMTS at the appropriate non-zero price (ensuring matching) using the appropriate transaction reason code (e.g. spot or term), per 40 CFR 80.1452(c).

**42. If a party sells or purchases separated RINs along with a volume of renewable fuel, should that transaction be reported in EMTS using a “per gallon” price or a “per RIN” price?**

All RIN transactions involving separated RINs should be reported in EMTS using the price “per RIN”, per 40 CFR 80.1452(c)(12)(ii)(B).

## **8. Transaction Type Reporting in EMTS**

**43. How does EPA define a spot vs. term transaction type?**

A spot is a transaction with a fixed price, fixed quantity, and single delivery. A term transaction would be any transaction where at least one of the those is untrue. See footnote 232 in the preamble to the final E15/RMR rule (84 FR 27018) available here: <https://www.govinfo.gov/content/pkg/FR-2019-06-10/pdf/2019-11653.pdf>.

**44. What additional transaction reason codes will be added to EMTS and what would be the appropriate scenarios to use them?**

In addition to “spot” and “term” transaction reason codes, we will be adding a code for “consignment” scenarios.

The spot code should be used for a buy/sell transaction with a fixed price, fixed quantity, and single delivery. The term code should be used for a buy/sell transaction where at least one of the those is untrue.

The consignment code should be used, for example, in a situation where a renewable fuel producer or blender hands over separated RINs to a RIN aggregator who bundles them and sells the larger bundles of RINs to a third party. Section 4 of this document contains a discussion on how such a scenario should be reported by each party in EMTS per 40 CFR 80.1452(c).

Additionally, the consignment code should be used in a scenario where a blender purchases a quantity of renewable fuel without desiring to purchase the RINs. The blender enters into a contract to purchase the renewable fuel and separate the RINs upon blending the renewable fuel with gasoline or diesel. After separating the RINs, the blender passes them back to the producer at no cost.

Parties are encouraged to contact EPA with additional scenarios for more specific assistance via our Fuels Program Helpdesk at <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/forms/fuels-program-helpdesk>.



**45. The “standard trade” reason code is still visible in EMTS. What would be the appropriate situation to use that code as opposed to the spot, term, or other codes?**

A transaction involving assigned RINs would be one appropriate situation to use the standard trade reason code. For more information, please refer to the EMTS User’s Guide at <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/users-guide-epa-moderated-transaction-system-emts>.

**46. When will the new transaction mechanism and price information need to be reported to EPA in EMTS?**

Per 40 CFR 80.1452(c)(12)(ii) and 80.1452(c)(15), any transaction on or after January 1, 2020 must meet the new transaction reporting requirements.

**47. If a party sells or purchases separated RINs along with a volume of renewable fuel, should that transaction be reported in EMTS using the “standard trade” code or one of the new “spot”, “term contract”, or “consignment” type transaction codes?**

All RIN transactions involving separated RINs after 1/1/2020 should be reported in EMTS using the applicable “spot”, “term contract”, or “consignment” reason code. See 40 CFR 80.1452(c)(15).

## **9. Reporting**

**48. When will the new RIN holding and affiliate information need to be reported to EPA?**

Per the schedule specified in 40 CFR 80.1451(f)(2), June 1, 2020 is the deadline to submit the first quarterly RFS activity report with the new information.

**49. Will a new reporting form be developed, or will the new information be included on an existing form?**

The new data (affiliate information, affiliation type, and RIN holding threshold) will be reported on a new form: the RFS0105 RFS Activity Report. Instructions for completing this form can be found at <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/list-all-quarterly-and-annual-reports-renewable>.

**50. Do I need to report all corporate affiliates or just RIN-holding ones?**

Parties required to submit the RFS Activity Report per 40 CFR 80.1451(c) should only report corporate affiliates that held RINs at least once during the applicable quarter. See section III.C of the preamble to the final E15/RMR rule (84 FR 27017) for more discussion.

**51. Do I need to report corporate affiliates that held RINs with D-codes other than D6, such as D3 or D4?**

Yes. Parties are required at 40 CFR 1451(c) to report all corporate affiliates that held RINs during the compliance period. However, only separated D6 RINs should be included in the end-of-day RIN holding calculations per 40 CFR 80.1435.

**52. If I do not own RINs in a quarter, but one or more parties in my corporate affiliate group does, do I still need to submit an RFS activity report?**

No. Per 40 CFR 80.1451(c) only RIN-owning parties are required to submit RFS activity reports.

**53. I have a contract in place with a counterparty that did not result in the transfer of RINs during the reporting period. Am I still required to report that party as a contractual affiliate on the RFS activity report?**

Yes. See 40 CFR 80.1451(c)(2)(ii)(H).

**54. Do I need to report all contractual affiliates or just RIN-holding ones?**

Parties should report all contractual affiliates including those that did not own RINs in the applicable quarter and those that are not registered with the RFS program per the reporting requirements at 40 CFR 80.1451(c)(2)(ii)(F). However, note that the definition of contractual affiliate at 40 CFR 80.1401 is limited to parties with a contract in place to purchase, hold, or deliver RINs (any D code).

An example scenario could be where Party A and Party B entered into a contract on January 1 for Party A to deliver a certain quantity of RINs to Party B before September 1 of that year. Even if Party A did not acquire RINs until July 1 of that year, both parties could be considered contractual affiliates during the quarter one compliance period.

**55. What reporting code should be used when reporting a RIN broker as a contractual affiliate?**

Parties whose contractual affiliates include RIN brokers should report them on the quarterly RFS activity report using the “CONTH” code. It should be noted that RIN brokers themselves would not necessarily be required to submit the quarterly RFS activity report, unless they take title of RINs in EMTS.

**56. For contractual affiliates, should I report contracts for all RIN D-codes or only D6 RINs?**

Contractual affiliates for all RIN D-codes should be reported on the quarterly RFS activity report per 40 CFR 80.1451(c)(2)(ii)(F).

## **10. Recordkeeping**

**57. What records are necessary to substantiate the reported RIN price?**

Recordkeeping requirements to substantiate the reported RIN price are located at 40 CFR 80.1454(i). We recognize that each company documents RIN transactions in different ways and are therefore deferring to customary business practices. Some examples of records could include any transaction receipts, proofs of sale, product transfer documents, or other documents that indicate an agreed-upon price between buyer and seller.

**58. What records are necessary to substantiate the reported transaction mechanism?**

Recordkeeping requirements to substantiate the reported transaction mechanism are located at 40 CFR 80.1454(i). We recognize that each company documents RIN transactions in different ways and are therefore deferring to customary business practices. Some examples of records could include any transaction receipts, proofs of sale, contractual agreements, or other documents that indicate the type of transaction.

**59. Do records need to be retained by all parties in a corporate affiliate group or only the obligated party? What about contractual affiliates?**

All parties transacting and/or holding RINs are subject to the recordkeeping requirements of 40 CFR 80.1454.

## 11. Attest Engagements

**60. Is the attest auditor required to recreate every daily RIN holding calculation as part of their annual audit?**

A representative sample of calculations should be evaluated, per 40 CFR sections 80.1464(a)(4)(ii), 80.1464(b)(5)(ii), and 80.1464(c)(3)(ii). Sample selection guidelines can be found at 40 CFR 80.127.

**61. An auditor found that a party failed to include an affiliate and/or included non-affiliates in their daily RIN holding calculations. Should the auditor report this as a finding?**

The independent auditor should review threshold calculations during the attest engagement process and include in their attest engagement report to EPA any findings per 40 CFR 80.1464. This includes confirmation that the D6 RIN holdings and RVOs, if applicable, of all corporate affiliates were fully and properly accounted for in the calculations.

**62. My audit found that a RIN owning party incorrectly calculated its RIN holdings (but neither the true nor the incorrectly calculated holdings ever exceeded the applicable threshold). Should I report this as a finding in my attest report to EPA?**

The auditor should follow the agreed-upon requirements based on standard auditing procedures.