

**§ 80.1130**

separate such RINs from volumes of renewable fuel if the number of gallon-RINs separated is less than or equal to its annual RVO.

(7) A producer or importer of cellulosic biomass ethanol or waste-derived ethanol can separate a portion of the RINs that it generates pursuant to § 80.1126(e)(4).

(c) The party responsible for separating a RIN from a volume of renewable fuel shall change the K code in the RIN from a value of 1 to a value of 2 prior to transferring the RIN to any other party.

(d) (1) Upon and after separation from a renewable fuel volume, a RIN shall not appear on documentation that is either:

- (i) Used to identify title to the volume of renewable fuel; or
- (ii) Transferred with the volume of renewable fuel.

(2) Upon and after separation of a RIN from its associated volume, product transfer documents used to transfer ownership of the volume must continue to meet the requirements of § 80.1153(a)(5)(iii).

(e) Any obligated party that uses a renewable fuel in a boiler or heater must retire any RINs associated with that volume of renewable fuel and report the retired RINs in the applicable reports under § 80.1152.

[72 FR 23995, May 1, 2007]

**§ 80.1130 Requirements for exporters of renewable fuels.**

(a) Any party that owns any amount of renewable fuel (in its neat form or blended with gasoline or diesel) that is exported from the region described in § 80.1126(a) shall acquire sufficient RINs to offset a Renewable Volume Obligation representing the exported renewable fuel.

(b) *Renewable Volume Obligations.* An exporter of renewable fuel shall determine its Renewable Volume Obligation from the volumes of the renewable fuel exported.

(1) A renewable fuel exporter's total Renewable Volume Obligation shall be calculated according to the following formula:

$$RVO_i = (VOL_k * EV_k)_i + D_{i-1}$$

Where:

RVO<sub>i</sub> = The Renewable Volume Obligation for the exporter for calendar year i, in gallons of renewable fuel.

k = A discrete volume of renewable fuel.

VOL<sub>k</sub> = The standardized volume of discrete volume k of exported renewable fuel, in gallons, calculated in accordance with § 80.1126(d)(7).

EV<sub>k</sub> = The equivalence value associated with discrete volume k.

= Sum involving all volumes of renewable fuel exported.

D<sub>i-1</sub> = Renewable fuel deficit carryover from the previous year, in gallons.

(2)(i) If the equivalence value for a volume of renewable fuel can be determined pursuant to § 80.1115 based on its composition, then the appropriate equivalence value shall be used in the calculation of the exporter's Renewable Volume Obligation.

(ii) If the equivalence value for a volume of renewable fuel cannot be determined, the value of EV<sub>k</sub> shall be 1.0.

(c) Each exporter of renewable fuel must demonstrate compliance with its RVO using RINs it has acquired pursuant to § 80.1127.

[72 FR 23995, May 1, 2007]

**§ 80.1131 Treatment of invalid RINs.**

(a) *Invalid RINs.* An invalid RIN is a RIN that is any of the following:

- (1) Is a duplicate of a valid RIN.
- (2) Was based on volumes that have not been standardized to 60 °F.
- (3) Has expired.
- (4) Was based on an incorrect equivalence value.

(5) Is deemed invalid under § 80.1167(g).

(6) Does not represent renewable fuel as it is defined in § 80.1101.

(7) Was otherwise improperly generated.

(b) In the case of RINs that are invalid, the following provisions apply:

(1) Invalid RINs cannot be used to achieve compliance with the Renewable Volume Obligation of an obligated party or exporter, regardless of the party's good faith belief that the RINs were valid at the time they were acquired.

(2) Upon determination by any party that RINs owned are invalid, the party must adjust their records, reports, and compliance calculations as necessary to reflect the deletion of the invalid RINs.

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(3) Any valid RINs remaining after deleting invalid RINs must first be applied to correct the transfer of invalid RINs to another party before applying the valid RINs to meet the party's Renewable Volume Obligation at the end of the compliance year.

(4) In the event that the same RIN is transferred to two or more parties, all such RINs will be deemed to be invalid, unless EPA in its sole discretion determines that some portion of these RINs is valid.

[72 FR 23995, May 1, 2007]

### § 80.1132 Reported spillage of renewable fuel.

(a) A reported spillage under paragraph (d) of this section means a spillage of renewable fuel associated with a requirement by a federal, state or local authority to report the spillage.

(b) Except as provided in paragraph (c) of this section, in the event of a reported spillage of any volume of renewable fuel, the owner of the renewable fuel must retire a number of gallon-RINs corresponding to the volume of spilled renewable fuel multiplied by its equivalence value.

(1) If the equivalence value for the spilled volume may be determined pursuant to § 80.1115 based on its composition, then the appropriate equivalence value shall be used.

(2) If the equivalence value for a spilled volume of renewable fuel cannot be determined, the equivalence value shall be 1.0.

(c) If the owner of a volume of renewable fuel that is spilled and reported establishes that no RINs were generated to represent the volume, then no gallon-RINs shall be retired.

(d) A RIN that is retired under paragraph (b) of this section:

(1) Must be reported as a retired RIN in the applicable reports under § 80.1152.

(2) May not be transferred to another party or used by any obligated party to demonstrate compliance with the party's Renewable Volume Obligation.

[72 FR 23995, May 1, 2007]

### §§ 80.1133–80.1140 [Reserved]

### § 80.1141 Small refinery exemption.

(a)(1) Gasoline produced at a refinery by a refiner, or foreign refiner (as de-

finied at § 80.1165(a)), is exempt from the renewable fuel standards of § 80.1105 if that refinery meets the definition of a small refinery under § 80.1101(g) for calendar year 20460.

(2) This exemption shall apply through December 31, 2010, unless a refiner chooses to waive this exemption (as described in paragraph (f) of this section), or the exemption is extended (as described in paragraph (e) of this section).

(3) For the purposes of this section, the term "refiner" shall include foreign refiners.

(b)(1) The small refinery exemption is effective immediately, except as specified in paragraph (b)(4) of this section.

(2) A refiner owning a small refinery must submit a verification letter to EPA containing all of the following information:

(i) The annual average aggregate daily crude oil throughput for the period January 1, 2004, through December 31, 2004 (as determined by dividing the aggregate throughput for the calendar year by the number 365).

(ii) 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 company owned the refinery as of January 1, 2004.

(iii) Name, address, phone number, facsimile number, and e-mail address of a corporate contact person.

(3) Verification letters must be submitted by August 31, 2007, to one of the addresses listed in paragraph (h) of this section.

(4) For foreign refiners the small refinery exemption shall be effective upon approval, by EPA, of a small refinery application. The application must contain all of the elements required for small refinery verification letters (as specified in paragraph (b)(2) of this section), must satisfy the provisions of § 80.1165(f) through (h) and (o), and must be submitted by August 31, 2007 to one of the addresses listed in paragraph (h) of this section.

(c) If EPA finds that a refiner provided false or inaccurate information regarding a refinery's crude throughput (pursuant to paragraph (b)(2)(i) of