

## § 80.1161

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§ 80.1154, no person shall produce or import a renewable fuel without assigning the proper RIN value or identifying it by a RIN number as required under § 80.1126.

(b) *RIN generation and transfer violations.* No person shall do any of the following:

(1) Improperly generate a RIN (i.e., generate a RIN for which the applicable renewable fuel volume was not produced).

(2) Create or transfer to any person a RIN that is invalid under § 80.1131.

(3) Transfer to any person a RIN that is not properly identified as required under § 80.1125.

(4) Transfer to any person a RIN with a K code of 1 without transferring an appropriate volume of renewable fuel to the same person on the same day.

(c) *RIN use violations.* No person shall do any of the following:

(1) Fail to acquire sufficient RINs, or use invalid RINs, to meet the party's renewable fuel volume obligation under § 80.1127.

(2) Fail to acquire sufficient RINs to meet the party's renewable fuel volume obligation under § 80.1130.

(3) Use a validly generated RIN to meet the party's renewable fuel volume obligation under § 80.1127, or separate and transfer a validly generated RIN, where the party ultimately uses the renewable fuel volume associated with the RIN in a heater or boiler.

(d) *RIN retention violation.* No person shall retain RINs in violation of the requirements in § 80.1128(a)(5).

(e) *Causing a violation.* No person shall cause another person to commit an act in violation of any prohibited act under this section.

[72 FR 24003, May 1, 2007]

### § 80.1161 Who is liable for violations under the RFS program?

(a) *Persons liable for violations of prohibited acts.* (1) Any person who violates a prohibition under § 80.1160(a) through (d) is liable for the violation of that prohibition.

(2) Any person who causes another person to violate a prohibition under § 80.1160(a) through (d) is liable for a violation of § 80.1160(e).

(b) *Persons liable for failure to meet other provisions of this subpart.* (1) Any

person who fails to meet a requirement of any provision of this subpart is liable for a violation of that provision.

(2) Any person who causes another person to fail to meet a requirement of any provision of this subpart is liable for causing a violation of that provision.

(c) *Parent corporation liability.* Any parent corporation is liable for any violation of this subpart that is committed by any of its subsidiaries.

(d) *Joint venture liability.* Each partner to a joint venture is jointly and severally liable for any violation of this subpart that is committed by the joint venture operation.

[72 FR 24003, May 1, 2007]

### § 80.1162 [Reserved]

### § 80.1163 What penalties apply under the RFS program?

(a) Any person who is liable for a violation under § 80.1161 is subject to a civil penalty of up to \$32,500, as specified in sections 205 and 211(d) of the Clean Air Act, for every day of each such violation and the amount of economic benefit or savings resulting from each violation.

(b) Any person liable under § 80.1161(a) for a violation of § 80.1160(c) for failure to meet a renewable volume obligation, or § 80.1160(e) for causing another party to fail to meet a renewable volume obligation, during any averaging period, is subject to a separate day of violation for each day in the averaging period.

(c) Any person liable under § 80.1161(b) for failure to meet, or causing a failure to meet, a requirement of any provision of this subpart is liable for a separate day of violation for each day such a requirement remains unfulfilled.

[72 FR 24004, May 1, 2007]

### § 80.1164 What are the attest engagement requirements under the RFS program?

The requirements regarding annual attest engagements in §§ 80.125 through 80.127, and 80.130, also apply to any attest engagement procedures required under this subpart. In addition to any other applicable attest engagement procedures, the following annual attest

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engagement procedures are required under this subpart.

(a) The following attest procedures shall be completed for any obligated party as stated in §80.1106(a) or exporter of renewable fuel that is subject to the renewable fuel standard under §80.1105:

(1) *Annual compliance demonstration report.* (i) Obtain and read a copy of the annual compliance demonstration report required under §80.1152(a)(1) which contains information regarding all the following:

(A) The obligated party's volume of finished gasoline, reformulated gasoline blendstock for oxygenate blending (RBOB), and conventional gasoline blendstock that becomes finished conventional gasoline upon the addition of oxygenate (CBOB) produced or imported during the reporting year.

(B) Renewable volume obligation (RVO).

(C) RINs used for compliance.

(ii) Obtain documentation of any volumes of renewable fuel used in gasoline during the reporting year; compute and report as a finding the volumes of renewable fuel represented in these documents.

(iii) Compare the volumes of gasoline reported to EPA in the report required under §80.1152(a)(1) with the volumes, excluding any renewable fuel volumes, contained in the inventory reconciliation analysis under §80.133.

(iii) Verify that the production volume information in the obligated party's annual summary report required under §80.1152(a)(1) agrees with the volume information, excluding any renewable fuel volumes, contained in the inventory reconciliation analysis under §80.133.

(iv) Compute and report as a finding the obligated party's RVO, and any deficit RVO carried over from the previous year or carried into the subsequent year, and verify that the values agree with the values reported to EPA.

(v) Obtain documentation for all RINs used for compliance during the year being reviewed; compute and report as a finding the RIN numbers and year of generation of RINs represented in these documents; and state whether this information agrees with the report to EPA.

(2) *RIN transaction reports.* (i) Obtain and read copies of a representative sample of all RIN transaction reports required under §80.1152(a)(2) for the compliance year.

(ii) Obtain contracts or other documents for the representative sample of RIN transactions; compute and report as a finding the transaction types, transaction dates, and RINs traded; and state whether the information agrees with the party's reports to EPA.

(3) *Gallon-RIN activity reports.* (i) Obtain and read copies of all quarterly gallon-RIN activity reports required under §80.1152(a)(3) for the compliance year.

(ii) Obtain documentation of total RINs (including current-year RINs and previous-year RINs) owned at the start of the quarter, purchased, used for compliance, sold, expired and retired during the quarter being reviewed, and owned at the end of the quarter; compute and report as a finding the total RINs owned at the start and end of the quarter, purchased, used for compliance, sold, expired and retired as represented in these documents; and state whether this information agrees with the party's reports to EPA.

(b) The following attest procedures shall be completed for any renewable fuel producer or importer:

(1) *RIN-generation reports.* (i) Obtain and read copies of the quarterly RIN generation reports required under §80.1152(b)(1) for the compliance year.

(ii) Obtain production data for each renewable fuel batch produced during the year being reviewed; compute and report as a finding the RIN numbers, production dates, types, volumes of denaturant and applicable equivalence values, and production volumes for each batch; and state whether this information agrees with the party's reports to EPA.

(iii) Verify that the proper number of RINs were generated and assigned for each batch of renewable fuel produced, as required under §80.1126.

(iv) Obtain product transfer documents for each renewable fuel batch produced during the year being reviewed; report as a finding any product transfer document that did not include the RIN for the batch.

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(2) *RIN transaction reports.* (i) Obtain and read copies of a representative sample of the RIN transaction reports required under § 80.1152(b)(2) for the compliance year.

(ii) Obtain contracts or other documents for the representative sample of RIN transactions; compute and report as a finding the transaction types, transaction dates, and the RINs traded; and state whether this information agrees with the party's reports to EPA.

(3) *Gallon-RIN activity reports.* (i) Obtain and read copies of the quarterly gallon-RIN activity reports required under § 80.1152(b)(3) for the compliance year.

(ii) Obtain documentation of total RINs (including current-year RINs and previous-year RINs) owned at the start of the quarter, purchased, sold, expired and retired during the quarter being reviewed, and owned at the end of the quarter; compute and report as a finding the total RINs owned at the start and end of the quarter, purchased, used for compliance, sold, expired and retired as represented in these documents; and state whether this information agrees with the party's reports to EPA.

(c) The following attest procedures shall be completed for any party other than an obligated party or renewable fuel producer or importer that owns any RINs during a calendar year.

(1) *RIN transaction reports.* (i) Obtain and read copies of a representative sample of the RIN transaction reports required under § 80.1152(c)(1) for the compliance year.

(ii) Obtain contracts or other documents for the representative sample of RIN transactions; compute and report as a finding the transaction types, transaction dates, and the RINs traded; and state whether this information agrees with the party's reports to EPA.

(2) *Gallon-RIN activity reports.* (i) Obtain and read copies of the gallon-RIN activity reports required under § 80.1152(c)(2) for the compliance year.

(ii) Obtain documentation of total RINs (including current-year RINs and previous-year RINs) owned at the start of the quarter, purchased, sold, expired and retired during the quarter being reviewed, and owned at the end of the quarter; compute and report as a find-

ing the total RINs owned at the start and end of the quarter, purchased, used for compliance, sold, expired and retired as represented in these documents; and state whether this information agrees with the party's reports to EPA.

(d) The following submission dates apply to the attest engagements required under this section.

(1) For each compliance year, each party subject to the attest engagement requirements under this section shall cause the reports required under this section to be submitted to EPA by May 31 of the year following the compliance year.

(2) For the 2007 compliance year only, the attest engagement required under paragraph (a) of this section may be submitted to EPA with the attest engagement for the 2008 compliance year.

[72 FR 24004, May 1, 2007]

**§ 80.1165 What are the additional requirements under this subpart for a foreign small refiner?**

(a) *Definitions.* The following definitions apply for this subpart:

(1) *Foreign refinery* is a refinery that is located outside the United States, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (collectively referred to in this section as "the United States").

(2) *Foreign refiner* is a person that meets the definition of refiner under § 80.2(i) for a foreign refinery.

(3) *RFS-FRGAS* is gasoline produced at a foreign refinery that has received a small refinery exemption under § 80.1141 or a small refiner exemption under § 80.1142 that is imported into the United States.

(4) *Non-RFS-FRGAS* is one of the following:

(i) Gasoline produced at a foreign refinery that has received a small refinery exemption under § 80.1141 or a small refiner exemption under § 80.1142 that is not imported into the United States.

(ii) Gasoline produced at a foreign refinery that has not received a small refinery exemption under § 80.1141 or small refiner exemption under § 80.1142.