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demonstrate compliance with the RFS program.

[75 FR 14863, Mar. 26, 2010, as amended at 75 FR 26047, May 10, 2010; 79 FR 42165, July 18, 2014; 85 FR 7080, Feb. 6, 2020; 87 FR 39671, July 1, 2022]

§ 80.1464 What are the attest engagement requirements under the RFS program?

The requirements regarding annual attest engagements in 40 CFR 1090.1800, also apply to any attest engagement procedures required under this subpart M. In addition to any other applicable attest engagement procedures, such as the requirements in §§ 80.1465 and 80.1466, the following annual attest engagement procedures are required under this subpart.

(a) *Obligated parties and exporters of renewable fuel.* The following attest procedures shall be completed for any obligated party (as described at § 80.1406(a)) or exporter of renewable fuel (as described at § 80.1430):

(1) *Annual compliance demonstration report.* (i) Obtain and read a copy of the annual compliance demonstration report required under § 80.1451(a)(1) which contains information regarding all the following:

(A) The obligated party's volume of all products listed in § 80.1407(c) and (e), or the exporter of renewable fuel's volume of each category of exported renewable fuel identified in § 80.1430(b)(1) through (b)(4).

(B) RVOs.

(C) RINs used for compliance.

(ii) Obtain documentation of any volumes of renewable fuel used in products listed in § 80.1407(c) and (e) at the refinery or import facility or exported during the reporting year; compute and report as a finding the total volumes of renewable fuel represented in these documents.

(iii) For obligated parties, compare the volumes of products listed in § 80.1407(c), (e), and (f) reported to EPA in the report required under § 80.1451(a)(1) with the volumes, excluding any renewable fuel volumes, contained in the inventory reconciliation analysis under 40 CFR 1090.1810 and the volume of non-renewable diesel produced or imported. Verify that the volumes reported to EPA agree with the

volumes in the inventory reconciliation analysis and the volumes of non-renewable diesel produced or imported, and report as a finding any exception.

(iv) For exporters of renewable fuel, perform all of the following:

(A) Obtain the database, spreadsheet, or other documentation that the exporter of renewable fuel maintains for all exported renewable fuel.

(B) Compare the volume of products identified in these documents with the volumes reported to EPA.

(C) Verify that the volumes reported to EPA agree with the volumes identified in the database, spreadsheet, or other documentation, and report as a finding any exception.

(D) Select sample batches in accordance with the guidelines in 40 CFR 1090.1805 from each separate category of renewable fuel exported and identified in § 80.1451(a); obtain invoices, bills of lading and other documentation for the representative samples; state whether any of these documents refer to the exported fuel as advanced biofuel or cellulosic biofuel; and report as a finding whether or not the exporter of renewable fuel calculated an advanced biofuel or cellulosic biofuel RVO for these fuels pursuant to § 80.1430(b)(1) or (3).

(v) Compute and report as a finding the RVOs for the obligated party or exporter of renewable fuel, and any deficit RVOs carried over from the previous year or carried into the subsequent year, and verify that the values agree with the values reported to EPA.

(vi) Obtain the database, spreadsheet, or other documentation for all RINs by type of renewable fuel used for compliance during the year being reviewed; calculate the total number of RINs associated with each type of renewable fuel used for compliance by year of generation represented in these documents; state whether this information agrees with the report to EPA and report as a finding any exceptions.

(vii) For obligated parties that redesignate certified NTFD as MVNRLM diesel fuel under § 80.1408, perform the additional attest engagement procedures described at § 80.1475 and report any findings in the report described in paragraph (d) of this section. Parties that do not incur an RVO under

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§ 80.1408(a)(2)(i) and do not otherwise need to complete an attest engagement under this paragraph (a) do not need to arrange for the additional attest engagement procedures under § 80.1475 to be performed.

(2) *RIN transaction reports and product transfer documents.* (i) Obtain and read copies of a representative sample, selected in accordance with the guidelines in 40 CFR 1090.1805, of each RIN transaction type (RINs purchased, RINs sold, RINs retired, RINs separated, RINs reinstated) included in the RIN transaction reports required under § 80.1451(a)(2) for the compliance year.

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

(iii) Verify that the product transfer documents for the representative samples under paragraph (a)(2)(i) of this section of RINs sold and the RINs purchased contain the applicable information required under § 80.1453 and report as a finding any product transfer document that does not contain the required information.

(iv) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (a)(2)(iii) of this section and report as a finding any exceptions.

(3) *RIN activity reports.* (i) Obtain and read copies of all quarterly RIN activity reports required under § 80.1451(a)(3) for the compliance year.

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (a)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume and type of renewable fuel owned at the end of each quarter, as represented in these documents; and state

whether this information agrees with the party's reports to EPA.

(4) *RIN holdings.* (i) Obtain and read copies of the RIN holdings calculations performed under § 80.1435 for the party and any corporate affiliates and the applicable database, spreadsheet, or other documentation the party maintains.

(ii) Select sample calculations in accordance with the guidelines in 40 CFR 1090.1805; compute and report as a finding the results of these calculations and verify that the results agree with the values reported to EPA.

(iii) Identify any date(s) where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435. Compute and state as a finding whether this information agrees with the party's reports (notification of threshold exceedance) to EPA.

(5) *Affiliates.* Review reports and records related to corporate and contractual affiliates and state whether this information agrees with the party's reports to EPA, and report as a finding any exceptions.

(6) *Exemption.* Review and confirm the existence of records supporting an exemption from aggregation claimed by the party under § 80.1435(e), and report as a finding any exceptions.

(7) *Compliance reports.* Compare the list of compliance reports submitted to EPA during the compliance period to the reporting requirements for the entity in § 80.1451. Report as a finding any reporting requirements that were not completed.

(b) *Renewable fuel producers and RIN-generating importers.* The following attest procedures shall be completed for any RIN-generating renewable fuel producer or importer:

(1) *RIN generation reports.* (i) Obtain and read copies of the reports required under § 80.1451(b)(1), (e), and (d) for the compliance year.

(ii) Obtain production data for each renewable fuel batch by type of renewable fuel that was produced or imported during the year being reviewed; compute the RIN numbers, production dates, types, volumes of ethanol denaturant and applicable equivalence values, and production volumes for each batch; report the total RINs generated during the year being reviewed; and state whether this information agrees

with the party's reports to EPA. Report as a finding any exceptions.

(iii) Verify that the proper number of RINs were generated and assigned pursuant to the requirements of § 80.1426 for each batch of renewable fuel produced or imported. For RINs generated for ethanol produced from corn starch at a facility using a pathway in Table 1 to § 80.1426 that requires the use of one or more of the advanced technologies listed in Table 2 to § 80.1426, verify that the required advanced technology or technologies were employed in accordance with the specifications in Tables 1 and 2 to § 80.1426, including any requirement for application to 90% of the production on a calendar year basis.

(iv) Obtain product transfer documents for a representative sample, selected in accordance with the guidelines in 40 CFR 1090.1805, of renewable fuel batches produced or imported during the year being reviewed; verify that the product transfer documents contain the applicable information required under § 80.1453; verify the accuracy of the information contained in the product transfer documents; report as a finding any product transfer document that does not contain the applicable information required under § 80.1453.

(v)(A) Obtain documentation, as required under § 80.1451(b), (d), and (e), associated with feedstock and biointermediate purchases for a representative sample of feedstocks and biointermediates separately, selected in accordance with the guidelines in 40 CFR 1090.1805, of renewable fuel batches produced or imported during the year being reviewed.

(B) Verify that feedstocks were properly identified in the reports and met the definition of renewable biomass in § 80.1401.

(C) Verify that biointermediates were properly identified in the reports, as applicable.

(2) *RIN transaction reports and product transfer documents.* (i) Obtain and read copies of a representative sample, selected in accordance with the guidelines in 40 CFR 1090.1805, of each transaction type (RINs purchased, RINs sold, RINs retired, RINs separated, RINs reinstated) included in the RIN

transaction reports required under § 80.1451(b)(2) for the compliance year.

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

(iii) Verify that the product transfer documents for the representative samples under paragraph (b)(2)(i) of this section of RINs sold and the RINs purchased contain the applicable information required under § 80.1453 and report as a finding any product transfer document that does not contain the required information.

(iv) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (b)(2)(iii) of this section and report as a finding any exceptions.

(3) *RIN activity reports.* (i) Obtain and read copies of the quarterly RIN activity reports required under § 80.1451(b)(3) for the compliance year.

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (b)(2) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; report the total number of each RIN generated during each quarter and compute and report the total number of current-year and prior-year RINs owned at the start and end of each quarter, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; and state whether this information agrees with the party's reports to EPA.

(4) *Independent Third Party Engineering Review.* (i) Obtain documentation of independent third-party engineering reviews required under § 80.1450(b)(2). Such documentation must include the date of the last engineering review along with date of the actual site visit by the professional engineer.

(ii) Review and verify the written verification and records generated as

part of the independent third party engineering review.

(iii) Verify that independent third-party engineering reviews conducted under § 80.1450(d)(3) occurred within the three-year cycle. Report as a finding if the engineering review was not updated as part of the three-year cycle under § 80.1450(d)(3).

(5) *RIN holdings.* (i) Obtain and read copies of the RIN holdings calculations performed under § 80.1435 for the party and any corporate affiliates and the applicable database, spreadsheet, or other documentation the party maintains.

(ii) Select sample calculations in accordance with the guidelines in 40 CFR 1090.1805; compute and report as a finding the results of these calculations and verify that the results agree with the values reported to EPA.

(iii) Identify any date(s) where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435. Compute and state as a finding whether this information agrees with the party's reports (notification of threshold exceedance) to EPA.

(6) *Affiliates.* Review reports and records related to corporate and contractual affiliates and state whether this information agrees with the party's reports to EPA, and report as a finding any exceptions.

(7) *Exemption.* Review and confirm the existence of records supporting an exemption from aggregation claimed by the party under § 80.1435(e), and report as a finding any exceptions.

(8) *Compliance reports.* Compare the list of compliance reports submitted to EPA during the compliance period to the reporting requirements for the entity in § 80.1451. Report as a finding any reporting requirements that were not completed.

(c) *Other parties owning RINs.* Except as specified in paragraph (c)(6) of this section, the following attest procedures must 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 and product transfer documents.*

(i) Obtain and read copies of a representative sample, selected in accordance with the guidelines in 40 CFR 1090.1805, of each RIN transaction type

(RINs purchased, RINs sold, RINs retired, RINs separated, RINs reinstated) included in the RIN transaction reports required under § 80.1451(c)(1) for the compliance year.

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

(iii) Verify that the product transfer documents for the representative samples under paragraph (c)(1)(i) of this section of RINs sold and RINs purchased contain the applicable information required under § 80.1453 and report as a finding any product transfer document that does not contain the required information.

(iv) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (c)(1)(iii) of this section and report as a finding any exceptions.

(2) *RIN activity reports.*

(i) Obtain and read copies of the quarterly RIN activity reports required under § 80.1451(c)(2) for the compliance year.

(ii) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN activity reports; compare the RIN transaction samples reviewed under paragraph (c)(1) of this section with the corresponding entries in the database or spreadsheet and report as a finding any discrepancies; compute the total number of current-year and prior-year RINs owned at the start and end of each quarter, and for parties that reported RIN activity for RINs assigned to a volume of renewable fuel, the volume of renewable fuel owned at the end of each quarter, as represented in these documents; and state whether this information agrees with the party's reports to EPA.

(3) *RIN holdings.* (i) Obtain and read copies of the RIN holdings calculations performed under § 80.1435 for the party and any corporate affiliates and the applicable database, spreadsheet, or other documentation the party maintains.

(ii) Select sample calculations in accordance with the guidelines in 40 CFR

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1090.1805; compute and report as a finding the results of these calculations and verify that the results agree with the values reported to EPA.

(iii) Identify any date(s) where the aggregated calculation exceeded the RIN holding threshold(s) specified in § 80.1435. Compute and state as a finding whether this information agrees with the party's reports (notification of threshold exceedance) to EPA.

(4) *Affiliates.* Review reports and records related to corporate and contractual affiliates and state whether this information agrees with the party's reports to EPA, and report as a finding any exceptions.

(5) *Exemption.* Review and confirm the existence of records supporting an exemption from aggregation claimed by the party under § 80.1435(e), and report as a finding any exceptions.

(6) *Low-volume RIN owner exemption.* Any party who meets all the following criteria in a given compliance period is not required to submit an attest engagement for that compliance period:

(i) The party must be solely registered as a party owning RINs (*i.e.*, a "RIN Owner Only") and must not also be registered in any other role under § 80.1450 (*e.g.*, the party must not also be an obligated party, exporter of renewable fuel, renewable fuel producer, RIN generating importer, etc.).

(ii) The party must have transacted (*e.g.*, generated, bought, sold, separated, or retired) 10,000 or fewer RINs in the given compliance period.

(iii) The party has not exceeded the RIN holding threshold(s) specified in § 80.1435.

(7) *Compliance reports.* Compare the list of compliance reports submitted to EPA during the compliance period to the reporting requirements for the entity in § 80.1451. Report as a finding any reporting requirements that were not completed.

(d) *Report submission deadlines—(1) Obligated parties.* (i) Except as specified in paragraph (d)(1)(ii) of this section, for obligated parties, annual attest engagement reports must be submitted to EPA by whichever of the following dates is latest:

(A) June 1 of the subsequent calendar year.

(B) The next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline under § 80.1451(f)(1)(i)(A).

(ii)(A) For obligated parties that meet the requirements for a small refinery under § 80.1441(e)(2)(iii), for the 2019 compliance year, annual attest engagement reports must be submitted to EPA no later than the next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline under § 80.1451(f)(1)(i)(B)(1).

(B) For obligated parties, for the 2020 compliance year, annual attest engagement reports must be submitted to EPA no later than the next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline under § 80.1451(f)(1)(i)(B)(2).

(C) For obligated parties, for the 2021 compliance year, annual attest engagement reports must be submitted to EPA no later than the next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline under § 80.1451(f)(1)(i)(B)(3).

(D) For obligated parties, for the 2022 compliance year, annual attest engagement reports must be submitted to EPA no later than the next June 1 annual attest engagement reporting deadline after the annual compliance reporting deadline under § 80.1451(f)(1)(i)(B)(4).

(2) *All other parties.* All parties other than obligated parties must submit annual attest engagement reports to EPA by June 1 of the subsequent calendar year.

(3) *Deadline publication.* The annual attest engagement reporting deadline will be calculated in accordance with paragraph (d)(1) of this section and published on EPA's website.

(e) The party conducting the procedures under this section shall obtain a written representation from a company representative that the copies of the reports required under this section are complete and accurate copies of the reports filed with EPA.

(f) The party conducting the procedures under this section shall identify and report as a finding the commercial computer program used by the party to

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track the data required by the regulations in this subpart, if any.

(g) [Reserved]

(h) *Biointermediate producers.* The following attest reports must be completed for any biointermediate producer that produces a biointermediate in a compliance year:

(1) *Biointermediate production reports.*

(i) Obtain and read copies of the quarterly biointermediate production reports required under §80.1451(i); compare the reported information to the requirements under §80.1451(i); and report as a finding any missing or incomplete information in the reports.

(ii) Obtain any database, spreadsheet, or other documentation used to generate the information in the biointermediate production reports; compare the corresponding entries in the database or spreadsheet and report as a finding any discrepancies.

(iii) For a representative sample of biointermediate batches, selected in accordance with the guidelines in 40 CFR 1090.1805, obtain records required under §80.1454(i); compare these records to the corresponding batch entries in the reports procured in paragraph (h)(1)(i) of this section and report as a finding any discrepancies.

(iv) Obtain the list of designated renewable fuel production facilities under §80.1450(b)(1)(ii)(B)(I); compare the list of registered designated renewable fuel production facilities to those identified in the biointermediate production report; and report as a finding any discrepancies.

(v) Provide the list of renewable fuel producers receiving any transfer of biointermediate batches and calculate the total volume from the batches received.

(2) *Independent third-party engineering review.* (i) Obtain documentation of independent third-party engineering reviews required under §80.1450(b)(2).

(ii) Review and verify the written verification and records generated as part of the independent third-party engineering review.

(iii) Provide the date of the submission of the last engineering review along with the date of the actual site visit by the professional engineer. Report as a finding if the engineering re-

view was not updated as part of the three-year cycle under §80.1450(d)(3).

(iv) Compare and provide the total volume of produced biointermediate during the compliance year as compared to the production capacity stated in the engineering review and report as a finding if the volume of produced biointermediate is greater than the stated production capacity.

(3) *Product transfer documents.* (i) Obtain contracts, invoices, or other documentation for each batch in the representative sample under paragraph (h)(1)(iii) of this section and the corresponding copies of product transfer documents required under §80.1453; compare the product transfer documents with the contracts and invoices and report as a finding any discrepancies.

(ii) Verify that the product transfer documents obtained in paragraph (h)(3)(i) of this section contain the applicable information required under §80.1453 and report as a finding any product transfer document that does not contain the required information.

(iii) Verify the accuracy of the information contained in the product transfer documents reviewed pursuant to paragraph (h)(3)(ii) of this section with the records obtained and reviewed under paragraph (h)(1)(iii) of this section and report as a finding any exceptions.

(i) *Independent third-party auditors.* The following attest procedures shall be completed for any independent third-party auditor that implements a quality assurance plan in a calendar year:

(1) *Comparing RIN and biointermediate verification reports with approved QAPs.*

(i) Obtain and read copies of reports required under §80.1451(g)(1). Compare the list of compliance reports submitted to EPA during the compliance period to the reporting requirements for the entity in §80.1451. Report as a finding any reporting requirements that were not completed.

(ii) Obtain and read copies of any quality assurance plans approved under §80.1469.

(iii) Confirm that the independent third-party auditor only verified RINs

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and biointermediates covered by approved QAPs under § 80.1469. Identify as a finding any discrepancies.

(2) *Checking third-party auditor's RIN and biointermediate verification.* (i) Obtain and read copies of reports required under § 80.1451(g)(2). Compare the list of compliance reports submitted to EPA during the compliance period to the reporting requirements for the entity in § 80.1451. Report as a finding any reporting requirements that were not completed.

(ii) Obtain all notifications of potentially invalid RINs and potentially improperly produced biointermediate submitted to the EPA under §§ 80.1474(b)(3) and 80.1477(d)(2) respectively.

(iii)(A) Obtain the database, spreadsheet, or other documentation used to generate the information in the RIN verification reports;

(B) Obtain all underlying documents that the QAP provider relied upon to verify the RINs;

(C) Review the documents that the QAP auditor relied on to prepare the reports obtained in paragraph (d)(2)(i) of this section, verify that the underlying documents appropriately reflect the information reported to the EPA, and identify as a finding any discrepancies between the underlying documents and the information in the RIN verification reports;

(D) Compute the total number of current-year RINs and current-year potentially invalid RINs verified at the start and end of each quarter, as represented in these documents; and state whether this information agrees with the party's reports to the EPA; and

(E) Verify that all parties were appropriately notified under § 80.1474(b)(3) and report any missing notifications as a finding.

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EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 80.1464, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

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§ 80.1465 [Reserved]

§ 80.1466 What are the additional requirements under this subpart for foreign renewable fuel producers and importers of renewable fuels?

(a) *Applicability.* This section only applies to foreign renewable fuel producers that are located outside the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (collectively referred to in this section as “the United States”).

(b) *General requirements.* A registered foreign renewable fuel producer under this section must meet all requirements that apply to renewable fuel producers under this subpart.

(c) *Designation, RIN-generating foreign producer certification, and product transfer documents.* (1) Any registered foreign renewable fuel producer must designate each batch of such renewable fuel as “RFS-FRRF” at the time the renewable fuel is produced.

(2) On each occasion when RFS-FRRF is transferred for transport to a vessel or loaded onto a vessel or other transportation mode for transport to the United States, the RIN-generating foreign producer shall prepare a certification for each batch of RFS-FRRF; the certification shall include the report of the independent third party under paragraph (d) of this section, and all the following additional information:

(i) The name and EPA registration number of the company that produced the RFS-FRRF.

(ii) The identification of the renewable fuel as RFS-FRRF.

(iii) The identification of the renewable fuel by type, D code, and number of RINs generated.

(iv) The volume of RFS-FRRF, standardized per § 80.1426(f)(8), being transported, in gallons.

(3) On each occasion when any person transfers custody or title to any RFS-FRRF prior to its being imported into the United States, it must include all the following information as part of the product transfer document information:

(i) Designation of the renewable fuel as RFS-FRRF.