

Focus on Fuels

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TM&C Services in Fuel Regulations

TM&C provides a full range of services in its fuels regulatory practice. Some of these services are listed below:

- Preparing, reviewing and submitting fuels reports, including CDX submissions.
- Facility audits for compliance with

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This year I have a new resolution to keep - providing timely information frequently in small doses instead of infrequent multi-article newsletters. So, I resolve to provide a short article each month. This month, I offer a reminder on proper record keeping. In subsequent months, I will share thoughts on the upcoming new regulatory action for Tier 3 Gasoline. After that, perhaps information on progress of the two California fuels initiatives: Low Carbon Fuel Standard, and Cap and Trade. If you have a subject of interest to you, please send me an email at cmiller@turnermason.com.

Remembering Birthdays

Forgetting a birthday can get you in trouble. No, I am not discussing human relationships, although my rejoinder is also true for them. I am discussing your relationship with the enforcement folks at EPA.

It is all about benzene credits. At 40CFR80.1350, the regulations instruct refiners to keep records of:

- (v) The number of valid credits in possession of the refinery or importer at the beginning of each averaging period, separately by generating facility and year of generation.
- (vi) The number of standard credits generated by the refinery or importer under §80.1290, separately by transferor (if applicable), by facility and by year of generation.
- (vii) The number of credits used, separately by generating facility and year of generation.

- fuels programs.
- Interaction with EPA to pose fuels related questions.
- Industry specialist assistance for required gasoline attestations.
- Industry specialist assistance for in-line blending audits.
- Assistance in setting up a fuels compliance group/program.
- Personnel reviews of compliance related groups.
- Compliance status reviews and recommendations .
- Negotiations/consultation during EPA enforcement actions.
- 3rd Party Engineering reviews.
- Due diligence reviews of facilities and companies in RFS RINs Program.

(viii) If any credits were obtained from, or transferred to, other parties, for each other party, its name, its EPA refinery or importer registration number, and the number of credits obtained from, or transferred to, the other party, and the price per credit.

(ix) The number of credits that expired at the end of each averaging period, separately by generating facility and year of generation.

(x) The number of credits that will be carried over into a subsequent averaging period, separately by generating facility and year of generation.

Notice how the words "year of generation" keep showing up in the record keeping requirements. Year of generation is important because benzene credits can be used for compliance only for the year of generation and the 5 years subsequent to the year of generation. "Example: Standard credits generated during 2011 may be used to achieve compliance under §80.1240(a) for any calendar year averaging period prior to the 2017 averaging period."

However, the reporting requirements at §80.1354 never refer to the year of generation. Only the totals are reported on the annual reporting form (RFG2000). The Credit Transfer Report (RFS2200) does require you to report the year of generation. So, even though (viii) does not mention the year of generation as a record keeping requirement for transferred credits, you still need it.

So, please be meticulous in your record keeping; don't lose track of the year of generation for your benzene credits. I think a thorough attester would certainly want to see the year of creation for all of the benzene credits in your inventory.

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