

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

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The impact of the U.S. Renewable Fuels program resonates throughout the world. In particular, several foreign producers are registered in the program to supply advanced biofuels and biomass based diesel. Sugarcane ethanol is an advanced biofuel imported from Brazil. The sugarcane ethanol production process yields significantly less greenhouse gases than the production of ethanol from corn. In addition, biomass based diesel made from tallow, used cooking oil and other feedstocks is available from many countries. Foreign biofuel producers are allowed to participate in the U.S. program. However, their responsibilities are different depending on how they choose to participate. In addition, EPA has proposed some changes to the foreign biofuel producer's obligations. This article describes some of the foreign producer's obligations under the program and the proposed changes to those obligations.

We provide guidance in registration and independent engineering services required under the regulations to domestic and foreign biofuel producers. Please contact us if we can assist you in any of the U.S. fuels regulatory areas.

Renewable Fuel Importers Beware

by Beth Hilbourn

Currently, foreign renewable fuel producers typically only register with the U.S. EPA as a foreign producer. The importer usually registers as a renewable fuel importer, generates the RINs and fulfills recordkeeping, reporting, attestation, EMTS and product transfer

- CDX submissions.
- Facility audits for compliance with 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.

document requirements. If a foreign renewable fuel producer would like to also generate RINs, they have all the requirements associated with RIN generation, and the importer has obligations similar to a RIN buyer with all the RFS requirements, except they still need to be registered as a renewable fuel importer. The RIN-generating foreign producer has additional requirements spelled out in § 80.1466. These additional requirements include, but are not limited to, designation, foreign producer certification, product transfer documentation, load port independent-testing and producer identification, submission to U.S. jurisdiction and the posting of a bond.

On June 14, 2013, the EPA issued a Notice of Proposed Rulemaking that would require all foreign renewable fuel producers to fulfill the requirements of § 80.1466. Portions of § 80.1466 currently require documents that must be received and approved by the EPA prior to the generation of RINs by the foreign producer. All of the required documents are initiated and signed by the foreign renewable fuel producer.

Some of the additional requirements include:

- 1) Bond-posting by the RIN generating foreign renewable fuel producer, per §80.1466(h);
- 2) Commitment Letter, signed by the owner or president of the foreign producer company, per §80.1466(f)(7) from the RIN generating foreign renewable fuel producer per, §80.1466(f), including the name of the agent for service of process located in the District of Columbia, per §80.1466(f)(2); and
- 3) Commitment Letter from an independent third party that will be testing the renewable fuel batch when loaded at the port, per §80.1466(d)(3)(iii).

Templates of these registration are available from the EPA in a 'RIN producer's package'. Notice that since the Commitment Letter from the independent third party is signed by the foreign producer, it is expected that there is a similar commitment document between the independent third party and the foreign producer; however, this is not required to be sent to the EPA. An agent for service of process located in the District of Columbia is identified in both the Foreign Producer Commitment Letter and the Third Party Inspector Commitment Letter. The importer would also have to ensure this documentation has been approved before generating RINs on an import.

It is not clear to Turner, Mason & Company yet if the company specifically receives approval from the EPA or if the submission is considered to be tantamount to approval. Approval is assumed with the foreign company's initial registration when a company and facility ID are obtained.

It is not certain when a final rulemaking may go into effect. This proposed rulemaking primarily affects biomass based diesel (D4) and advanced RINs (D5), of which 8% and 85% respectively are from imports. This rulemaking would impact all sugarcane ethanol imported into the U.S.

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