

Focus on Fuels

In This Issue

[TM&C Services](#)

[Have You Filed A RIN Integrity Report?](#)



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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,

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Invalid RINs are not a new subject to the regulated community. In fact, the problem was so pervasive, the EPA issued two interim enforcement policies to streamline the process. The policies were meant to allow regulated parties to follow specific procedures in replacing invalid RINs, paying an enforcement penalty and developing procedures to avoid problems in the future. This article deals with the requirement to report how you will avoid using invalid RINs in the future.

We provide guidance in registration and independent engineering services required under the regulations to domestic and foreign biofuel producers. We can also help you sort through the newest wrinkles in these interim enforcement policies as well as in any of the various fuels regulations. Please contact us if we can assist you in any of the U.S. fuels regulatory areas.

Invalid 2010, 2011 or 2012 RINs? Have You Filed A RIN Integrity Report?

by Tom Hogan

For those lucky enough to have never handled invalid RINs, congratulations. But for those who have used invalid RINs, EPA's Office of Enforcement and Compliance Assurance (OECA) issued a streamlined interim enforcement response policy on March 14, 2012 for invalid 2010 and 2011 RINs used for compliance. EPA extended that policy to include invalid 2012 RINs used for compliance. This streamlined policy requires (among other things) that the obligated party submit a RIN integrity report to the EPA within one year of when

reviewing and submitting fuels reports, including 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.

the RINs were found to be invalid. The RIN integrity report includes the elements shown below.

"The report shall describe the methodology or system that the company has implemented or adopted at the time of the report to ensure that RINs it uses to satisfy its Renewable Volume Obligation or RVO are valid."

Obligated parties may have implemented different methods or systems to ensure valid RINs are used to satisfy their RVOs. EPA, therefore, will defer to the party preparing the RIN Integrity Report to determine the precise content of the report. **At a minimum, the report should include:**

1. Copies of all written procedures and protocols that the company has implemented to ensure valid RINs are used to satisfy their RVOs;
2. A narrative description of how these procedures or protocols have been implemented; and
3. A narrative description of any other methods or systems that the company has implemented that are not set forth in the written procedures or protocols.

EPA has proposed alternative procedures under the quality assurance program (QAP) for invalid RINs for 2013 and beyond. The elements of the QAP program were proposed last year and have yet to be approved.

The important point is that if your company has used invalid RINs for compliance, you must file a RIN Integrity Report with at least the elements above. The steps that should be taken are listed below:

1. Identify if your company has used invalid RINs;
2. Identify when the company became aware of the invalid RINs;
3. Design a program to avoid the use of invalid RINs in the future;
4. Implement the program; and
5. Prepare a report to describe the program in a report that must sent to the EPA within one year of discovering that the company used invalid RINs.

Turner, Mason & Company can help you design and implement steps to improve due diligence in validating RINs. We can also assist in preparing the report for submission to the EPA. Give us a call at 214-754-0898 or e-mail tomhogan@turnermason.com, if you have questions.

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