

**§ 80.1427**

section shall not be considered derived from biomass if any other party relied upon the contracted volume of biogas for the creation of RINs.

[75 FR 14863, Mar. 26, 2010, as amended at 75 FR 26038, May 10, 2010; 75 FR 37733, June 30, 2010]

**§ 80.1427 How are RINs used to demonstrate compliance?**

(a) *Renewable Volume Obligations.* (1) Except as specified in paragraph (b) of this section or § 80.1456, each party that is an obligated party under § 80.1406 and is obligated to meet the Renewable Volume Obligations under § 80.1407, or is an exporter of renewable fuels that is obligated to meet Renewable Volume Obligations under § 80.1430, must demonstrate pursuant to § 80.1451(a)(1) that it is retiring for compliance purposes a sufficient number of RINs to satisfy the following equations:

(i) *Cellulosic biofuel.*

$$(\Sigma\text{RINNUM})_{\text{CB},i} + (\Sigma\text{RINNUM})_{\text{CB},i-1} = \text{RVO}_{\text{CB},i}$$

Where:

$(\Sigma\text{RINNUM})_{\text{CB},i}$  = Sum of all owned gallon-RINs that are valid for use in complying with the cellulosic biofuel RVO, were generated in year i, and are being applied towards the  $\text{RVO}_{\text{CB},i}$ , in gallons.

$(\Sigma\text{RINNUM})_{\text{CB},i-1}$  = Sum of all owned gallon-RINs that are valid for use in complying with the cellulosic biofuel RVO, were generated in year i-1, and are being applied towards the  $\text{RVO}_{\text{CB},i}$ , in gallons.

$\text{RVO}_{\text{CB},i}$  = The Renewable Volume Obligation for cellulosic biofuel for the obligated party or renewable fuel exporter for calendar year i, in gallons, pursuant to § 80.1407 or § 80.1430.

(ii) *Biomass-based diesel.* Use the equation in this paragraph, except as provided in paragraph (a)(7) of this section.

$$(\Sigma\text{RINNUM})_{\text{BBD},i} + (\Sigma\text{RINNUM})_{\text{BBD},i-1} = \text{RVO}_{\text{BBD},i}$$

Where:

$(\Sigma\text{RINNUM})_{\text{BBD},i}$  = Sum of all owned gallon-RINs that are valid for use in complying with the biomass-based diesel RVO, were generated in year i, and are being applied towards the  $\text{RVO}_{\text{BBD},i}$ , in gallons.

$(\Sigma\text{RINNUM})_{\text{BBD},i-1}$  = Sum of all owned gallon-RINs that are valid for use in complying with the biomass-based diesel RVO, were generated in year i-1, and are being applied towards the  $\text{RVO}_{\text{BBD},i}$ , in gallons.

**40 CFR Ch. I (7–1–10 Edition)**

$\text{RVO}_{\text{BBD},i}$  = The Renewable Volume Obligation for biomass-based diesel for the obligated party or renewable fuel exporter for calendar year i after 2010, in gallons, pursuant to § 80.1407 or § 80.1430.

(iii) *Advanced biofuel.*

$$(\Sigma\text{RINNUM})_{\text{AB},i} + (\Sigma\text{RINNUM})_{\text{AB},i-1} = \text{RVO}_{\text{AB},i}$$

Where

$(\Sigma\text{RINNUM})_{\text{AB},i}$  = Sum of all owned gallon-RINs that are valid for use in complying with the advanced biofuel RVO, were generated in year i, and are being applied towards the  $\text{RVO}_{\text{AB},i}$ , in gallons.

$(\Sigma\text{RINNUM})_{\text{AB},i-1}$  = Sum of all owned gallon-RINs that are valid for use in complying with the advanced biofuel RVO, were generated in year i-1, and are being applied towards the  $\text{RVO}_{\text{AB},i}$ , in gallons.

$\text{RVO}_{\text{AB},i}$  = The Renewable Volume Obligation for advanced biofuel for the obligated party or renewable fuel exporter for calendar year i, in gallons, pursuant to § 80.1407 or § 80.1430.

(iv) *Renewable fuel.*

$$(\Sigma\text{RINNUM})_{\text{RF},i} + (\Sigma\text{RINNUM})_{\text{RF},i-1} = \text{RVO}_{\text{RF},i}$$

Where:

$(\Sigma\text{RINNUM})_{\text{RF},i}$  = Sum of all owned gallon-RINs that are valid for use in complying with the renewable fuel RVO, were generated in year i, and are being applied towards the  $\text{RVO}_{\text{RF},i}$ , in gallons.

$(\Sigma\text{RINNUM})_{\text{RF},i-1}$  = Sum of all owned gallon-RINs that are valid for use in complying with the renewable fuel RVO, were generated in year i-1, and are being applied towards the  $\text{RVO}_{\text{RF},i}$ , in gallons.

$\text{RVO}_{\text{RF},i}$  = The Renewable Volume Obligation for renewable fuel for the obligated party or renewable fuel exporter for calendar year i, in gallons, pursuant to § 80.1407 or § 80.1430.

(2) Except as described in paragraph (a)(4) of this section, RINs that are valid for use in complying with each Renewable Volume Obligation are determined by their D codes.

(i) RINs with a D code of 3 or 7 are valid for compliance with the cellulosic biofuel RVO.

(ii) RINs with a D code of 4 or 7 are valid for compliance with the biomass-based diesel RVO.

(iii) RINs with a D code of 3, 4, 5, or 7 are valid for compliance with the advanced biofuel RVO.

(iv) RINs with a D code of 3, 4, 5, 6, or 7 are valid for compliance with the renewable fuel RVO.

(3)(i) Except as provided in paragraph (a)(3)(ii) of this section, a party may use the same RIN to demonstrate compliance with more than one RVO so long as it is valid for compliance with all RVOs to which it is applied.

(ii) A cellulosic diesel RIN with a D code of 7 cannot be used to demonstrate compliance with both a cellulosic biofuel RVO and a biomass-based diesel RVO.

(4) Notwithstanding the requirements of § 80.1428(c) or paragraph (a)(6)(i) of this section, for purposes of demonstrating compliance for calendar years 2010 or 2011, RINs generated pursuant to § 80.1126 that have not been used for compliance purposes may be used for compliance in 2010 or 2011, as follows, insofar as permissible pursuant to paragraphs (a)(5) and (a)(7)(iii) of this section:

(i) A RIN generated pursuant to § 80.1126 with a D code of 2 and an RR code of 15, 16, or 17 is deemed equivalent to a RIN generated pursuant to § 80.1426 having a D code of 4.

(ii) A RIN generated pursuant to § 80.1126 with a D code of 1 is deemed equivalent to a RIN generated pursuant to § 80.1426 having a D code of 3.

(iii) All other RINs generated pursuant to § 80.1126 are deemed equivalent to RINs generated pursuant to § 80.1426 having D codes of 6.

(iv) A RIN generated pursuant to § 80.1126 that was retired pursuant to § 80.1129(e) because the associated volume of fuel was not used as motor vehicle fuel may be reinstated for use in complying with a 2010 RVO pursuant to § 80.1429(g).

(5) The value of  $(\Sigma \text{RINNUM})_{i-1}$  may not exceed values determined by the following inequalities except as provided in paragraph (a)(7)(iii) of this section and § 80.1442(d)

$$\begin{aligned} (\Sigma \text{RINNUM})_{\text{CB},i-1} &\leq 0.20 * \text{RVO}_{\text{CB},i} \\ (\Sigma \text{RINNUM})_{\text{BBD},i-1} &\leq 0.20 * \text{RVO}_{\text{BBD},i} \\ (\Sigma \text{RINNUM})_{\text{AB},i-1} &\leq 0.20 * \text{RVO}_{\text{AB},i} \\ (\Sigma \text{RINNUM})_{\text{RF},i-1} &\leq 0.20 * \text{RVO}_{\text{RF},i} \end{aligned}$$

(6) Except as provided in paragraph (a)(7) of this section:

(i) RINs may only be used to demonstrate compliance with the RVOs for the calendar year in which they were generated or the following calendar year.

(ii) RINs used to demonstrate compliance in one year cannot be used to demonstrate compliance in any other year.

(7) *Biomass-based diesel in 2010.*

(i) Prior to determining compliance with the 2010 biomass-based diesel RVO, obligated parties may reduce the value of  $\text{RVO}_{\text{BBD},2010}$  by an amount equal to the sum of all 2008 and 2009 RINs that they used for compliance purposes for calendar year 2009 which have a D code of 2 and an RR code of 15, 16, or 17.

(ii) For calendar year 2010 only, the following equation shall be used to determine compliance with the biomass-based diesel RVO instead of the equation in paragraph (a)(1)(ii) of this section

$$(\Sigma \text{RINNUM})_{\text{BBD},2010} + (\Sigma \text{RINNUM})_{\text{BBD},2009} + (\Sigma \text{RINNUM})_{\text{BBD},2008} = \text{RVO}_{\text{BBD},2010}$$

Where

$(\Sigma \text{RINNUM})_{\text{BBD},2010}$  = Sum of all owned gallon-RINs that are valid for use in complying with the biomass-based diesel RVO, were generated in year 2010, and are being applied towards the  $\text{RVO}_{\text{BBD},2010}$ , in gallons.

$(\Sigma \text{RINNUM})_{\text{BBD},2009}$  = Sum of all owned gallon-RINs that are valid for use in complying with the biomass-based diesel RVO, were generated in year 2009, have not previously been used for compliance purposes, and are being applied towards the  $\text{RVO}_{\text{BBD},2010}$ , in gallons.

$(\Sigma \text{RINNUM})_{\text{BBD},2008}$  = Sum of all owned gallon-RINs that are valid for use in complying with the biomass-based diesel RVO, were generated in year 2008, have not previously been used for compliance purposes, and are being applied towards the  $\text{RVO}_{\text{BBD},2010}$ , in gallons.

$\text{RVO}_{\text{BBD},2010}$  = The Renewable Volume Obligation for biomass-based diesel for the obligated party for calendar year 2010, in gallons, pursuant to § 80.1407 or § 80.1430, as adjusted by paragraph (a)(7)(i) of this section.

(iii) The values of  $(\Sigma \text{RINNUM})_{2008}$  and  $(\Sigma \text{RINNUM})_{2009}$  may not exceed values determined by both of the following inequalities

$$\begin{aligned} (\Sigma \text{RINNUM})_{\text{BBD},2008} &\leq 0.087 * \text{RVO}_{\text{BBD},2010} \\ (\Sigma \text{RINNUM})_{\text{BBD},2008} + (\Sigma \text{RINNUM})_{\text{BBD},2009} &\leq 0.20 * \text{RVO}_{\text{BBD},2010} \end{aligned}$$

(8) A party may only use a RIN for purposes of meeting the requirements of paragraph (a)(1) or (a)(7) of this section if that RIN is a separated RIN with a K code of 2 obtained in accordance with §§ 80.1428 and 80.1429.

**§ 80.1428**

(9) The number of gallon-RINs associated with a given batch-RIN that can be used for compliance with the RVOs shall be calculated from the following formula

$$RINNUM = EEEEEEEE - SSSSSSS + 1$$

Where:

RINNUM = Number of gallon-RINs associated with a batch-RIN, where each gallon-RIN represents one gallon of renewable fuel for compliance purposes.

EEEEEEEE = Batch-RIN component identifying the last gallon-RIN associated with the batch-RIN.

SSSSSSSS = Batch-RIN component identifying the first gallon-RIN associated with the batch-RIN.

(b) *Deficit carryovers.* (1) An obligated party or an exporter of renewable fuel that fails to meet the requirements of paragraph (a)(1) or (a)(7) of this section for calendar year i is permitted to carry a deficit into year i+1 under the following conditions:

(i) The party did not carry a deficit into calendar year i from calendar year i-1 for the same RVO.

(ii) The party subsequently meets the requirements of paragraph (a)(1) of this section for calendar year i+1 and carries no deficit into year i+2 for the same RVO.

(iii) For compliance with the biomass-based diesel RVO in calendar year 2011, the deficit which is carried over from 2010 is no larger than 57% of the party's 2010 biomass-based diesel RVO as determined prior to any adjustment applied pursuant to paragraph (a)(7)(i) of this section.

(iv) The party uses the same compliance approach in year i+1 as it did in year i, as provided in § 80.1406(c)(2).

(2) A deficit is calculated according to the following formula:

$$D_i = RVO_i - [(\Sigma RINNUM)_i + (\Sigma RINNUM)_{i-1}]$$

Where:

$D_i$  = The deficit, in gallons, generated in calendar year i that must be carried over to year i+1 if allowed pursuant to paragraph (b)(1) of this section.

$RVO_i$  = The Renewable Volume Obligation for the obligated party or renewable fuel exporter for calendar year i, in gallons.

$(\Sigma RINNUM)_i$  = Sum of all acquired gallon-RINs that were generated in year i and are being applied towards the  $RVO_i$ , in gallons.

**40 CFR Ch. I (7-1-10 Edition)**

$(\Sigma RINNUM)_{i-1}$  = Sum of all acquired gallon-RINs that were generated in year i-1 and are being applied towards the  $RVO_i$ , in gallons.

[75 FR 14863, Mar. 26, 2010, as amended at 75 FR 26042, May 10, 2010]

**§ 80.1428 General requirements for RIN distribution.**

(a) *RINs assigned to volumes of renewable fuel.*

(1) *Assigned RIN*, for the purposes of this subpart, means a RIN assigned to a volume of renewable fuel pursuant to § 80.1426(e) with a K code of 1.

(2) Except as provided in § 80.1429, no person can separate a RIN that has been assigned to a batch pursuant to § 80.1426(e).

(3) An assigned RIN cannot be transferred to another person without simultaneously transferring a volume of renewable fuel to that same person.

(4) No more than 2.5 assigned gallon-RINs with a K code of 1 can be transferred to another person with every gallon of renewable fuel transferred to that same person.

(5)(i) On each of the dates listed in paragraph (a)(5)(ii) of this section in any calendar year, the following equation must be satisfied for assigned RINs and volumes of renewable fuel owned by a person:

$$\Sigma(RIN)_D \leq \Sigma(V_{si} * 2.5)_D$$

Where:

D = Applicable date.

$\Sigma(RIN)_D$  = Sum of all assigned gallon-RINs with a K code of 1 that are owned on date D.

$(V_{si})_D$  = Volume i of renewable fuel owned on date D, standardized to 60 °F, in gallons.

(ii) The applicable dates are March 31, June 30, September 30, and December 31.

(6) Any transfer of ownership of assigned RINs must be documented on product transfer documents generated pursuant to § 80.1453.

(i) The RIN must be recorded on the product transfer document used to transfer ownership of the volume of renewable fuel to another person; or

(ii) The RIN must be recorded on a separate product transfer document transferred to the same person on the