applied to correct the transfer of invalid RINs to another party before applying the valid RINs to meet the party's Renewable Volume Obligations at the end of the compliance year.

§ 80.1432 Reported spillage or disposal of renewable fuel.

(a) A reported spillage or disposal under this subpart means a spillage or disposal of renewable fuel associated with a requirement by a federal, state, or local authority to report the spillage or disposal.

(b) Except as provided in paragraph (c) of this section, in the event of a reported spillage or disposal of any volume of renewable fuel, the owner of the renewable fuel must retire a number of RINs corresponding to the volume of spilled or disposed of renewable fuel multiplied by its equivalence value.

(1) If the equivalence value for the spilled or disposed of volume may be determined pursuant to § 80.1415 based on its composition, then the appropriate equivalence value shall be used.

(2) If the equivalence value for a spilled or disposed of volume of renewable fuel cannot be determined, the equivalence value shall be 1.0.

(c) If the owner of a volume of renewable fuel that is spilled or disposed of and reported establishes that no RINs were generated to represent the volume, then no RINs shall be retired.

(d) A RIN that is retired under paragraph (b) of this section:

(1) Must be reported as a retired RIN in the applicable reports under § 80.1451.

(2) May not be transferred to another person or used by any obligated party to demonstrate compliance with the party's Renewable Volume Obligations.

§§ 80.1433–80.1439 [Reserved]

§ 80.1440 What are the provisions for blenders who handle and blend less than 125,000 gallons of renewable fuel per year?

(a) Renewable fuel blenders who handle and blend less than 125,000 gallons of renewable fuel per year, and who do not have Renewable Volume Obligations, are permitted to delegate their RIN-related responsibilities to the party directly upstream of them who supplied the renewable fuel for blending.

(b) The RIN-related responsibilities that may be delegated directly upstream include all of the following:

(1) The RIN separation requirements of § 80.1429.

(2) The reporting requirements of § 80.1451.

(3) The recordkeeping requirements of § 80.1454.

(4) The attest engagement requirements of § 80.1464.

(c) For upstream delegation of RIN-related responsibilities, both parties must agree on the delegation, and a quarterly written statement signed by both parties must be included with the reporting party's reports under § 80.1451.

(1) Both parties must keep copies of the signed quarterly written statement agreeing to the upward delegation for 5 years.

(2) Parties delegating their RIN responsibilities upward shall keep copies of their registration forms as submitted to EPA.

(3) A renewable fuel blender who delegates its RIN-related responsibilities under this section will remain liable for any violation of this subpart M associated with its renewable fuel blending activities.

(d) Renewable fuel blenders who handle and blend less than 125,000 gallons of renewable fuel per year and delegate their RIN-related responsibilities under paragraph (b) of this section must register pursuant to § 80.1450(e), and may not own RINs.

(e) Renewable fuel blenders who handle and blend less than 125,000 gallons of renewable fuel per year and who do not opt to delegate their RIN-related responsibilities, or own RINs, will be subject to all requirements stated in paragraph (b) of this section, and all other applicable requirements of this subpart M.

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

§ 80.1441 Small refinery exemption.

(a)(1) Transportation fuel produced at a refinery by a refiner, or foreign refiner (as defined at § 80.1465(a)), is exempt from January 1, 2010 through December 31, 2010 from the renewable fuel standards of § 80.1405, and the owner or operator of the refinery, or foreign refinery, is exempt from the requirements that apply to obligated parties under this subpart M for fuel produced at the refinery if the refinery meets the definition of a small refinery under § 80.1401 for calendar year 2006.

(2) The exemption of paragraph (a)(1) of this section shall apply unless a refiner chooses to waive this exemption (as described in paragraph (f) of this section), or the exemption is extended (as described in paragraph (e) of this section).

(3) For the purposes of this section, the term ''refiner'' shall include foreign refiners.

(4) This exemption shall only apply to refineries that process crude oil through refinery processing units.

(5) The small refinery exemption is effective immediately, except as specified in paragraph (b)(3) of this section.

(6) Refiners who own refineries that qualified as small under 40 CFR 80.1141 do not need to resubmit a small refinery verification letter under this subpart M. This paragraph (a) does not supersede § 80.1141.

(b)(1) A refiner owning a small refinery must submit a verification letter to EPA containing all of the following information:

(i) The annual average aggregate daily crude oil throughput for the period January 1, 2006 through December 31, 2006 (as determined by dividing the aggregate throughput for the calendar year by the number 365).

(ii) A letter signed by the president, chief operating or chief executive officer of the company, or his/her designee, stating that the information contained in the letter is true to the best of his/her knowledge, and that the refinery was small as of December 31, 2006.

(iii) Name, address, phone number, facsimile number, and e-mail address of a corporate contact person.

(2) Verification letters must be submitted by July 1, 2010 to one of the addresses listed in paragraph (h) of this section.

(3) For foreign refiners the small refinery exemption shall be effective upon approval, by EPA, of a small refinery application. The application must contain all of the elements required for small refinery verification letters (as specified in paragraph (b)(1) of this section), must satisfy the provisions of § 80.1465(f) through (i) and (o), and must be submitted by July 1, 2010 to one of the addresses listed in paragraph (h) of this section.

(4) Small refinery verification letters are not required for those refiners who have already submitted a complete verification letter under subpart K of this part 80. Verification letters submitted under subpart K prior to July 1, 2010 that satisfy the requirements of subpart K shall be deemed to satisfy the requirements for verification letters under this subpart M.

(c) If EPA finds that a refiner provided false or inaccurate information regarding a refinery's crude throughput (pursuant to paragraph (b)(1)(i) of this section) in its small refinery verification letter, the exemption will be void as of the effective date of these regulations.

(d) If a refiner is complying on an aggregate basis for multiple refineries, any such refiner may exclude from the calculation of its Renewable Volume Obligations (under § 80.1407) transportation fuel from any refinery receiving the small refinery exemption under paragraph (a) of this section.

(e)(1) The exemption period in paragraph (a) of this section shall be extended by the Administrator for a period of not less than two additional years if a study by the Secretary of Energy determines that compliance with the requirements of this subpart would impose a disproportionate economic hardship on a small refinery.

(2) A refiner may petition the Administrator for an extension of its small refinery exemption, based on disproportionate economic hardship, at any time.

(i) A petition for an extension of the small refinery exemption must specify the factors that demonstrate a disproportionate economic hardship and must provide a detailed discussion regarding the hardship the refinery would face in producing transportation fuel meeting the requirements of § 80.1405 and the date the refiner anticipates that compliance with the requirements can reasonably be achieved at the small refinery.

(ii) The Administrator shall act on such a petition not later than 90 days after the date of receipt of the petition.

(f) At any time, a refiner with a small refinery exemption under paragraph (a) of this section may waive that exemption upon notification to EPA.

(1) A refiner's notice to EPA that it intends to waive its small refinery exemption must be received by November 1 to be effective in the next compliance year.

(2) The waiver will be effective beginning on January 1 of the following calendar year, at which point the transportation fuel produced at that refinery will be subject to the renewable fuels standard of § 80.1405 and the owner or operator of the refinery shall be subject to all other requirements that apply to obligated parties under this Subpart M.

(3) The waiver notice must be sent to EPA at one of the addresses listed in paragraph (h) of this section.

(g) A refiner that acquires a refinery from either an approved small refiner (as defined under § 80.1442(a)) or another refiner with an approved small refinery exemption under paragraph (a) of this section shall notify EPA in writing no later than 20 days following the acquisition.

(h) Verification letters under paragraph (b) of this section, petitions for small refinery hardship extensions under paragraph (e) of this section, and small refinery exemption waiver notices under paragraph (f) of this section shall be sent to one of the following addresses:

(1) *For US mail:* U.S. EPA, *Attn:* RFS Program, 6406J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

(2) *For overnight or courier services:* U.S. EPA, *Attn:* RFS Program, 6406J, 1310 L Street, NW., 6th floor, Washington, DC 20005. (202) 343–9038.

§ 80.1442 What are the provisions for small refiners under the RFS program?

(a)(1) To qualify as a small refiner under this section, a refiner must meet all of the following criteria:

(i) The refiner produced transportation fuel at its refineries by processing crude oil through refinery processing units from January 1, 2006 through December 31, 2006.

(ii) The refiner employed an average of no more than 1,500 people, based on the average number of employees for all pay periods for calendar year 2006 for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners.

(iii) The refiner had a corporate-average crude oil capacity less than or equal to 155,000 barrels per calendar day (bpcd) for 2006.

(2) For the purposes of this section, the term ''refiner'' shall include foreign refiners.

(3) Refiners who qualified as small under 40 CFR 80.1142 do not need to reapply for small refiner status under this subpart M. This paragraph (a) does not supersede § 80.1142.

(b)(1) The small refiner exemption in paragraph (c) of this section is effective immediately, except as provided in paragraph (b)(5) of this section, provided that all requirements of this section are satisfied.

(2) Refiners who qualify for the small refiner exemption under paragraph (a) of this section must submit a verification letter (and any other relevant information) to EPA by July 1, 2010. The small refiner verification letter must include all of the following information for the refiner and for all subsidiary companies, all parent companies, all subsidiaries of the parent companies, and all joint venture partners:

(i) A listing of the name and address of each company location where any employee worked for the period January 1, 2006 through December 31, 2006.

(ii) The average number of employees at each location based on the number of employees for each pay period for the period January 1, 2006 through December 31, 2006.

(iii) The type of business activities carried out at each location.

(iv) For joint ventures, the total number of employees includes the combined employee count of all corporate entities in the venture.

(v) For government-owned refiners, the total employee count includes all government employees.