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The Renewable Fuel Standard: What Trade and Customs Professionals Need to Know

Attorneys Serving Clients Around the World

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Objectives

1. **Impact on gasoline and diesel business**
 - Covered products
 - Renewable volume obligations (RVO)
2. **Requirements for renewable fuel imports**
 - Foreign producer registration
 - Qualifying fuels / feedstocks
3. **Requirements for renewable fuel exports**
 - Identifying fuel categories
4. **Reporting**
 - New system for generating/submitting reports
5. **Best Practices**
 - Supplier coordination/outreach
 - Update contracts
 - Other strategies

Background on the RFS Program

RFS1: September 2006 – July 2010

- Mandate: 7.5 billion gallons of renewable fuel by 2012
- New Requirements:
 - Gasoline RVOs
 - RIN generation and distribution
 - Quarterly and annual reports

RFS2: July 2010 – ??? (2022+)

- Total Mandate: 36 billion gallons of renewable fuel by 2022
- “Nested” Mandates:
 - “Advanced Biofuel”
 - Cellulosic Biofuel
 - Biomass-Based Diesel
- New Requirements:
 - Diesel RVOs
 - Conditions on RIN generation (feedstocks, carbon footprint)
 - EPA Moderated Transaction System (EMTS)



1. Mandates implemented as “RVOs”

- Percentage of a company’s gasoline (and now diesel) production or imports
- Producers / importers termed “obligated parties”

2. Renewable fuel producers/importers generate “RINs”

- Represents each gallon of qualifying renewable fuel
- RINs assigned to and transfer with renewable fuel – but:
 - Some fungibility
 - “Detach” from fuel once blended, or upon export, or upon purchase by an obligated party

3. Obligated parties must acquire RINs to meet RVO

- Purchase with renewable fuel or separately
- Under RFS2, different RIN types satisfy different RVOs

SIMPLE, RIGHT???

Impact on Gasoline and Diesel

Imports included in RVO:

- Gasoline:
 - Finished RFG or conventional
 - RBOB or CBOB
 - GTAB (once finished)
- MV or NRLM Diesel
- But not:
 - Heating oil or jet fuel
 - Blendstocks (e.g., naphtha)
 - RF included in the product

Determining volumes

- Only for the lower 48 states and Hawaii
- Reference point:
 - Gasoline: RFG/Anti-dumping inventory reconciliation report
 - Diesel: ??? (be consistent with ULSD program documents)

RFS2 RVOs effective as of Jan. 1



Requirements for Renewable Fuel Imports

New import documentation:

- Foreign producer registration
- Feedstock demonstration
- If above not satisfied, then cannot generate RINs

Registration

- Content: production process, fuel type, feedstock(s)
- Independent engineering review
- Deadline: by July 1, 2010

Feedstock must qualify as “renewable biomass”

- Map of feedstock source land
- Documentation sourcing feedstock to the identified land
- Documentation demonstrating:
 - Cleared/cultivated before Dec. 19, 2007
 - Actively managed or fallow, and nonforested, on Dec. 19, 2007
- Per batch, unless survey option applies



Exports create a duty to retire RINs

- Corresponds to volume exported
- Obligation arises for both neat and blended renewable fuel exports

Under RFS2, obligation corresponds with fuel type

- Key consideration: does exporter “know or have reason to know”
 - Example #1: Export of soy-based biodiesel
 - Exporter knows it is a renewable fuel, and has reason to know it qualifies as advanced biofuel and biomass-based diesel
 - Must retire RINs to meet all three types
 - Example #2: Export of ethanol (feedstock unknown)
 - Exporter knows it is a renewable fuel, but has no reason to know whether it also qualifies as advanced biofuel or cellulosic ethanol

Changes to Reports under RFS2

New reports and report content:

- RIN Generation: must certify that feedstocks qualify as “renewable biomass”
- RIN Transaction: must report prices as either:
 - Per-RIN price; or,
 - Per-gallon price for renewable fuel with RINs included.
- Annual compliance: four RVOs means four compliance demonstrations
- **(New) Quarterly Feedstock Report**:
 - Summary of types and volumes of feedstocks used
 - Map or electronic data identifying source land(s)
- **(New) Production Outlook Report**: project for the next 5 years:
 - Type and volume of renewable fuel
 - Number of RINs generated

Report mechanism and frequency changes significantly

- RIN generation and transaction information will be reported via EMTS
- Generate RINs via EMTS within 5 business days of production or import
- Document RIN transactions in EMTS within 5 business days of transaction date

Commercial Response

Early Action Strategies

- RF Producers: start preparing for registration and engineering review now
- RF Importers/Marketers: early outreach to renewable fuel suppliers
- Obligated Parties: project RVOs and identify potential suppliers for new RIN types
- All: update/modify RIN tracking; EMTS registration

Commercial Documentation

- New Warranties / Indemnifications
 - Feedstock supply agreements: feedstock qualifies as “renewable biomass”
 - Renewable fuel supply agreements: fuel produced from renewable biomass; RINs properly generated; producer is properly registered, etc.
 - RIN agreements: RINs properly generated/valid; RINs can be used for specific purpose represented by the “D” code

Questions?

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