

Under the Renewable Fuel Standard (RFS2) program, foreign RIN owners are required to register with EPA pursuant to 40 CFR §80.1467(b). For purposes of this subpart, a foreign RIN owner is a person located outside the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands (collectively referred to in this section as “the United States”) that has been approved by EPA to own RINs.

The registration requirements for foreign RIN owners are the same those imposed on United States owners. This document explains the required materials that must be sent to and accepted by EPA in order to become a foreign RIN owner under 40 CFR §80.1467.

Prohibition

- 1) A foreign RIN owner is prohibited from obtaining, selling, transferring, or holding any RIN that is in excess of the number for which the bond requirements of this section have been satisfied.
- 2) Any RIN that is sold, transferred, or held that is in excess of the number for which the bond requirements of this section have been satisfied is an invalid RIN under [§ 80.1431](#).
- 3) Any RIN that is obtained from a person located outside the United States that is not an approved foreign RIN owner under this section is an invalid RIN under [§ 80.1431](#).
- 4) No foreign RIN owner or other person may cause another person to commit an action prohibited in this paragraph (g), or that otherwise violates the requirements of this section.

Required Registration Documents

- 1) Bond posting by the RIN foreign owner per §80.1467(e)(1);
- 2) Commitment Letter, signed by the owner or president of the foreign RIN company, per 80.1467(c)(1) to also include the name of the agent for service of process located in the District of Columbia, per §80.1466(f)(2); and:

All required documents must be received and approved by EPA prior to owning RINs.

Templates for the Required Registration Documents

- 1) Foreign RIN Owner Bond Form - Attachment A
- 2) Foreign RIN Owner Commitment Letter - Attachment B

Attachment A

Bond Number _____

Know All Men By These Presents

That we _____, a corporation (?) formed and existing under the laws of _____ (hereinafter called the Principal), and _____, a corporation duly organized and operating under the laws of the State of _____ (hereinafter called the Surety) are hereby and firmly bound unto:

Treasurer of the United States of America
c/o Environmental Protection Agency
Fuels Compliance Center
Mail Stop 64061
1310 L Street NW
Washington, DC 20005

(hereinafter called the Obligee), for the sum of _____ (\$ _____), the payment of which we, the Principal and Surety, bind our corporations, their boards, administrators or trustees, successors and assigns, jointly and severally by these presents.

Sealed and signed this _____ day of _____.

1. On March 26, 2010, the Obligee issued a final rule establishing a renewable fuels standard, including requirements for foreign owners of Renewable Identification Numbers (RIN). Specifically the requirement at 40 C.F.R. 80.1467e) requires that as a condition of being approved by Obligee to own a RIN, a would-be foreign RIN owner shall post a surety bond in the amount calculated by Obligee in accordance with the formula set forth in 40 C.F.R. 80.1467(e)(1). Based upon the formula set forth therein, and as agreed by Principal and Surety, the amount of the requisite bond require to be posted by Principal is \$ _____ and he aggregate liability to the Surety will not exceed the Bond Amount. Any changes or amendments or increases to the Bond cannot be made without the Surety or written consent.
2. This bond is posted under the authority and as required by 40 C.F.R. 80.1467(e) to satisfy any judgments of any court of the United States of America that results from any administrative or judicial enforcement action arising from Principal's conduct in violation of 40 C.F.R. Part 80, Subpart M, and including any conduct that violates Title 18 U.S.C. §1001, Clean Air Act § 113(c) (2), or any other applicable provisions of the Clean Air Act.
3. The liability of Principal and Surety hereunder for any or all of the penal sum (face amount) of this bond shall arise upon the entry of any such judgment referenced above.
4. If, on any occasion, any portion of the bond is used to satisfy any judgment, Principal shall, within 90 days from the date demand is made for payment on the bond, increase the bond to the required bond level set forth in paragraph 1 above.

5. This bond shall be effective beginning at _____ on _____, and shall remain in effect for at least five years following the end of the latest reporting period in which the foreign RIN owner obtains, sells, transfers, or hold RINs during the pendency of any judicial or administrative proceeding that may result in a judgment as set forth in Paragraph 2 above. In the event Principal or Surety desires to terminate this bond, written notice shall first be provided to Obligee, attention:

Director, Fuels Compliance Center
Environmental Protection Agency
1200 Pennsylvania Avenue, N. W.
Washington, DC 20460,

at least ninety (90) days prior to the effective date of termination as set forth in said notice. Principal and Surety expressly agree that such notice shall not discharge the liability of the Principal and Surety for any judgment which arises from acts or omissions occurring prior to the date of termination, regardless of whether judgment is actually issued prior to the termination date. Liability under this Bond shall not be incurred as a result of cancellation of this Bond.

In witness whereof, Principal and Surety have executed this instrument under seal on the _____ day of _____ 20__.

Principal

_____(Company Name)

_____(Signature) (Seal)

By:
Its:

Surety

_____(Signature) (Seal)

By: Its:

STATE OF _____, COUNTY OF _____ SS,:

I CERTIFY that on _____, 20__,
Personally came before me, _____ and this person acknowledged under oath, to my satisfaction, that:

- (A) This person is the _____ of _____ the corporation named in this document;
- (B) This document was signed and delivered by the corporation as its voluntary act duly authorized by a proper resolution of its Board of Directors;
- (C) This person knows the proper seal of the corporation which was affixed to this document; and
- (D) This person signed this proof to attest to the truth of these facts.

Attachment B (Language below must be printed on company letterhead)

Foreign RIN Owner Commitment According to §80.1467

(company's Name), pursuant to 40 C.F.R. § 80.1467(c), and insofar as it is approved as a foreign RIN owner under 40 C.F.R. part 80, subpart M, hereby commits itself to the following:

- (1) Any United States Environmental Protection Agency inspector or auditor must be given full, complete, and immediate access to conduct inspections and audits of the (company's Name) place of business and (company 's name) agrees to comply with all the commitments set forth at 40 C.F.R. §80.1467(c)(1):
 - (i). Inspections and audits may be either announced in advanced by EPA, or unannounced.
 - (ii). Access will be provided to any location where documents related to RINs the foreign RIN owner has obtained sold, transferred or held are kept:
 - (iii). EPA inspectors and auditors may be EPA employees or contractors to EPA.(
 - (iv). Any documents requested that are related to matters covered by inspections and audits must be provided to an EPA inspector or auditor on request.
 - (v). Inspections and audits may include review and copying of any documents related to the following:
 - (A) Transfers of title to RINs.
 - (B) Work performed and reports prepared by independent third parties and by independent auditors under the requirements of this section, including work papers.
 - (vi). Inspections and audits by EPA may include interviewing employees.
 - (vii). Any employee of the foreign producer must be made available for interview by the EPA inspector or auditor, on request, within a reasonable time period.
 - (viii). English language translations of any documents must be provided to an EPA inspector or auditor, on request, within 10 working days.
 - (ix). English language interpreters must be provided to accompany EPA inspectors and auditors, on request.
- (2) An agent for service of process located in the District of Columbia is **«Insert name of company»**, **«Insert address of company»**, **«Insert contact information for company»**, and service on this agent constitutes service on **(company's name)** or any employee of the **(company's name)** for any action by EPA or otherwise by the United States related to the requirements of 40 C.F.R. part 80, subpart M.
- (3) The forum for any civil or criminal enforcement action related to the provisions of 40 C.F.R. §80.1467 for violations of the Clean Air Act or regulations promulgated there under shall be

governed by the Clean Air Act, including the EPA administrative form where allowed under the Clean Air Act.

- (4) United States substantive and procedural laws shall apply to any civil or criminal enforcement action against the **(company's name)** or any employee of the **(company's name)** related to the provisions of 40 C.F.R. §80.1467
- (5) Submitting an application to be an approved foreign owner, and all other actions to comply with the requirements of this subpart constitute actions or activities covered by and within the meaning of the provisions of 28 U.S.C. § 1605(a)(2), but solely with respect to actions instituted against **(company's name)**, but solely with respect to actions instituted against **(company's name)**, its agents and employees in any court or other tribunal in the United States for conduct that violates the requirements applicable to **(company's name)** under this 40 C.F.R. part 80, subpart M, including conduct that violates the False Statements Accountability Act of 1996 (18 U.S.C. § 1001) and section 113(c)(2) of the Clean Air Act (42 U.S.C. § 7413).
- (6) **(company's name)**, or its agents or employees, will not seek to detain or to impose civil or criminal remedies against EPA inspectors or auditors, whether EPA employees or EPA contractors, for actions performed within the scope of EPA employment related to the provisions of 40 C.F.R. §80.1467

I hereby certify: (1) That I have actual authority to sign on behalf of and to bind «**company's name**» with regard to all statements contained herein; (2) that I am aware that the information contained herein is being Certified, or submitted to the United States Environmental Protection Agency, under the requirements of 40 C.F.R. part 80 subpart M, and that the information is material for determining compliance under these regulations; and (3) that I have read and understand the information being Certified or submitted, and this information is true, complete and correct to the best of my knowledge and belief after I have taken reasonable and appropriate steps to verify the accuracy thereof. I affirm that I have read and understand the provisions of 40 CFR part 80, subpart M, including 40 CFR §80.1467 apply to «**company's name**». Pursuant to Clean Air Act section 113(c) and 18 U.S.V. 1001, the penalty for furnishing false, incomplete or misleading information in this certification or submission is a fine of up to \$10,000 U.S., and/or imprisonment for up to 5 years.

«**Insert name of President or Owner**»

«**Insert title of President or Owner**»

«**Insert contact information of President or Owner**»

Signature

Date

