
National Renewable Fuel Standard Program Grandfathered Facilities

April, 2010

Office of Transportation and Air Quality
US Environmental Protection Agency



Grandfathered Facility Overview

- What is a grandfathered facility?
- What does “commence construction” mean?
- Is there a time limit for completion of construction?
- What volume of the renewable fuel produced at a grandfathered facility qualifies for 20% GHG reduction exemption?
- What types of renewable fuel produced at a grandfathered facility qualify for the 20% GHG reduction exemption?
- Does the exemption for grandfathered facility expire?

What is a grandfathered facility?

- A facility producing renewable fuel that commenced construction on or before December 19, 2007 (pre-enactment of EISA) qualifies as a grandfathered facility and the fuel it produces is exempt from the 20% GHG reduction requirement
- In addition, a facility producing ethanol for which construction commenced after December 19, 2007, (post-enactment of EISA) but on or before December 31, 2009, and is fired with natural gas, biomass, or any combination thereof, is “deemed compliant” .
 - The ethanol it produces is exempt from the 20% GHG reduction requirement.
- The exemption for grandfathered facilities is applicable for both domestic and foreign facilities

What does “commence construction” mean?

- The definition of commence construction is the same as that used in the federal prevention of significant deterioration (PSD) and new source review (NSR) programs for stationary sources of air pollution

- Commence construction means:
 - The owner or operation has all necessary preconstruction air permits or approvals and has either:
 - Begun actual construction on-site, or
 - Entered into binding agreements or contractual obligations to undertake a program of actual construction of the facility
 - For multi-phased projects, each phase must be mutually dependent on each other for physical and chemical reasons only

Is there a time limit for completion of construction?

- For pre-enactment grandfathered facilities, construction must be completed within 36 months of December 19, 2007—i.e., by December 19, 2010*
- For post-enactment grandfathered facilities, construction must be completed within 36 months of commencement of construction.
- *The rule currently states within 36 months of commencement of construction for both types of facilities. We intend to issue a direct final rule to amend the regulations to provide that construction must be completed within 36 months of December 19, 2007 for facilities that commenced construction prior to that date or within three years of commencement of construction for those facilities that commenced construction after that date.

What volume of the renewable fuel produced at a grandfathered facility qualify for 20% GHG reduction exemption?

- Only the “baseline volume” of the renewable fuel produced at the grandfathered facility qualifies for the 20% GHG reduction exemption

- Baseline volume means the permitted capacity—the capacity stipulated in the applicable air permit—or if permitted capacity cannot be determined, the actual peak capacity of a specific renewable fuel produced at the facility on a calendar year basis
 - Permitted capacity means 105% of maximum permissible volume as specified on the most restrictive of all applicable construction and operating permits
 - Actual peak capacity means 105% of maximum annual volume from a renewable fuel facility on a calendar year basis

- For example:
 - If a grandfathered facility is permitted to produce 10 million gallons/yr and the facility expands to 15 million gallons/yr, the additional 5 million gallons per year does not qualify for the exemption
 - The additional 5 million gallons must meet the 20% GHG emission reduction requirement

What types of renewable fuel produced at a grandfathered facility qualify for the 20% GHG reduction exemption?

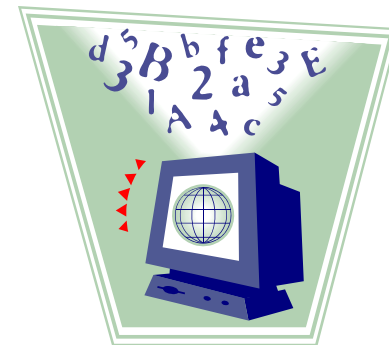
- For pre-enactment grandfathered facilities, any type of renewable fuel produced at the facility qualifies for the 20% GHG reduction exemption
- For post-enactment grandfathered facilities, only ethanol fuel produced at the facility qualifies for the 20% GHG reduction exemption
- The 20% GHG reduction exemption only applies to renewable fuel, and does not apply to biomass-based diesel, advanced biofuel or cellulosic biofuel
 - Biomass-based diesel, advanced biofuel and cellulosic biofuel must meet the GHG reduction requirement of 50%, 50% and 60%, respectively

Does the exemption for grandfathered facility expire?

- The exemption for grandfathered facility does not expire, and is currently considered indefinite within the RFS2.
- The restrictions for the grandfathered facility's exemption is limited to:
 - The baseline volume
 - The types of renewable fuel (depending on pre-enactment or post-enactment facilities)
 - The dates of construction commencement and completion



Questions?



- For Additional information:

<http://www.epa.gov/otaq/fuels/renewablefuels/index.htm>

- Includes Factsheets
- RFS2 Rulemaking Package
 - Preamble
 - Regulations
 - Regulatory Impact Analysis
- Links to Other Information
- Frequently Asked Questions

- Send new questions to: EPAFuelsPrograms@epa.gov