

Nebraska Ethanol and Biodiesel Producer

Overview

If you manufacture ethanol or biodiesel fuel in Nebraska, you must obtain a producer license prior to the start of operations.

This guidance document is advisory in nature but is binding on the Nebraska Department of Revenue (DOR) until amended. A guidance document does not include internal procedural documents that only affect the internal operations of DOR and does not impose additional requirements or penalties on regulated parties or include confidential information or rules and regulations made in accordance with the Administrative Procedure Act. If you believe that this guidance document imposes additional requirements or penalties on regulated parties, you may request a review of the document.

This guidance document may change with updated information or added examples. DOR recommends you do not print this document. Instead, sign up for the [subscription service](#) at revenue.nebraska.gov/motor-fuels to get updates on your topics of interest.

Term

Producer. A producer is any person who manufactures ethanol or biodiesel at a facility located within Nebraska.

Tax Liability

Generally, producers do not owe motor fuels tax on the sale of ethanol or biodiesel if the products are sold to a customer with a valid Nebraska motor fuels tax license or are exported from Nebraska. However, if fuel is sold to an unlicensed customer in Nebraska, the producer must collect and remit Nebraska motor fuels tax. A monthly return accounting for production, inventory, and sales of ethanol and biodiesel must be filed.

Natural gasoline, which is commonly used as a denaturant in ethanol production may be purchased tax-free by licensed ethanol producers. This exemption applies to both the motor fuels tax and environmental fees. Effective August 1, 2024, the exemption also applies to gasoline purchased for use as a denaturant. However, these products and any other gasoline component, including material produced from biomass feedstock, purchased for use as a denaturant are subject to a tax of 1.25 cents per gallon, which is deposited into the Agricultural Alcohol Fuel Tax Fund (AAFTF). In addition, beginning August 1, 2024, two percent of the gallons sold of non-beverage alcohol not meeting ASTM D4806 are also subject to the AAFTF tax.

License

Producers wishing to operate in Nebraska must secure the appropriate licenses. These are obtained by submitting a [Nebraska Motor Fuels License Application, Form 20MF](#).

A producer license allows manufacturing of ethanol and biodiesel, and the tax-free purchase of natural gasoline and gasoline used for denaturing, ethanol, and biodiesel. Owning or leasing a motor fuels transport vehicle requires a liquid fuel carriers license. Any environmental fees due on the sale of ethanol or biodiesel are automatically calculated and included on the monthly return.

There are no application fees. Once issued, these licenses are permanent and nontransferable.

Security

All new licensees are required to maintain a surety bond for the first year of their license. The amount of the bond must equal at least three times the anticipated monthly motor fuels tax liability, with a minimum bond of \$20,000. The security must be in the form of a bond issued by a surety company licensed and authorized to do business in Nebraska.

During the first year of a license, the account is monitored to ensure the appropriate bonding level is maintained. The surety bond may be cancelled after the first year, if the account is found to be in good standing. However, if the account is not in good standing, or reported liabilities materially exceed the bonded projections, an extension or increase in the bond may be required by DOR.

Filing Requirements

Nebraska's automated fuel tracking system requires monthly reports of all fuel receipts and disbursements. The required monthly return, [Nebraska Ethanol and Biodiesel Producer's Return, Form 83](#), is used exclusively by ethanol and biodiesel producers. This form consolidates the reporting of the AAFTF tax, calculates any taxes due on the sale of ethanol or biodiesel, and calculates any amounts of petroleum release remedial action fee due. Activities involving the production, sales, and inventories of both ethanol and biodiesel are also reported on Form 83. These returns are required to be filed via electronic data interchange (EDI). You may purchase reporting software from [commercial vendors](#) or create software in-house using our [software guide](#).

Returns are filed for all activity occurring within a calendar month. The return is considered timely filed if it is electronically transmitted by the 20th day of the month following the close of the reporting month. If the 20th falls on a Saturday, Sunday, or legal holiday, the return will be considered timely filed if it is transmitted by the first business day following the 20th.

Payment

All liabilities are consolidated and remitted as one payment, which is due on the due date of the return.

While DOR encourages [electronic payments](#), it is not required unless the annual aggregate liabilities exceed \$5,000. If this threshold is exceeded, payments must be remitted electronically.

Penalties and Interest

Penalties are structured to encourage timely filing of returns and payment; however, they automatically escalate if the necessary corrective action is not taken within a prescribed time period.

A late return, regardless of whether there is a tax balance due, receives a \$50 penalty if filed within 10 days of the due date. If the return is filed beyond 10 days of the due date, an additional penalty is assessed equal to \$100 or 10% of the tax due, whichever is greater. Penalties apply to each tax category covered by a consolidated tax return.

Interest is independent of penalties and is assessed on the unpaid tax at the statutory rate from the due date until payment is received.

Records Retention

The normal books and records, pursuant to the Generally Accepted Accounting Principles established by the American Institute of Certified Public Accountants, must be maintained. If the appropriate returns have been filed, records must be retained for a period of three years. If the appropriate returns have not been filed, a five-year period is open to review. Failure to maintain records for this period could result in assessments being issued based upon the best information available.

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