

Frequently Asked Questions: Biodiesel Taxes*, Tax Incentives, Permits, and Regulations

**Tax regulations also apply for users of Straight Vegetable Oil (SVO) as a fuel. Any product used to run a diesel or gasoline engine is taxable, except for undyed fuels.*

Federal Tax Information for Biodiesel Producers

• How do I register with the IRS as a producer?

If you blend more than 400 gallons in a quarter, and/or wish to receive the JOBS Creation Act tax incentive, you must register with the IRS by filling out form 637: <http://www.irs.gov/pub/irs-pdf/f637.pdf>. The application process can be lengthy, so contact the IRS to determine how much lead time you'll need before you start to produce biodiesel. For more information, see the National Biodiesel Board's Information Sheet about registering: <http://nbb.org/news/taxincentive/Memo-RegistrationActionAlert052705.pdf>

• How do I get the JOBS Creation Act Tax credit?

First, you must have a producer certificate filed with the IRS for the Biodiesel Credit Application. Then, if you've blended the biodiesel with diesel or kerosene, resulting in B99 or less, you need to file Form 720 with the IRS, which can be found here: <http://www.irs.gov/formspubs/lists/0,,id=97817,00.html>. Form 720 is the Quarterly Federal Excise Tax Return.

For more information, see the IRS' Excise Tax web page at <http://www.irs.gov/businesses/small/article/0,,id=99517,00.html>, or find out contact information here: <http://www.irs.gov/localcontacts/article/0,,id=98287,00.html>.

• I made biodiesel (B100) at home, and want to put it into my vehicle. Do I have to pay a tax?

Yes. The User/Operator of the vehicle is liable for the \$0.244 per gallon federal tax when put into the fuel supply. The Excise Tax form can be found here: <http://www.irs.gov/pub/irs-pdf/f637.pdf>. Sales of biodiesel follow the same guidelines.

State Tax Information for Biodiesel Producers

• What taxes apply for biodiesel use in Michigan?

The State Treasury is currently in the process of developing forms for reporting and taxing the production of biodiesel. Currently anyone who is interested in producing biodiesel should outline their proposed operation in writing and send it to the State Treasury. When the forms are available, the Treasury will contact the producer. Anyone importing the fuel to Michigan must be licensed as a Tank Wagon Operator Importer and file a quarterly Importer Return. A license application is available at www.michigan.gov/treasury or you can contact the State Treasury at (517) 636-4600 to have one faxed to you. There are no special exemptions for the use of biodiesel other than what is available for diesel fuel. Undyed fuel is non-taxable and can only be sold tax free to governmental agencies and denomination schools. Undyed fuel can be sold in quantities of 100 gallons or less for off road use.

• Are there tax incentives available for biodiesel producers?

There are no specific tax incentives for biodiesel producers in Michigan at this time. However, there may be some property tax abatements for establishing biodiesel production facilities in industrial zones, depending on qualifications. Those interested in these abatements should check with the Michigan Economic Development Corporation (MEDC) or NextEnergy about the NextEnergy Authority incentives.

• I made biodiesel (B100) at home, and want to put it into my vehicle. Do I have to pay a tax?

Yes. The User/Operator of the vehicle is liable for the \$0.15 state tax for road fuels when put into the fuel supply of a vehicle. Sales of biodiesel made at home follow the same guidelines.

For more information from MEDC, see <http://medc.michigan.org/ttc/FundingOpportunities/?m=14:2>.

For more information about NextEnergy, see: <http://www.nextenergy.org>.

For more information about the state taxes, visit http://www.michigan.gov/treasury/0,1607,7-121-1750_2143_2153_2155-106674--00.html, or TreasMotFuel@michigan.gov, or contact:

Scott Horton, Supervisor
Customer Contact
Special Taxes - Motor Fuel
Phone: 517-636-4490
Fax: 517-636-4593
Email: hortonc4@michigan.gov

Permitting Information from MDEQ

• What permits will I need from MDEQ?

While the MDEQ does not have a sector specific resource for biodiesel companies, they do have a [Michigan Manufacturer's Guide for Environmental, Health and Safety Regulations](#) that applies to all manufacturers in the state (including biodiesel manufacturers). This guidebook is available both online and can be purchased in hard copy from the MDEQ. In addition, the MDEQ has prepared a [permit and licensing guidebook](#) and a [checklist](#) to help facilities identify which permits are needed from the agency.

The MDEQ permits needed for a biodiesel operation are often site-specific and based upon choices made by the company. For example, in the wastewater permit area, if the facility is served by a publicly operated treatment plant, then the facility may need a user permit from the treatment plant. In the alternative, they could choose to put in an onsite sewage disposal system (septic system) in which case they are subject to the MDEQ's Groundwater Discharge Permit program. Site characteristics will also determine the necessity of construction permits (i.e. presence of wetlands, flood plains, water bodies, and the size of earth disturbance).

Because of the choices involved in site selection/construction, operational variability and the availability of infrastructure, it is recommended that facilities complete the [DEQ Permit Information Checklist](#). The screening questions in the checklist help identify activities that require a permit or license. The agency contact is listed on the checklist for further questions.

At a minimum, the following permit programs likely apply:

- Air Quality Permit to Install (see Chapter 1 of the Michigan Manufacturer's Guide). Prior to installing, relocating, reconstructing or modifying potential sources of air pollution, a Permit to Install, issued by the Air Quality Division (AQD) of the MDEQ, may be required per Rule 201 of the Michigan Air Pollution Control Rules. If the air pollution sources are being installed at a new site, the Permit to Install must be issued prior to breaking ground. Rules 280 through 290 exempt specific insignificant sources of air pollution from the Permit to Install requirement. Please contact the appropriate AQD District Office to determine whether or not the proposed equipment and/or activities are exempt from the Permit to Install (Rule 201) requirement.

- Industrial Storm Water under the National Pollutant Discharge Elimination System (see Chapter 3, Section 3.2.3.d, of the Michigan Manufacturer's Guidebook).

- Permits for the proper construction and operation of storage tanks (see Chapter 4 of the Michigan Manufacturer's Guidebook). Another great resource for these permits is the U.S. Department of Energy publication [Biodiesel Handling and Use Guide](#).

- [Uniform Liquid Industrial Waste Transporter](#) permit and registration if the facility will be picking up used cooking oils for the production process unless the oil is transported directly to the biofuel production facility where the oil is used to produce biofuel.

In addition, if constructing the facility, the following likely apply:

- Permits for Construction Activities at or near the Land/Water Interface (see Chapter 8 of the Michigan Manufacturer's Guidebook).

- Soil Erosion and Sedimentation Control/Construction Storm Water Permit for Construction activities (See Chapter 3, Section 3.2.3.b of the Michigan Manufacturer's Guidebook).

For more information, contact the MDEQ Environmental Assistance line at: 1-800-662-9278 or email: Deq-assist@michigan.gov.

• What Other MDEQ Regulatory Programs May Apply?

There may be activities at the facility that do not require a permit or registration, but are subject to environmental regulations. These requirements include notifications, record keeping, reporting and planning.

Waste Management:

Biodiesel production facilities generating waste or using waste ingredients must:

- Meet waste generator requirements summarized in Chapter 2 of the Manufacturer's Guidebook including notification, storage, labeling, shipping, and other requirements.

- Be a permitted and registered [Liquid Industrial Waste Transporter](#) and meet those requirements if they haul restaurant grease or wastes from other businesses to the facility. If the oil is transported directly to the biofuel production facility from the location it was generated and used to produce biofuel, it is not a liquid industrial waste and can be transported without the transporter being permitted and registered

- Notify Waste and Hazardous Materials Division they are a liquid industrial waste designated facility along with any other regulated waste activities on the [form EQP5150](#). The facility will need to notify of any liquid industrial waste or hazardous waste generating activity occurring at the site. They will also have to notify as a designated facility receiving liquid industrial waste if incoming oil is not transported directly to the biofuel production facility from the location where it was generated.

- Meet the designated facility requirements, including manifesting and recordkeeping. If someone is hauling their own restaurant grease to the facility in amounts 55 gallons or less, sign the shipping record and keep a copy at least three years from shipment. If incoming oil used in the manufacture of biofuel is transported directly to the biofuel production facility, it is not a liquid industrial waste and the facility is not required to meet the manifesting, recordkeeping or designated facility requirements for incoming liquid industrial waste.

These requirements are under [Part 111, Hazardous Waste Management, of Act 451](#), [Part 121, Liquid Industrial Waste, of Act 451](#), and the [Hazardous Materials Transportation Act \(1998 PA 138\)](#).

SARA Title III Reporting:

Chapter 5 of the Manufacturer's Guidebook covers SARA Title III Reporting. If you're required to have an Material Safety Data Sheet (MSDS) under the Occupational Safety Health Act (OSHA) Hazard Communication Standard for materials onsite, and further if you have 10,000 pounds of these materials (equivalent to 1,200 gallons of water), then it is likely you are subject to these reporting requirements.

Contact MIOSHA Consultation Education and Training Division at 517-322-1809 to discuss when an MSDS is required. For SARA Title III questions, you may call the Michigan Sara Title III Program at 517-373-8481 or e-mail DEQ-EAD-SARA@michigan.gov.

Emergency Planning:

Chapter 6 of the Manufacturer's Guidebook is about emergency planning and containment requirements. In general, if you have over 1320 gallons aboveground storage capacity for all oils (including vegetable oils, animal fats, waste oils, recycled biodiesel, gasoline, heating oil, or other oil products) then the company would be subject to federal Spill Prevention Control and Countermeasure (SPCC) regulations and the state's Part 5 rules. The state rules also apply if you have a 660 gallon aboveground storage capacity of all oils. In addition, requirements for onsite chemical storage can apply for various regulated materials when threshold management quantities are met.

Requirements include spill containment, Pollution Incident Prevention Plans (PIPP), surveillance, and release reporting. For example, methanol storage must be in accordance with these rules when 220 pounds of methanol is stored outdoors or when 2200 pounds are stored indoors. Depending on the flashpoint of ingredients or products, you may also be subject to emergency action plans under the flammable and combustible liquid rules. Refer to the [Emergency Planning web page](#) for more information.

• What Other Regulatory Agencies Have Requirements?

- If using scales or meters in the production or marketing process: For scales, call 517-655-8202 extension 304 Department of Agriculture Laboratory. Go to www.michigan.gov/mda and select "Food & Agribusiness" "Business Services" "Lab Services" then under heading Lab Services General select the inspection fee schedule or go directly to www.michigan.gov/mda/0,1607,7-125-1568_2389-12944--00.html.
- For labeling requirements, purity and quality standards, testing requirements, licensing and dispensing regulations, etc. under Regulation 564: Automotive Gasoline Purity, Additives, and Grading, contact Celeste Bennett at 517-655-8202, ext. 314 Department of Agriculture, Laboratory Division. If the biodiesel will be sold retail, then these regulations apply. If the biodiesel is being used only in the manufacturer's own vehicles, then check with MDA for specific guidance.
- Transportation Requirements: Contact the Michigan Center for Truck Safety at 800-682-4682 for transportation requirements. Or contact the Michigan State Police Motor Carrier Division contacts listed at http://www.michigan.gov/msp/0,1607,7-123-1593_3536_6248---00.html.
- For worker health and safety requirements MIOSHA Consultation Education and Training Division in the Department of Labor and Economic Growth, at 517-322-1809 or www.michigan.gov/miosha.
- For zoning requirements, contact the Michigan Association of Counties, Michigan Municipal League, and/or the Michigan Townships Association and ask if they have any advice for the area in which you would like to locate a production facility.