

A teal circle containing the text "January 2026". The circle is partially overlaid by a blue circle and a small orange circle at the top right corner.

January  
2026

A landscape photograph of a winding road through a hilly, grassy terrain. The road curves from the bottom right towards the center of the frame. The hills are covered in dry, golden-brown grass. The sky is clear and blue. The title text is overlaid on the bottom left of this image.

# Motor Vehicle Division Motor Fuel Guide

# OUR MISSION

## Department of Revenue

*Proactively providing fair and consistent revenue administration for South Dakota.*

## Department of Revenue Vision Statement

*To continue developing an efficient, accessible, and adaptable team of public servants leading South Dakota into the future.*

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## ONLINE RESOURCES

**South Dakota Department of Revenue**

<https://dor.sd.gov/>

**South Dakota Official State Homepage**

<https://www.sd.gov/cs>

**Motor Fuel - Individuals**

<https://dor.sd.gov/individuals/taxes/motor-fuel/>

**Motor Fuel - Businesses**

<https://dor.sd.gov/businesses/taxes/motor-fuel/>

**EPath Help Page**

<https://dor.sd.gov/businesses/taxes/sales-use-tax/filing-and-paying-taxes-online-help/>

## Major Change to the November 2025 Motor Fuel Guide

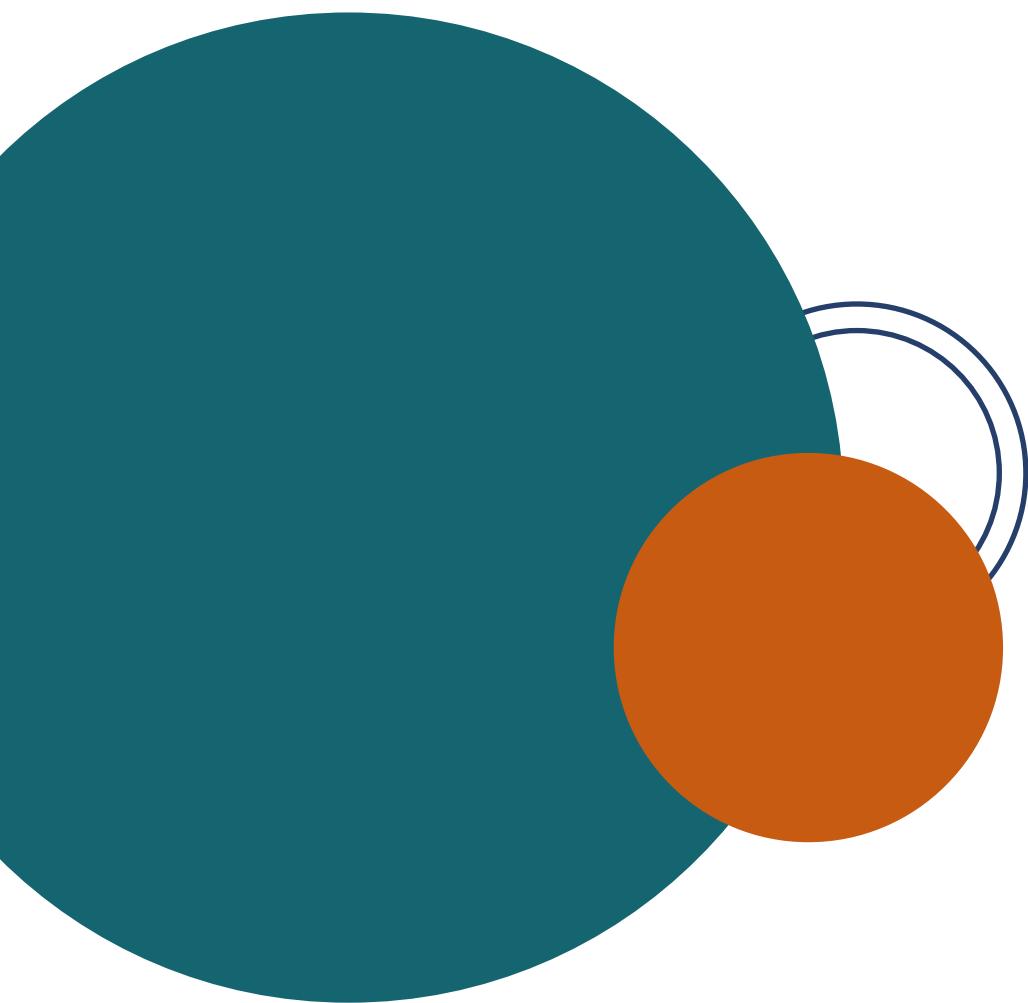
Added the following language to multiple sections:

### ***Diversions***

A diversion is when a shipment or partial shipment of fuel is changed from the destination state on the Bill of Lading to a different destination state. South Dakota Codified Law [10-47B-49](#) requires diversions to be reported to the Department of Revenue before the shipment is diverted.

Diversions can be reported to the Department by two different methods. You may use the third-party program FuelTrac (<https://fueltrac.us/>). South Dakota will receive the information from FuelTrac. You may also choose to use the diversion form located on our website. This form can be accessed through our Business Forms under the Motor Fuel section at <https://sddor.seamlessdocs.com/sc/business-forms>.

The requirement to report diversions to the Department of Revenue does not preclude your requirement to keep diversion tickets in your records. See the Record Keeping section. Failure to report a diversion in the manner required above may be subject to an assessment of twice the tax rate of all fuel involved ([SDCL 10-47B-186](#)).



# TABLE OF CONTENTS

BASIC INFORMATION .....	5
Fuel Tax Rates.....	5
Taxpayers' Bill of Rights.....	6
MOTOR FUEL PROCESSES.....	7
Who Needs a Motor Fuel License? .....	7
How and Where to Apply for a License .....	7
Canceling A License .....	8
Business Changes.....	9
Filing Amended Returns.....	9
Interest and Penalties.....	11
Collections .....	11
Refunds .....	12
Licensee and Compliance Reviews.....	15
Audits.....	15
MOTOR FUEL GENERAL INFORMATION .....	18
Points of Taxation .....	18
Tank Inspection.....	19
Required Records.....	19
Selling Ethyl Alcohol and Methyl Alcohol .....	21
EPath .....	21
Return Information.....	21
MOTOR FUEL LICENSE TYPES .....	23
TERMINAL OPERATOR (TO).....	24
SUPPLIER (Shipper) (SU).....	26
IMPORTER/EXPORTER (IX) .....	29
TRANSPORTER (Carrier) (TR) .....	32
BULK PLANT OPERATOR (BK) .....	34
ETHANOL PRODUCER (EP).....	35
ETHANOL BROKER (EB) .....	38
BIODIESEL PRODUCER (BP).....	40
BLENDER (BL).....	41
MARKETER (MK) .....	43
TRIBAL MARKETER (TM).....	46

CNG VENDOR (CV).....	48
LNG VENDOR (LN).....	49
LPG USER (LU) .....	51
HIGHWAY CONTRACTOR (HC).....	52
APPENDIX .....	58
Appendix A – South Dakota Motor Fuel Tax System and Laws.....	58
Appendix B – Definitions.....	66
Appendix C – EPath Tax Returns and Schedules .....	74

# BASIC INFORMATION

## Fuel Tax Rates

The chart below shows the South Dakota fuel type, product code, and tax rate charged for each type of fuel.

Fuel Tax Rates as of April 1, 2015		
FUEL TYPE	FTA PRODUCT CODE	TAX RATE
Jet Fuel	130	4 Cents per Gallon
AVGAS (Aviation Gasoline)	125	6 Cents per Gallon
100% Ethyl Alcohol	123	14 Cents per Gallon
100% Methyl Alcohol	243	14 Cents per Gallon
Compressed Natural Gas (CNG)	224	10 Cents per Gallon
Liquid Natural Gas (LNG)	225	14 Cents per Gallon
Liquid Petroleum Gas (LPG)	054	20 Cents per Gallon
*Biodiesel & Biodiesel Blends	284 & 170	28 Cents per Gallon
Gasoline	065	28 Cents per Gallon
Natural Gasoline	061	28 Cents per Gallon
Undyed (Clear) Diesel (Including K1 & K2 Kerosene)	160	28 Cents per Gallon
Tank Inspection Fee	Applies to all fuel types	2 Cents per Gallon

State sales tax plus applicable municipal sales tax applies to the selling price of dyed fuel. Please see the [Sales and Use Tax Guide](#) for additional information on specific sales tax rates.

Dyed fuels subject to sales tax when purchased include:

- 072 Dyed Kerosene
- 171 Dyed Biodiesel Blends
- 228 Dyed Diesel Fuel
- 290 Dyed Biodiesel

Any other type of fuel product that is used to propel a motor vehicle is taxed at a rate of 28 cents per gallon.

Some of these other fuel types and product codes are as follows:

- 092 Other (Undefined) Products
- 142 Undyed Kerosene

In addition to the above taxes, a 2 cents per gallon tank inspection fee is charged for each gallon of fuel that is sold.

\*Effective in the quarter after biodiesel production facilities in South Dakota reach a name plate capacity of at least twenty million gallons per year and fully produce at least ten million gallons of biodiesel within one year as determined by the Secretary of Revenue, the tax rate for Biodiesel and Biodiesel Blends will change to 26 cents per gallon. This rate will be in effect until the quarter after thirty-five million gallons of taxed biodiesel and taxed biodiesel blend are sold. After that time the tax rate will return to 28 cents per gallon. Please refer to [SDCL 10-47B-4](#) for further information.

## **Taxpayers' Bill of Rights**

The Taxpayers' Bill of Rights has formalized the fundamental principles that have guided the South Dakota Department of Revenue since 1986. These Rights are as follows:

1. You have the right to confidentiality.
2. You have the right to tax information that is written in plain English.
3. You have the right of appeal.
4. You have the right to courteous, prompt, and accurate answers to your questions.
5. You have the right to be certain that collection procedures or assessments are not influenced by performance goals or quotas.
6. You have the right to rely on the written advice given to you by the Department of Revenue.
7. You have the right to be notified before the Department audits your records unless the Secretary of Revenue determines that a delay will jeopardize the collection of tax.
8. You have the right to clear and consistent policy regarding the deadlines for filing tax returns and making payments.
9. You have the right to seek a refund of any taxes you believe you have overpaid within the last three years.
10. You have the right to a process requiring that the seizure of your property for taxes be approved by a person no lower in authority than the division director.
11. You have the right to expect that a good-faith effort to comply with tax laws will be given consideration in disputed cases.
12. You have the right to a tax credit of interest or penalties that are determined to have been inappropriately levied.
13. You have the right to the removal of a lien on your property within 30 days after you have paid all tax, penalty, and interest due.
14. You have the right to have the South Dakota Department of Revenue correct the public record.

# MOTOR FUEL PROCESSES

## Who Needs a Motor Fuel License?

Any entity pulling fuel from a terminal, transporting fuel over state line, selling fuel, or using fuel in equipment in the road right-of-way all need a South Dakota motor fuel tax license. See [Motor Fuel License Types](#) for additional information.

## How and Where to Apply for a License

Once you have determined that you require a South Dakota Motor Fuel Tax License, you may complete an application online at [https://sd.gov/taxapp \(SDCL 10-47B-74\)](https://sd.gov/taxapp):

1. Licensees who are currently in good standing may request to add a license associated with the same Federal Employer Identification Number (FEIN) by submitting a written request via letter or email. The request must include:
  - Company name
  - Company address
  - Federal Employer Identification Number
  - Requested license type
  - Business location (if the address is different from the company address)

**Applications should contain the following information (SDCL 10-47B-71):**

1. The name and mailing address of each business owner;
2. The name in which the business is to be conducted;
3. The principal place of business of the owner and the location of any other secondary businesses that should be included under the license application;
  - Licensed marketers, bulk plant operators, and terminal operators must provide the address of each business location;
4. The type of business organization used by the applicant along with the names, addresses, social security numbers, and phone numbers of all owners, partners, officers, agents, or managers affiliated with the organization;
5. Your federal employer identification number, if available;
6. A description of the nature and extent of fuel transactions to be conducted by you;
7. The types of fuel products to be handled;
8. Whether or not you have previously held a fuel tax license issued by the state;
9. The names and addresses of banking references for those applicants who will be acquiring fuel tax liabilities with the department;
10. A properly signed power of attorney should be submitted, if your licensing responsibilities are completed by an independent reporting agent/agency and you choose to have all department correspondence mailed to that agent/agency;
11. If you are applying for an exporter's license, you will also need to provide a copy of the license you have that allows you to purchase or handle motor fuel or special fuel tax free in the specified destination state or state for which the export license is to be issued; and

12. Any other information which the secretary deems necessary for the administration and enforcement of this chapter.

No fees are charged for fuel tax licenses and there are no bonding requirements (except for individuals who are delinquent in reporting and remitting fuel tax, and to reinstate a revoked license).

Once a license card is received, it should be prominently displayed, at the place of business, within the public's view for which it was issued ([SDCL 10-47B-89](#))

The Secretary of Revenue may refuse to issue or renew a license for any of the following reasons ([SDCL 10-47B-73](#)):

1. The application is filed by a person whose license has been canceled for cause by the Secretary;
2. The applicant has made false or misleading statements in the application;
3. The application is filed by a person as a deception for another person whose license has been canceled for cause by the Secretary;
4. At the time of application for license renewal, the person is found to have been delinquent in the filing of tax returns or the payment of taxes two or more times during the preceding license year; or
5. The applicant was convicted of a crime involving tax or owes fuel tax, penalty, or interest to South Dakota or another state.

If your license application is refused, you may request an administrative hearing before the Secretary to review the application. Your request must be submitted within 15 days of the date of notification of refusal.

## Canceling A License

To properly cancel your license, a written request must be submitted indicating the reason and the requested date of cancellation ([SDCL 10-47B-76](#)).

- The request may be completed on EPath using the "Cancel License" option on the main log in screen. Indicate the last day of business on your cancellation request keeping in mind if the last day of business is in the next filing period there may be more returns due later. An email can also be sent to [sdmotorfuel@state.sd.us](mailto:sdmotorfuel@state.sd.us) indicating the license number, reason for cancellation, and cancellation date.
- Before your license is canceled, all returns must be filed, and taxes must be paid up to the date of cancellation.

## Business Changes

If your business makes any ownership or location changes you must contact the Department. Depending on the situation a new license may need to be issued. If the ownership (sole proprietorship, partnership, corporation, or LLC) changes a new application will be needed. Please see the section in this guide for applying for a license and follow the steps to complete the application.

Licenses issued by the Secretary of DOR cannot be re-assigned to another company or individual. The license is only valid for the licensee it is issued to ([SDCL 10-47B-79](#)).

A change in business location or mailing address should be updated. This can be done through EPath or by emailing the Motor Fuel section at [sdmotorfuel@state.sd.us](mailto:sdmotorfuel@state.sd.us). Please provide the license number, old address, new address, and phone number. Once the address has been updated you should print a new license card from EPath to post with the changes.

### Examples:

1. *A business changes ownership and it is a new corporation with a new FEIN.*
  - A new license must be obtained, and the old license needs to be cancelled. The reassignment of a license is prohibited because there is a new FEIN for the business.
2. *A business changes ownership but the corporation maintains the same FEIN.*
  - Owners do not need to apply for a new license.
  - Notification of the ownership change including the list of any owners who should be removed and officers who should be added (including name, personal addresses, phone numbers, and social security numbers) along with the date of change must be submitted to Department via letter or email.
  - Documents verifying ownership change must be submitted to Department.
3. *A business changes from a sole proprietor to an LLC.*
  - The business will need to submit a letter of explanation and a signed copy of the documents that change the company name to an LLC.
4. *A business changes its name.*
  - The business will need to submit a letter of explanation and a copy of the documents that change the company name.
5. *A mailing address or business location changes.*
  - This information can be updated online on EPath.

## Filing Amended Returns

If a taxpayer discovers they have reported the incorrect amount of fuel on a return, the taxpayer will need to file an amended tax return. **Please note:** The correction cannot be made on a subsequent return.

### ***Amending an Electronic Return***

A taxpayer is required to amend their electronic return if they have reported the fuel incorrectly on their original return. Electronic returns may only be amended one time. If additional amended returns must be submitted for the same period, an amended paper return must be submitted.

If a return was filed on paper, then it cannot be amended electronically. A paper amendment will need to be completed.

As with the original return, the taxpayer must follow the system all the way through and submit the amended return as required. Any needed corrections must be made on the original EPPath schedule when amending the return. The amended schedule is then uploaded into EPPath. Interest and/or penalty is due if additional tax is owed.

### ***Amending a Paper Return***

A taxpayer is required to amend a paper return if they have reported the fuel incorrectly on their original paper return. To file an amended paper return, complete the following steps:

1. Contact the Department at [sdmotorfuel@state.sd.us](mailto:sdmotorfuel@state.sd.us) to request an amended return that was previously amended or filed by paper.
2. The Department will send you a blank return.
3. Complete the return as it should have been filed originally.
4. Interest and/or penalty will be due if additional tax is owed.
5. Email back to the Department at [sdmotorfuel@state.sd.us](mailto:sdmotorfuel@state.sd.us). If your return requires the [Uniform Schedule of Receipts](#) and/or [Disbursements](#), if applicable.
  - If additional tax is due, payment may be made electronically via EPPath or by submitting a paper check to the address below.
  - **To avoid your EPPath payment being refunded back in error, notify the Department of Revenue that the electronic payment was made when you submit your amended return documentation via email.**
6. If you do not have access to email, mail the return, updated schedule, and summary form, along with any tax payment to the following address:

**Attn: Motor Fuel Division**  
**Department of Revenue**  
**445 E Capitol Ave**  
**Mail Code 5055**  
**Pierre, SD 57501**

## Interest and Penalties

Taxpayers who fail to remit their fuel tax payment to the state by the due date are liable for interest and/or penalties.

1. Interest charges accrue at the rate of 1.00 percent of the tax due per month (or part of a month) or \$5, whichever is greater for the first month only. Interest is then assessed at 1.00 percent of the tax due in any subsequent months.

The taxpayer, who fails to file a return or report which includes all taxable transactions within thirty days following the month the return or report is due, is assessed a penalty equal to 10 percent of the tax due or \$10 whichever is greater.

2. For example, if a taxpayer's return and/or payment for September does not arrive by the October 31st deadline and eventually arrives on November 15th, the licensee is liable for interest for the month of November. If the payment does not arrive until December 15th, the taxpayer will be charged interest for November and December, plus a penalty equal to 10 percent of the tax liability or \$10, whichever is greater ([SDCL 10-59-6](#) & [SDCL 10-59-6.1](#)).

## Collections

If a taxpayer fails to pay taxes, penalties, or interest, the Department of Revenue may begin a civil suit against the taxpayer for recovery of the debt. If successful, the Department becomes a judgment creditor and can use the normal collection procedures open to such a creditor.

### ***Notice of Jeopardy Assessment***

In some cases, the Department may bypass the formal audit procedure in determining if taxes are due. If the Secretary of Revenue finds that the assessment or collection of any tax is jeopardized by delay, they may immediately assess the estimated tax, penalty, or interest and demand payment from the taxpayer. Thus, when confronted with an uncooperative taxpayer who fails to file required returns or report taxable transactions, the Secretary may estimate the amounts due based upon available records or sources and issue the "Notice of Jeopardy Assessment" ([SDCL10-59-16](#)).

If a taxpayer fails to pay the amounts noted in the jeopardy assessment and is a resident of South Dakota, the Department will file appropriate liens and request the issuance of distress warrants ([SDCL 10-59-10](#)).

### ***Notice of Tax Lien***

Any tax, penalty, or interest due from a taxpayer results in an automatic lien on their real or personal property. To preserve the state's lien priority against other creditors, the Department files a "Notice of Tax Lien" with the Register of Deeds of the county in which the taxpayer's property is located ([SDCL 10-59-11](#) & [SDCL 10-59-12](#)).

### ***Distress Warrant***

If the taxpayer still fails to make payment, the Department requests the County Treasurer to issue a distress warrant to the County Sheriff. The distress warrant directs the Sheriff to proceed to collect the delinquent taxes by seizing and selling the taxpayer's property ([SDCL 10-59-13](#)).

## ***License Revocations***

If you fail to file a report or remit a tax payment when due, the Secretary of Revenue may immediately schedule a license revocation hearing. If your license is revoked, you may not engage in any business activity authorized by the license. Written notice of the revocation will be given to you and all other current license holders ([SDCL 10-47B-155](#)).

A Hearing Examiner conducts the revocation hearing.

1. The Department presents evidence to prove the failure to file or pay taxes.
2. The taxpayer then submits their evidence or testimony to show compliance with the tax statutes.
3. Following the hearing, the Hearing Examiner prepares minutes and a decision for the Secretary of Revenue to consider.
4. The Secretary will then issue their order, which may include an assessment of additional taxes, penalty, and interest ([SDCL 1-26D-4](#)).

The Department and the taxpayer have the right of judicial review of the Secretary's order. The procedure for judicial review is essentially the same as that described in the [Audits](#) section.

## ***Declaratory Rulings***

If a taxpayer believes that an error has been made in determining their liability, they may ask the Secretary of Revenue to render a formal opinion regarding the application or interpretation of a tax statute. This opinion is called a *declaratory ruling* and is made according to specific rules and procedures set forth in [SDCL 1-26-15](#).

A taxpayer who wants a declaratory ruling from the Department Secretary must submit a verified petition. The petition must present the specific question on which they are requesting a ruling and the factual basis for the question. Typically, the petition will include a request for a refund of taxes. If the Secretary determines that additional facts or information are needed, they may call for a hearing on the petition. The Secretary must notify the taxpayer of the hearing at least ten days prior to the hearing date.

The Secretary may decline to render a decision if it is determined that a ruling will not settle the controversy. If a ruling is made, the Secretary will include findings of fact and conclusions of law. The Secretary's ruling is subject to appeal to the courts. The appeal is the same as an appeal of any other agency decision in a contested case.

# **Refunds**

## ***Refund Amount***

When a licensee is eligible for a refund from the Department the amount must be over twenty-five dollars before it can be refunded. If a refund is under twenty-five dollars, the balance will carry over each return period until the balance reaches that amount.

## ***Refund for Accidental Mixing of Undyed Fuel with Dyed Fuel***

Any business or person may apply for and obtain a refund of fuel taxes paid on undyed fuel that is accidentally mixed with dyed fuel when the following conditions are met:

1. The amount of undyed fuel accidentally mixed with dyed fuel equals 500 gallons or more;

2. The claimant notifies the Department of the accidental mixing within five days of the incident. Notification can be done by phone, email, or mail.
3. The Department can determine with reasonable certainty the amount of dyed and undyed fuel involved in the accidental mixing; and
4. The mixed fuel is dyed by the Department to legal specifications if deemed necessary by the Secretary
5. An [Affidavit of Accidental Mixing of Undyed Fuel with Dyed Fuel](#) form is completed within 60 days of the incident based on the gallons that appear on a supply tank reading before and after the drop, bill of lading, and or delivery ticket, and invoices indicating tax has been paid on the clear fuel and mail to the Department or scanned and emailed to [sdmotorfuel@state.sd.us](mailto:sdmotorfuel@state.sd.us).
6. If an allowance was applied at the time of purchase, the refund amount will be adjusted to reflect the actual tax paid.

#### ***Refunds on Customer Accounts That Are Worthless***

Any wholesale distributor or retail dealer licensed as a Marketer in this state may apply for and obtain a refund for taxes paid to this state on any gallons of motor fuel, undyed special fuel, or liquid petroleum gas sold to customers whose accounts are found to be worthless.

Accounts may not be deemed to be worthless unless they have been claimed as uncollectible and deducted as an expense on the licensee's federal income tax return. Upon application of this refund, the department shall have cause and authority to make an assessment and take collection action against the purchaser. Claimants are only eligible once every three years for a refund of the taxes not paid by a customer.

The Department will notify all licensed suppliers, out-of-state suppliers, and marketers that the party has been delinquent in the payment of tax and that no further refunds will be paid for sales made to the party during the next three-year period. To qualify, sufficient evidence and testimony to enforce any tax collection action by the department.

#### ***Instances When Refunds are Not Available***

No refunds of fuel excise tax will be given for any of the following:

1. Fuel used in licensed motor vehicles, self-propelled machinery and equipment operated on South Dakota's public highways;
2. Fuel used on the highway in any licensed motor vehicles, machinery or equipment engaged in highway construction or maintenance work that is paid for, wholly or in part, by public moneys;
3. Undyed diesel and biodiesel fuel that is used in off-road machinery or equipment;
4. Fuel used by a motor vehicle while it is idling;
5. Undyed diesel and biodiesel fuel that is consumed in licensed vehicles outside of the road right-of-way for commercial purposes; and
6. Gasoline and ethanol blend that is consumed in licensed vehicles and stationary equipment within the road right-of way or in licensed vehicles and other equipment outside of the road right-of way.
7. Fuel used in an aircraft or watercraft.

## **Refunds by License Type**

### **Supplier**

If a licensed Supplier sells fuel to a customer who fails to pay the required fuel tax, the Supplier may apply for a refund of those taxes from the state by filing an [Affidavit for Bad Debt Loss](#). The state will then make an assessment and seek to collect the taxes from the Supplier's delinquent customer ([SDCL 10-47B-133](#)).

The application for this refund must be made within sixty days from when the delinquency occurred. The application for refund may include all taxes credited to the delinquent party since the occurrence of the delinquency. The supplier or out-of-state supplier must supply the department sufficient evidence and testimony to enforce any tax collection action by the department.

A Supplier is eligible for a refund of the taxes not paid by a particular customer only once every three years. The Supplier must then collect all taxes due from that customer, on any subsequent sales made to them, for the next three years.

The Department will notify all Suppliers that a customer has been delinquent and is not entitled to delayed payment of fuel tax and TI fees for the next three years. The Department will also advise Suppliers that no further refunds of delinquent taxes will be made on any sales to this customer during the three-year period.

### **Importer/Exporter**

An Importer/Exporter may apply for a refund for taxes paid to this state on motor fuel and undyed special fuel under the following conditions ([SDCL 10-47B-125](#)):

1. Fuel which was loaded at a bulk plant in this state and exported;
2. Fuel that is loaded at a terminal in this state indicating South Dakota as the destination state and then diverted to another state;
3. Fuel that is withdrawn from an out-of-state terminal, and purchased from a licensed Supplier, with a South Dakota destination, and is then diverted to another state; and
4. Ethyl alcohol loaded at an ethanol producer's plant in this state that indicates South Dakota as the destination state, and then diverted to another state.

### **Ethanol Producer**

Ethanol Producers may obtain a refund of the taxes paid for natural gasoline and or gasoline that is used to denature alcohol by claiming it on their tax returns ([SDCL 10-47B-120](#)).

### **Biodiesel Producer**

A biodiesel producer may apply for and obtain a refund of the fuel taxes paid to this state for methanol used to produce biodiesel ([SDCL 10-47B-120.1](#)).

### **Marketer**

There are several situations in which Marketers are entitled to refunds; please refer to the [Fuel Taxes and Marketer Refunds](#) section of the manual.

## Licensee and Compliance Reviews

There are two programs designed to both help taxpayers with the proper maintenance of fuel tax records and to ensure that the appropriate amount of taxes are being reported and paid. These programs are the Licensee Review and the Compliance Review ([SDCL 10-47B-160](#) & [SDCL 10-47B-161](#)).

The **Licensee Review** is an educational tool that was developed by the Department to help educate taxpayers on the proper procedures to follow in keeping and maintaining fuel tax records.

- This type of review can take anywhere between a half an hour and three working days to complete. This will generally depend on the size of the company being reviewed and the number of records that are being maintained.
- No assessments will result from this type of review and the taxpayer is given an opportunity to correct errors, usually by amending tax returns.
- Penalties and interest are assessed if it is found that additional tax is owed and amended tax returns have to be filed.
- Recommendations are also given on how to correct any minor errors that are found. Business, company, or corporate officer and license information is also updated. If major problems are found during a licensee review, the agent has the option of recommending the business for an audit.

The **Compliance Review** is a tool that is used in place of an audit to correct known problems that have been discovered with a business.

- This type of review can take between one working day and a working week to complete.
- During the review, records are inspected to determine if the problem is a valid one.
- Problems can be corrected by amending tax returns but the general solution to these types of problems is to schedule the company for an audit.

## Audits

The Department of Revenue routinely audits taxpayers required to pay fuel taxes. The purpose of an audit is to verify the accuracy of reported fuel purchases, usage, deductions, credits, and refunds.

### ***Notice of Intent to Audit***

The audit process begins when the Department mails a "Notice of Intent to Audit" to the taxpayer ([SDCL 10-59-3](#)). Taxpayers are normally notified at least 30 days prior to the audit date (unless the Department Secretary determines that a delay would jeopardize the collection of tax) ([SDCL 10-59-7](#)).

In most cases an opening conference will be held. You and the auditor will discuss the company's procedures, operations, accounting procedures, and record keeping. At this time the taxpayer must supply all records of fuel purchases and sales, including:

- Tax-unpaid sales of special fuel and sales on which sales tax was charged
- All distribution records
- All fuel inventory records

Within 60 days after the beginning of the audit, the taxpayer must provide the auditor with all records supporting deductions and exemptions.

- If the taxpayer fails to present documentation to the auditor within the 60-day period, the auditor may disallow the claimed exemption or deduction, resulting in an assessment of additional taxes and interest.
- If the taxpayer's records are not complete enough to show the true liability, the auditor may estimate the taxable receipts.

### ***Certificate of Assessment***

If the auditor determines, after reviewing the taxpayer's records, that additional taxes are due, a "Certificate of Assessment" will be issued. The certificate shows the type and amount of tax due and the reasons for the assessment. The taxpayer has 60 days from the date of the certificate to take the following action ([SDCL 10-59-4](#)):

1. Pay the assessment, including accrued interest; or
2. Request a hearing (in writing) before the Secretary of Revenue.

### ***Appealing an Audit***

A request for hearing is the taxpayer's only way of contesting an audit assessment. If a taxpayer decides to appeal the assessment, he or she must submit a "Request for Hearing" within the 60-day time limitation. The request, submitted in letter form, must specifically identify the issues being contested. If it does not, the administrative hearing could be denied ([SDCL 10-59-9](#)).

The request for hearing must state:

1. The portion of the assessment being contested, and
2. The mistake of fact or error of law the taxpayer believes resulted in an invalid assessment.

Once a proper request for hearing has been filed, the matter becomes a contested case and falls within the scope of the Administrative Procedures Act ([SDCL 1-26](#)). The South Dakota Office of Hearing Examiners schedules the matter for hearing and serves the taxpayer with a "Notice of Hearing" ([SDCL 10-59-9](#)).

### ***Notice of Hearing***

The notice of hearing informs the taxpayer of the time and place of hearing, the name and address of the hearing examiner, and sets forth the issues to be considered.

The notice of hearing must be served on the taxpayer at least 10 days prior to the hearing to allow time for "discovery proceedings," which may include a pre-hearing conference involving the Department's attorney, the taxpayer and his or her representative, and the hearing examiner.

### ***The Administrative Hearing***

The administrative hearing is conducted according to the provisions of the Administrative Procedures Act ([SDCL 1-26](#)) and the rules set forth by the Office of Hearing Examiners.

1. The taxpayer may be represented by an attorney.
  - Essentially, the taxpayer is a plaintiff in a civil matter.
2. He or she must prove that the assessment is invalid because it is based on a mistake of fact or an error of law.

- In most cases, the administrative hearing is the taxpayer's only opportunity to present testimony and evidence.

3. At the conclusion of the hearing, the hearing examiner may request briefs on the legal issues.

- Following the submission of briefs, the hearing examiner prepares proposed findings of fact and conclusions of law for the Secretary of Revenue to consider.

### ***Finding of Fact and Conclusions of Law and Order***

The Secretary may adopt the proposals of the hearing examiner or, after reviewing the record, may submit their own findings, conclusions, and decision. Copies of the findings of fact, the conclusions of law and the order are sent to the taxpayer ([SDCL 1-26-23](#)).

If a taxpayer is ordered to pay additional fees and/or tax and desires to appeal the decisions to the circuit court, they must:

1. Pay the amounts ordered to be paid, or
2. File a bond with the Department to insure payment.

The South Dakota Supreme Court has ruled that if payment is not made, or a bond posted, the circuit court cannot hear an appeal ([SDCL 10-59-9](#)).

### ***Notice of Appeal***

After the taxpayer has paid the fees and/or tax or filed a bond, the appeal to the circuit court is governed by the Administrative Procedures Act. The taxpayer must serve their notice of appeal upon the Department of Revenue and file it, along with proof of service, with the clerk of courts of the appropriate county.

The notice of appeal must be filed within 30 days of the date the Secretary of Revenue serves the taxpayer notice of their decision ([SDCL 1-26-31](#)).

When the court hears the appeal, it will base its review of the Department of Secretary's decision upon the administrative record. Regarding the questions of fact, the Secretary's findings will be upheld unless "clearly erroneous." Questions of law are fully reviewable by the court.

The decision of the circuit court may be appealed to the South Dakota Supreme Court. The Supreme Court will review the Secretary's decision on the record, under the same standards of review employed by the circuit court.

# MOTOR FUEL GENERAL INFORMATION

## Points of Taxation

The point of taxation for motor fuel is at the terminal rack if the fuel was transmitted through the pipeline. If the fuel entered the motor fuel terminal by means other than pipeline, it must be taxed prior to its entry into the motor fuel pipeline terminal. Whomever owns fuel inventory above the rack in a motor fuel terminal must be a licensed Supplier.

Suppliers have the major responsibility for collecting fuel tax and remitting it to the state. They are to charge fuel excise tax on any fuel that they sell, with these exceptions:

1. Dyed diesel, dyed biodiesel, and dyed kerosene ([SDCL 10-47B-9](#) & [SDCL 10-47B-19\(3\)](#))
2. Fuel sold to a licensed Exporter and destined for delivery outside of South Dakota ([SDCL 10-47B-9.1](#))
3. Biodiesel sold to a licensed Blender for blending or to a licensed Exporter for export ([SDCL 10-47B-10](#))
4. Fuel sold to the U.S. Government or Defense Fuel Supply Center ([SDCL 10-47B-124](#))

Taxes must be reported and remitted on all motor or special fuel that is imported into the state if it is purchased from an unlicensed out of state South Dakota Supplier. Purchases are reported on your Importer/Exporter Return.

The unlicensed out of state South Dakota Supplier cannot charge the purchaser South Dakota fuel tax ([SDCL 10-47B-22](#)).

Fuel excise tax must also be paid by persons withdrawing ethyl alcohol at an ethanol plant in South Dakota unless they are a licensed ethanol broker that is purchasing the fuel for resale, or a licensed Exporter that is exporting the fuel directly to another state.

### ***Diversions***

A diversion is when a shipment or partial shipment of fuel is changed from the destination state on the Bill of Lading to a different destination state. South Dakota Codified Law [10-47B-49](#) requires diversions to be reported to the Department of Revenue before the shipment is diverted.

Diversions can be reported to the Department by two different methods. You may use the third-party program FuelTrac (<https://fueltrac.us/>). South Dakota will receive the information from FuelTrac. You may also choose to use the diversion form located on our website. This form can be accessed through our Business Forms under the Motor Fuel section at <https://sddor.seamlessdocs.com/sc/business-forms>.

The requirement to report diversions to the Department of Revenue does not preclude your requirement to keep diversion tickets in your records. See the Record Keeping section. Failure to report a diversion in the manner required above may be subject to an assessment of twice the tax rate of all fuel involved ([SDCL 10-47B-186](#)).

### ***Fuel Additives***

A fuel excise tax is imposed on all substances blended with motor fuel or undyed special fuel unless the substance has been previously taxed. The tax imposed shall be at the rate of the dominant motor fuel or special fuel with which the substance is blended ([SDCL 10-47B-8](#)).

### **Dyed Diesel and Dyed Biodiesel Program**

Under the dyed diesel and dyed biodiesel program, diesel or biodiesel that is to be used for off-road purposes must have dye added to it at the refinery or at the terminal. This fuel is exempt from fuel taxes, however, a two cent per gallon tank inspection fee is due. Dyeing diesel or biodiesel makes it easier to differentiate taxable and non-taxable fuel [SDCL 10-47B-19\(3\)](#).

### **Penalties for Illegal Use of Dyed Diesel or Dyed Biodiesel in Licensed Motor Vehicles**

Penalties apply to anyone who uses dyed diesel or dyed biodiesel in a licensed motor vehicle operating on South Dakota roads and highways. Authorized personnel of the Department of Revenue, the Internal Revenue Service, and the Highway Patrol may withdraw fuel from licensed motor vehicles, machinery, equipment, and storage facilities in sufficient quantities to test for compliance with the law by [SDCL 10-47B-188](#). Any person who refuses to allow an inspection of equipment or fuel as authorized by [SDCL 10-47B-189](#) is guilty of a Class 2 misdemeanor (thirty days imprisonment in a county jail, a five-hundred-dollar fine, or both) ([SDCL 10-47B-185](#)).

Persons using dyed diesel or dyed biodiesel in a qualified vehicle, such as a semitruck and similar large truck, are subject to the following penalties:

- \$500 for the first violation
- \$1,000 for each subsequent violation

Persons using dyed diesel or dyed biodiesel in vehicles other than qualified vehicles, such as cars or pickup trucks, are subject to the following penalties:

- \$250 for the first violation
- \$500 for each subsequent violation

The first violation of the dyed special fuel law is a Class 2 misdemeanor. Any subsequent violation is a Class 1 misdemeanor ([SDCL 10-47B-187\(13\)](#) & [SDCL 10-47B-185](#)).

### **Tank Inspection**

Both state and federal law require that most owners of petroleum storage tanks be able to demonstrate financial responsibility for pollution cleanup and third-party liability. The United States Environmental Protection Agency (EPA) has approved the South Dakota Petroleum Release Compensation Fund (PRCF) as an acceptable mechanism for tank owners to demonstrate financial responsibility for corrective action and third-party compensation. PRCF revenues are generated by a two cents per gallon tank inspection fee on petroleum products received, shipped, and stored in the state. This fund is used for the clean-up of petroleum spills. Please refer to [SDCL 34A-13-20](#) and [Administrative Rule 74:32:02:01](#) for further information about the tank inspection fee.

### **Required Records**

Licensees are required to keep detailed records of all fuel transactions ([SDCL 10-47B-157](#)).

1. Records are to be maintained at the place of business or delivery location at least 30 days;
2. Records may then be stored offsite; and
3. All records must be preserved for the current year and the three preceding calendar years.

Licensees must keep all sales and/or purchase invoices. A copy of the invoice must be maintained by both the seller and the purchaser. Invoices must be serially numbered and contain ALL the following information ([SDCL 10-47B-159](#)):

1. The seller's name and address
2. The selling Supplier's license number if the fuel is sold from a pipeline; or the selling Marketer's number if not sold from pipeline
3. The purchaser's name and address
4. The date of sale and delivery of the fuel
5. The number of gallons sold and delivered, the type of fuel, and if diesel whether or not it was dyed
6. The price charged per gallon of fuel
7. If charged, the amount of fuel tax or sales tax
  - Fuel tax must either be listed separately or as a statement that the price per gallon includes the South Dakota fuel tax
8. The total amount of the sales invoice

Records must be presented to Department personnel if you are audited or have your records reviewed.

### ***Bills of Lading***

Importers/Exporters must maintain shipping records that indicate the ultimate destination for all products. Bills of lading must contain the following information ([SDCL 10-47B-53](#)):

1. The terminal or bulk plant name and address;
2. The date the fuel was withdrawn from the terminal;
3. The name and address of the Supplier, Shipper, or owner of fuel within a bulk plant if withdrawn from a bulk plant;
4. The name of the Transporter or Carrier;
5. The destination state;
  - A Petroex or similar number does not fulfill this requirement;
6. The bill of lading number;
7. The number of gross gallons of each type of fuel;
8. The type of fuel product transported;
9. If the fuel contains Ethyl Alcohol or Methyl Alcohol, the number of gallons of ethyl alcohol, the number of gallons of methyl alcohol, the number of gallons of gasoline or the number of gallons of any other motor fuel that are contained therein;
10. The name and address of the Consignee; and
11. Any other information which the Secretary deems necessary for the administration and enforcement of this chapter.

**10-47B-48. Acceptance of fuel without bill-of-lading, drop load ticket, or diversion ticket prohibited--Inadvertent acceptance.**

No bulk plant operator, wholesale distributor, retail dealer, or end consumer may knowingly accept delivery of motor fuel or special fuel into storage facilities in this state if that delivery is not accompanied by a bill of lading, drop load ticket, and any diversion ticket issued by the terminal operator, bulk plant operator, or transporter, that sets out on its face South Dakota as the destination state of the fuel. If acceptance of a shipment was inadvertent, the bulk plant operator, wholesale distributor, retail dealer, or end user shall notify the department within twenty-four hours of the delivery and make arrangements for the proper payment of the tax.

## Selling Ethyl Alcohol and Methyl Alcohol

Ethyl Alcohol and Methyl Alcohol are taxed at the rate Ethyl and Methyl Alcohol plus the tank inspection fee ([SDCL 10-47B-4.3](#)). Each licensed supplier and out-of-state supplier who sells 100 percent ethyl alcohol (ethanol) and/or 100 percent methyl alcohol (methanol) are required to collect and remit fuel excise tax, plus the tank inspection fee on all sales of these products. These products are now taxed because of the various levels of Ethanol Blends now being seen in the industry.

Ethyl Alcohol or Methyl Alcohol transferred in bulk into a terminal or in bulk within a terminal will NOT be exempt from South Dakota taxes and tank inspection (TI) fees. Ethanol Brokers may purchase Ethyl Alcohol tax free from an Ethanol Producer. Once this fuel transfers from the Ethanol Broker to a licensed South Dakota Supplier, taxes and TI fees must be collected from the Supplier and remitted on the Ethanol Broker's tax return ([SDCL 10-47B-9.1](#))

If a Supplier sells an ethanol blend or methanol blend, the invoice must list the alcohol gallons and gasoline gallons separately ([SDCL 10-47B-159 \(5\)](#)). Since the blends are separate types of fuel and are taxed at different rates, they must be listed separately on the invoices to properly reflect the difference in tax rates.

## EPath

Epath is the online system customers use to file tax returns and pay tax obligations. EPath is available 24 hours a day, 7 days a week.

## Return Information

The secretary may waive the filing of the report if the report is unnecessary for the proper administration ([SDCL 10-47B-110](#)).

Only when requested by the Department, informational reports are required to be submitted by the following:

- Bulk Plant Operators ([SDCL 10-47B-103](#))
- Transporters (Carriers) ([SDCL 10-47B-108](#))

Licensees must file the return that contains information from the previous month using EPath. The return must be submitted on or before the twentieth day of the month. This means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed ([SDCL 10-47B-115.1](#)).

All fuel transactions must be reported, and taxes paid to South Dakota or credits claimed during the period in which they occur. Prior period adjustments are not allowed.

- For example: if a sale of fuel takes place on July 31st the licensees cannot delay reporting that transaction until the August or September reporting period. The transaction must be reported on the July tax return.

If a transaction occurs at the end of the month and is not reported on that month's tax return in error, the license is to amend the tax return and report the additional transaction.

- If an electronic return was filed, it must be amended online using EPath unless the return has already been electronically amended before. If a paper return was filed, the return must be amended on paper.
- For more information on amending returns please refer to the [Amending Returns](#) section of this guide.

**License holders that are responsible for filing monthly tax returns and remitting fuel tax to the state include the following:**

License Type	Frequency	Return Due Date*	Payment Due Date*
Supplier (Shipper)	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
Importer/Exporter	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
Ethanol Producer	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
Ethanol Broker	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
Biodiesel Producer	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
Blender	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
CNG Vendor	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
LNG Vendor	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
LPG Vendor	Monthly	20 <sup>th</sup>	25 <sup>th</sup>
LPG User	Semi-Annual	January 20 <sup>th</sup> /July 20 <sup>th</sup>	January 25 <sup>th</sup> /July 25 <sup>th</sup>
Highway Contractor	Quarterly	April 20 <sup>th</sup> , July 20 <sup>th</sup> , October 20 <sup>th</sup> , and January 20 <sup>th</sup>	April 25 <sup>th</sup> , July 25 <sup>th</sup> , October 25 <sup>th</sup> , and January 25 <sup>th</sup>
Terminal Operators	Monthly	20th	N/A
Tribal Marketers	Monthly	20th	N/A

**\*If the due date falls on a holiday or weekend, then the due date is the next business day.**

# MOTOR FUEL LICENSE TYPES

The effectiveness of the fuel tax system in South Dakota depends on license holders at every level within the fuel distribution system. Each license grants certain privileges and carries specific responsibilities. An individual or business may hold one or several licenses, depending upon the kind of business transacted.

**You must be licensed with the State of South Dakota if you act as one or more of the following:**

- Terminal Operator [SDCL 10-47B-58](#)
- Supplier (Shipper) [SDCL 10-47B-56](#)
- Importer/Exporter [SDCL 10-47B-61; SDCL 10-47B-59](#)
- Transporter (Carrier) [SDCL 10-47B-60](#)
- Bulk Plant Operator [SDCL 10-47B-68](#)
- Ethanol Producer [SDCL 10-47B-67](#)
- Ethanol Broker [SDCL 10-47B-68.1](#)
- Biodiesel Producer [SDCL 10-47B-67.1](#)
- Blender [SDCL 10-47B-62](#)
- Marketer [SDCL 10-47B-65](#)
- Tribal Marketer
- CNG Vendor [SDCL 10-47B-64](#)
- LNG Vendor [SDCL 10-47B-64.5](#)
- LPG Vendor [SDCL 10-47B-63](#)
- LPG User [SDCL 10-47B-66](#)
- Highway Contractor [SDCL 10-47B-69](#)

A separate license is required for each type of business and for each location in the case of multiple sites.

# TERMINAL OPERATOR (TO)

A *Terminal Operator* is a person who, by ownership or contractual agreement, is charged with the responsibility and physical control over the operation of a terminal. A *terminal* is a fuel refinery or storage and distribution facility that is supplied by pipeline or marine vessel, from which motor fuel or special fuel may be removed at a rack and that, has been registered as a qualified terminal by the Internal Revenue Service. Terminal Operators must be licensed to do business in South Dakota ([SDCL 10-47B-58](#)). A separate license is required for each terminal site operated within South Dakota.

A separate license is required for each terminal site operated within South Dakota.

## **Dyeing Tax Exempt Fuel**

Terminal Operators are responsible for dyeing special fuel before it can be sold tax- exempt from the terminal ([SDCL 10-47B-20](#)).

At the Supplier's discretion dye may be added:

- In accordance with United States Environmental Protection Agency (EPA) requirements; or
- In accordance with the specifications and amounts required by the Internal Revenue Service (IRS)

## **Additional Terminal Operator Responsibilities**

Terminal Operators must make sure that carriers operating in a South Dakota terminal are licensed as a Transporter. The Transporter license will allow the carrier to load and transport fuel from the terminal ([SDCL 10-47B-60](#)).

Terminal Operators must prepare and provide a bill of lading to the driver of every vehicle removing fuel products from the terminal ([SDCL 10-47B-53](#)). The bill of lading must clearly show all the following:

1. The actual destination state indicated by the Transporter or their agent.
  - A Petroex or similar number *may not* be used to represent the destination state ([SDCL 10-47B-51](#) & [SDCL 10-47B-53\(5\)](#)).
  - The Terminal Operator relies on the truthfulness of the Transporter or their agent as to what destination state they print on the bill of lading ([SDCL 10-47B-51](#)).
  - The business address of the Supplier cannot be used as the destination for the fuel unless that is where it was actually shipped.
  - If the bill of lading's destination state contains an error due to negligence by the Terminal Operator; they may be subject to an assessment of up to twice the tax rate due on all fuel involved ([SDCL 10-47B-186](#)).
2. The destination city on the bill of lading may list "Various or Various Locations", but an "Unknown, Unidentified or Unlisted" destination is not acceptable.
3. The actual Consignee (customer) on the bill of lading.
  - The titles "Unlisted or Unknown" cannot be used as the Consignee on the bill of lading.
4. Federal ID Numbers (FEINs)
  - These numbers must be accurate and the number "999999999" cannot be used.
5. The Transporter (Carrier)
  - Transporters (Carriers) *cannot* be listed as "Common Carrier" on the bill of lading. The actual name must be used when identifying them.

## Records Required (In addition to [Required Records](#))

1. Terminal Operators are to keep detailed records of all fuel transactions and, in some cases, of fuel usage ([SDCL 10-47B-157](#)). Records are used to determine the amount of taxes the Supplier collects, reports, and remits to the state from the gross gallons sold from the Terminal. These gallons must be a true representation of the gallons released from the Terminal by all Suppliers licensed to do business with them. Records are to be maintained at the place of business or delivery location at least 30 days;
2. Records may then be stored offsite; and
3. All records must be preserved for the current year and the three preceding calendar years.

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records, and banking records ([SDCL 10-47B-160](#)).

Records must be presented to Department personnel if you are audited or have your records reviewed.

## Reporting Schedule

Terminal Operators do not remit fuel tax, but in order to determine the amount of motor fuel and special fuel tax due, they are required to file a summarized monthly report ([SDCL 10-47B-98](#)).

### ***Terminal Operator Monthly Report Instructions***

The monthly report may be filed on the form provided by the Department. To access this form, you must contact the Department. The following information must be included on the report:

1. The name, address, and license number of all Suppliers purchasing fuel
2. All gallons pulled by each Supplier during the month (report in whole gross gallons only) These include:
  - Gallons withdrawn with a destination in SD
  - Gallons withdrawn with a destination outside SD
3. Copies of all bills of ladings that have been issued by the terminal or computer-generated bill of lading information which has been approved by the Department
4. Duplicate entries are not to be entered on the report

# **SUPPLIER (Shipper) (SU)**

A Supplier is a person that owns motor fuel or special fuel in the pipeline and terminal distribution system in this state or makes sales or authorizes the removal of this fuel from the terminal at the rack. A Supplier is also the person who owns fuel in the pipeline immediately before it is withdrawn at the terminal rack.

Anyone selling fuel from the rack must have a valid South Dakota Supplier's license ([SDCL 10-47B-56](#)).

## ***Out-of-State Supplier***

Any person meeting the definition of a Supplier and operating from a terminal located outside of South Dakota may voluntarily become licensed as a Supplier ([SDCL 10-47B-57](#)). They are required to remit fuel excise taxes and tank inspection (TI) fees to South Dakota on any fuel removed from an out-of-state terminal if the issued bill of lading indicates South Dakota as the destination state ([SDCL 10-47B-22](#) & [SDCL 10-47B-23](#)).

## ***Tax Remitting Responsibilities***

Since taxes are due as they are passed over the rack the Supplier is responsible for collecting and remitting taxes and tank inspection fees on this fuel. Suppliers remit taxes to South Dakota based on the destination state information printed out on the bill of lading.

## ***Diversions***

A diversion is when a shipment or partial shipment of fuel is changed from the destination state on the Bill of Lading to a different destination state. South Dakota Codified Law [10-47B-49](#) requires diversions to be reported to the Department of Revenue before the shipment is diverted.

Diversions can be reported to the Department by two different methods. You may use the third-party program FuelTrac (<https://fueltrac.us/>). South Dakota will receive the information from FuelTrac. You may also choose to use the diversion form located on our website. This form can be accessed through our Business Forms under the Motor Fuel section at <https://sddor.seamlessdocs.com/sc/business-forms>.

The requirement to report diversions to the Department of Revenue does not preclude your requirement to keep diversion tickets in your records. See the Record Keeping section. Failure to report a diversion in the manner required above may be subject to an assessment of twice the tax rate of all fuel involved ([SDCL 10-47B-186](#)).

# **Fuel Tax and Monthly Returns**

All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month following each monthly period ([SDCL 10-47B-29](#)).

## ***Situations a Supplier Does Not Need to Collect Tax***

The following instances describe situations where a Supplier is not obligated to collect tax:

1. Sales made from a South Dakota terminal to a licensed Exporter who is also licensed in the destination state that is shown on the bill of lading ([SDCL 10-47B-5](#)).
2. Sales of dyed diesel or dyed biodiesel
  - Please note: The Supplier is required to collect and remit the \$0.02 per gallon tank inspection fee in these instances ([SDCL 34A-13-20](#)).

3. Product authorizations, two party exchanges, or book transfers of product with other licensed South Dakota Suppliers within the terminal.
  - In these instances, the supplier who owns the fuel immediately before crossing the rack is responsible for collecting and remitting the taxes and TI fees to South Dakota ([SDCL 10-47B-21](#)).
4. Sales made at the rack to the U.S. Government and the Defense Fuel Supply Center ([SDCL 10-47B-19](#)).
5. Sales of unblended Biodiesel to a licensed Blender or a licensed Supplier for resale over the terminal rack ([SDCL 10-47B-9](#)).
6. Sales of unblended Biodiesel to a licensed Importer when South Dakota is listed as the destination state on the bill of lading (the Importer must also be licensed as a Blender) ([SDCL 10-47B-113\(4\)](#)).

Certain penalties may be assessed on any licensed Supplier that authorizes sales of motor fuel or special fuel for export from a South Dakota terminal to a person who does not have a valid South Dakota Exporter's license ([SDCL 10-47B-181](#)).

### ***Supplier Allowance***

Suppliers are required to file an electronic return using the EPath Schedule ([SDCL 10-47B-93](#)). The information on the schedule will contain:

1. All gallons that have been released or authorized to be released from a South Dakota terminal must be reported on this schedule.
2. All gallons sold by an out-of-state Supplier from an out-of-state terminal listing South Dakota as the destination state on the bill-of-lading must also be listed.

Suppliers who properly remit tax can obtain an allowance on their tax return. They may retain an amount equal to two and one-fourth percent (2.25 percent) of the tax due on each gallon of fuel withdrawn from the rack ([SDCL 10-47B-34](#)). The Supplier may keep one-third of this amount to help offset the administrative expenses involved in reporting and remitting taxes. The remaining two-thirds are to be passed on to the customer who withdrew the fuel from the terminal rack ([SDCL 10-47B-35](#)). If the Supplier is late in submitting the monthly return or remitting the taxes due, they cannot keep any of the 2.25 percent allowance ([SDCL 10-47B-36](#)).

Any allowances applied above the rack must be passed on to each subsequent purchaser until the final purchaser.

### ***Delayed Payment***

Customers who purchase fuel from a licensed Supplier at the terminal rack may delay payment to the Supplier in an amount equal to the tax and the tank inspection fee ([SDCL 10-47B-32](#)). The tax due must be made to the Supplier by the twenty-second day of the month following the month the transaction took place. The Supplier cannot require payment before that date.

- Example: A customer who purchases fuel in September must pay the fuel tax due to the Supplier by October 22<sup>nd</sup>.

### ***Delinquent Customer***

If a licensed Supplier sells fuel to a customer that failed to pay the required fuel tax, the Supplier may apply for a refund of those taxes by filing an Affidavit for Bad Debt Loss. The state will then make an assessment and seek to collect the taxes from the Supplier's delinquent customer ([SDCL 10-47B-133](#)).

The application must be made within sixty days from when the delinquency occurred.

The application for refund may include all taxes credited to the delinquent party since the occurrence. The Department must be supplied with satisfactory evidence and testimony to enforce any tax collection action.

A Supplier is only eligible for this refund by a particular customer once every three years. Afterwards, all taxes due from that customer on any later sales must be collected at the time of purchase for the next three years. The Department will notify all Suppliers that a customer has been delinquent and is not entitled to delayed payment of fuel tax and tank inspection fees for the next three years. No further refunds of delinquent taxes will be made on any sales to this customer during the three-year period.

## **Tax Return Instructions**

Suppliers file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

## IMPORTER/EXPORTER (IX)

An *Importer* is any person who purchases or owns motor fuel or special fuel in another state or country and transports or delivers or causes the fuel to be transported or delivered into South Dakota.

Importers must be licensed in South Dakota and are responsible for paying fuel tax to South Dakota on any fuel that enters the state by any means other than a pipeline, unless the South Dakota tax has already been collected and paid to the State by a licensed Supplier or licensed Out of State Supplier ([SDCL 10-47B-61](#)).

An *Exporter* is any person that purchases or owns motor fuel or special fuel in South Dakota and transports or delivers or causes the fuel to be transported or delivered to another state or country.

Exporters must be licensed to do business in South Dakota ([SDCL 10-47B-59](#)).

To obtain a South Dakota license, the Exporter must first be licensed to collect and remit taxes or deal in tax-exempt fuel in the state which they intend to export the fuel.

By law, certain penalties may be assessed on individuals that export fuel from South Dakota without a valid Exporter license. Penalties will also be assessed on Ethanol Brokers, Ethanol Producers, Suppliers and Bulk Plant Operators that fail to collect and remit fuel excise tax and tank inspection fees on fuel products that they sell to a person who does not have a valid Exporter's license.

If an Exporter purchases or acquires fuel at a South Dakota terminal and the bill of lading indicates a destination outside of South Dakota, fuel tax is not charged. However, if the Exporter later diverts the fuel back into South Dakota, they are required to remit fuel tax on that diversion ([SDCL 10-47B-10](#)). If an Exporter withdraws fuel from their bulk storage for export where South Dakota fuel tax has been paid, they will qualify for a credit on those taxes ([SDCL 10-47B-39](#)).

### **Diversions**

A diversion is when a shipment or partial shipment of fuel is changed from the destination state on the Bill of Lading to a different destination state. South Dakota Codified Law [10-47B-49](#) requires diversions to be reported to the Department of Revenue before the shipment is diverted.

Diversions can be reported to the Department by two different methods. You may use the third-party program FuelTrac (<https://fueltrac.us/>). South Dakota will receive the information from FuelTrac. You may also choose to use the diversion form located on our website. This form can be accessed through our Business Forms under the Motor Fuel section at <https://sddor.seamlessdocs.com/sc/business-forms>.

The requirement to report diversions to the Department of Revenue does not preclude your requirement to keep diversion tickets in your records. See the Record Keeping section. Failure to report a diversion in the manner required above may be subject to an assessment of twice the tax rate of all fuel involved ([SDCL 10-47B-186](#)).

### **Fuel Tax Responsibilities**

**Importer/Exporter** – responsible for paying taxes or applying for a refund of taxes that is caused by the diversion of fuel from the original destination listed on the bill of lading.

**Supplier** – remits taxes to South Dakota based on the destination state information printed out on the bill of lading.

## Records Required (In addition to [Required Records](#))

Drop load tickets for product delivered within South Dakota. The drop load ticket must contain the following ([SDCL 10-47B-55](#)):

1. The Transporter's or Carrier's name and address;
2. The date of delivery of the fuel;
3. The drop load ticket number;
4. The destination state on the original bill of lading, or diversion ticket, if issued;
5. The original bill of lading, and if available, the diversion ticket number;
6. The destination state of each location at which the fuel was off-loaded;
7. The number of gross gallons off-loaded at each location;
8. The type of fuel off-loaded at each location;
9. If the fuel contains ethyl alcohol or methyl alcohol, the number of gallons of ethyl alcohol, the number of gallons of methyl alcohol, the number of gallons of gasoline or the number of gallons of any other motor fuel that are contained therein;
10. Any other information which the Secretary deems necessary for the administration and enforcement of this chapter.

## Fuel Taxes and Monthly Returns

All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month following each monthly period ([SDCL 10-47B-29](#)).

Importer/Exporters must file a monthly electronic return that contains information from the previous month using EPath. The return must be submitted on or before the twentieth day of the month ([SDCL 10-47B-95](#) & [SDCL 10-47B-104](#)). Filing tax returns electronically by the twentieth day means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed. ([SDCL 10-47B-96](#) & [SDCL 10-47B-105](#)).

All returns must include the name, address, and FEIN or Social Security number of the receiver of the exported special fuel. If the fuel is delivered to an end consumer only, the name and address is required ([SDCL 10-47B-106](#)).

All fuel transactions must be reported, and taxes paid (or credits claimed) during the period in which they occur. Prior period adjustments are not allowed.

1. For example: if a fuel sale takes place on July 31<sup>st</sup>, the Importer/Exporter *cannot* delay reporting that transaction until the August or September reporting period. The transaction must be reported on the July tax return.
2. If a transaction occurs at the end of the month and is not reported on that month's tax return, the Importer/Exporter is to amend the tax return and report the additional transaction on it.
  - If a paper return was filed, the return must be amended on paper and if an electronic return was filed it must be amended online using EPath unless the return has already been electronically amended once before.
  - For more information on amending returns, please refer to the [Amending Returns](#) section of the manual.

The EPath Schedule will be used to compile Importer/Exporter returns unless they are authorized by the Department to file paper returns. The schedule will contain:

1. Imported Transactions ([SDCL 10-47B-97](#)):
  - a. All gallons purchased from an out-of-state supplier that were imported into South Dakota. The bill of lading must indicate South Dakota as the destination state. The schedule must list the names and addresses of all customers on off-loading locations.
2. Exported Transactions ([SDCL 10-47B-106](#)):
  - a. All gallons of fuel loaded in this state from a location other than a terminal for delivery outside of South Dakota.
  - b. All gallons of fuel purchased from a Supplier at a South Dakota terminal and delivered to another state or country.
  - c. All gallons of fuel where bill of lading originally listed a destination state other than South Dakota, but it was later diverted to South Dakota.
  - d. All gallons of fuel where the bill of lading listed the destination state as South Dakota, but it was later diverted to another state for off-loading.

For more information on how to file the EPath Schedule and Importer/Exporter Tax Return, please refer to the Importer/Exporter Tax Return Instructions section.

An Importer/Exporter may apply for a refund for taxes paid to this state on motor fuel and undyed special fuel under the following conditions ([SDCL 10-47B-125](#)):

- Fuel loaded at a bulk plant in South Dakota and exported
- Fuel loaded at a terminal in this state listing South Dakota as the destination state but then diverted to another state
- Fuel withdrawn from an out-of-state terminal, listing South Dakota as the destination state that was purchased from a licensed Supplier, but then diverted to another state
- Fuel purchased from a licensed Supplier listing South Dakota as the destination state, but then diverted to another state
- Ethyl Alcohol loaded at an Ethanol Producer's plant in this state listing South Dakota as the destination state, but then diverted to another state

## Allowance

Importers that file and pay on time are allowed to retain 1.5% of taxes claimed on taxable fuel. Importers retain this allowance.

No allowance will be paid for fuel exported from South Dakota.

## Tax Return Instructions

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

# TRANSPORTER (Carrier) (TR)

A *Transporter* is a person who engages in the activity of interstate or intrastate movement of fuel by transport truck, rail car, or other means in quantities greater than 4,200 gallons.

*Transport Trucks* are defined as vehicles or rail cars designed to transport bulk fuel shipments more than 4,200 gallons.

*Tank Wagons* are vehicles designed to transport bulk fuel shipments of 4,200 gallons or less. Tank wagon operators are not required to be licensed as Transporters.

Transporters do not include those who transport fuel by pipeline or barge.

Any person desiring to perform the duties of a Transporter within this state must become licensed as a Transporter ([SDCL 10-47B-60](#)).

## Fuel Tax Responsibilities and Transporter Reports

**Transporters do not have tax-remitting responsibilities.** However, they are responsible for maintaining the proper documentation for every fuel destination.

A Transporter report may be filed and must be submitted if requested by the Department. To access this form, you must contact the Department ([SDCL 10-47B-110](#)). The report must list all fuel shipments involving South Dakota as the origin or destination state.

## ***Diversions***

A diversion is when a shipment or partial shipment of fuel is changed from the destination state on the Bill of Lading to a different destination state. South Dakota Codified Law [10-47B-49](#) requires diversions to be reported to the Department of Revenue before the shipment is diverted.

Diversions can be reported to the Department by two different methods. You may use the third-party program FuelTrac (<https://fueltrac.us/>). South Dakota will receive the information from FuelTrac. You may also choose to use the diversion form located on our website. This form can be accessed through our Business Forms under the Motor Fuel section at <https://sddor.seamlessdocs.com/sc/business-forms>.

The requirement to report diversions to the Department of Revenue does not preclude your requirement to keep diversion tickets in your records. See the Record Keeping section. Failure to report a diversion in the manner required above may be subject to an assessment of twice the tax rate of all fuel involved ([SDCL 10-47B-186](#)).

## **Report Instructions**

1. Indicate your Company Information and license number at the top of the form
2. List the Schedule Type that pertains to your delivery
  - a. Schedule Type 1b – Deliveries of fuel from in-state locations to outside South Dakota (exports)
  - b. Schedule Type 2b – Deliveries of fuel from out-of-state locations to inside South Dakota (imports)
3. List the Person hiring the carrier
4. List the Person hiring the carriers' FEIN
5. List the seller of the fuel
6. List the seller's FEIN
7. List the Mode of Transfer for this delivery

8. List the state abbreviation that the product originated from (ex: SD)
9. List the name of the customer the fuel was delivered to
10. List the address the fuel was delivered to
11. List the purchaser's FEIN
12. List the date the fuel was delivered
13. List the Manifest Number/Document Number
14. Report the gross gallons delivered
15. Report the product type that was used
16. Complete and submit the report to the email [sdmotorfuel@state.sd.us](mailto:sdmotorfuel@state.sd.us).

## **Records Required (In addition to Required Records)**

Drop load tickets for product delivered within South Dakota. The drop load ticket must contain the following ([SDCL 10-47B-55](#)):

1. The Transporter's or Carrier's name and address;
2. The date of delivery of the fuel;
3. The drop load ticket number;
4. The destination state on the original bill of lading, or diversion ticket, if issued;
5. The original bill of lading, and if available, the diversion ticket number;
6. The destination state of each location at which the fuel was off-loaded;
7. The number of gross gallons off-loaded at each location;
8. The type of fuel off-loaded at each location;
9. If the fuel contains ethyl alcohol or methyl alcohol, the number of gallons of ethyl alcohol, the number of gallons of methyl alcohol, the number of gallons of gasoline or the number of gallons of any other motor fuel that are contained therein;
10. Any other information which the Secretary deems necessary for the administration and enforcement of this chapter.

Records must be presented to Department personnel if you are audited or have your records reviewed.

## BULK PLANT OPERATOR (BK)

A *Bulk Plant Operator* is a person who has responsibility and physical control over the operation of a bulk plant.

A *bulk plant* is a fuel storage facility, other than a terminal, that is primarily used for the redistribution of fuel by transport truck, tank wagon, or rail car.

Any person in South Dakota that operates a bulk plant must first obtain a Bulk Plant Operator's license for each location ([SDCL 10-47B-68](#)).

## Records Required (In addition to Required Records)

### ***Drop Load Tickets***

Drop load tickets for product delivered within South Dakota. The drop load ticket must contain the following ([SDCL 10-47B-55](#)):

1. The Transporter's or Carrier's name and address;
2. The date of delivery of the fuel;
3. The drop load ticket number;
4. The destination state on the original bill of lading, or diversion ticket, if issued;
5. The original bill of lading, and if available, the diversion ticket number;
6. The destination state of each location at which the fuel was off-loaded;
7. The number of gross gallons off-loaded at each location;
8. The type of fuel off-loaded at each location;
9. If the fuel contains ethyl alcohol or methyl alcohol, the number of gallons of ethyl alcohol, the number of gallons of methyl alcohol, the number of gallons of gasoline or the number of gallons of any other motor fuel that are contained therein;
10. Any other information which the Secretary deems necessary for the administration and enforcement of this chapter.

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

## ETHANOL PRODUCER (EP)

An *Ethanol Producer* is any person who engages in the business of producing ethyl alcohol for sale, use, or distribution.

All Ethanol Producers that sell, use, or distribute ethyl alcohol in South Dakota must be licensed ([SDCL 10-47B-67](#)).

*Ethyl alcohol* is a motor fuel typically derived from agricultural products that have been denatured.

The majority of Ethanol Producers in South Dakota have a company that also markets the ethyl alcohol. The marketing company purchases the ethyl alcohol from the Ethanol Producer and resells it. This company will need to obtain an Ethanol Broker's License.

### ***Ethanol and Methanol Blends***

An Ethanol blend is defined as a blended motor fuel containing ethyl alcohol of at least ninety-eight percent purity, typically derived from agricultural products which are blended exclusively with a product commonly or commercially known or sold as gasoline. The blending of casinghead is not permitted in an ethanol blend fuel product in quantities larger than required to denature the alcohol ([SDCL 10-47B-3.1](#)).

Ethyl Alcohol and Methyl Alcohol are taxed at the rate Ethyl and Methyl Alcohol plus the tank inspection fee ([SDCL 10-47B-4.3](#)). Each licensed supplier and out-of-state supplier who sells 100 percent ethyl alcohol (ethanol) and/or 100 percent methyl alcohol (methanol) are required to collect and remit fuel excise tax, plus the tank inspection fee on all sales of these products. These products are now taxed because of the various levels of Ethanol Blends now being seen in the industry.

Ethyl Alcohol or Methyl Alcohol transferred in bulk into a terminal or in bulk within a terminal will NOT be exempt from South Dakota taxes and tank inspection (TI) fees. Ethanol Brokers may purchase Ethyl Alcohol tax free from an Ethanol Producer. Once this fuel transfers from the Ethanol Broker to a licensed South Dakota Supplier, taxes and TI fees must be collected from the Supplier and remitted on the Ethanol Broker's tax return ([SDCL 10-47B-9.1](#)).

If a Supplier sells an ethanol blend or methanol blend, the invoice must list the alcohol gallons and gasoline gallons separately ([SDCL 10-47B-159 \(5\)](#)). Since the blends are separate types of fuel and are taxed at different rates, they must be listed separately on the invoices to properly reflect the difference in tax rates.

## **Records Required (In addition to [Required Records](#))**

Ethanol Producers must keep records that show ([SDCL 10-47B-157](#)):

1. The total number of Ethyl Alcohol gallons produced out-of-state each month
2. Total gallons of natural Gasoline and/or Gasoline used to denature the alcohol
  - The Ethanol Producer may denature alcohol by adding gasoline or natural gasoline to it in amounts equal to at least 5 gallons of gasoline for each 95 gallons of alcohol.

## **Fuel Taxes and Monthly Returns**

All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month following each monthly period ([SDCL10-47B-29](#)). They are required to collect taxes and TI fees for ethyl alcohol that they sell unless the ethyl alcohol is sold to a licensed Ethanol Broker or to a licensed Exporter for export.

Ethanol Producers must file a monthly electronic return that contains information from the previous month using EPath. The return must be submitted on or before the twentieth day of the month. This means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed ([SDCL 10-47B-115.1](#)).

All fuel transactions must be reported, and taxes paid to South Dakota or credits claimed during the period in which they occur. Prior period adjustments are not allowed.

- For example: if a sale of fuel takes place on July 31st the Ethanol Producer cannot delay reporting that transaction until the August or September reporting period. The transaction must be reported on the July tax return.

If a transaction occurs at the end of the month and is not reported on that month's tax return in error, the Ethanol Producer is to amend the tax return and report the additional transaction on it.

- If an electronic return was filed, it must be amended online using EPath unless the return has already been electronically amended before. If a paper return was filed the return must be amended on paper.
- For more information on amending returns please refer to the [Amending Returns](#) section of the manual.

Ethanol Producers are required to file an electronic return using the EPath Schedule. This schedule must show each individual transaction that takes place during the month.

Ethanol Producers may apply for and obtain a refund of the taxes paid for natural gasoline and/or gasoline that is used to denature alcohol by claiming it on their tax returns ([SDCL 10-47B-120](#)).

Ethanol Producers who properly file their returns and remit tax are able to earn an allowance. They are allowed to retain an amount equal to two and one-fourth percent (2.25 percent) of the tax due on each gallon of fuel withdrawn from the rack ([SDCL10-47B-34](#)). They may keep one-third of this amount to help offset the administrative expenses involved in reporting and remitting taxes. The remaining two-thirds is passed on to the customer who withdrew the fuel. If an Ethanol Producer is late in submitting the monthly return or remitting the taxes due, they cannot retain any of the 2.25 percent allowance. If the Ethanol Producer reports and remits on time, but the customers are late in paying the fuel tax owed to the Ethanol Producer, the Ethanol Producer may keep the entire 2.25 percent allowance ([SDCL 10-47B-36](#)).

### ***Ethyl Alcohol and Methyl Alcohol Taxes***

Ethyl Alcohol or Methyl Alcohol transferred in bulk by pipeline into a terminal or in bulk by pipeline within a terminal will *not* be exempt from South Dakota taxes and TI fees ([SDCL 10-47B-19\(7\)](#)). Ethanol Brokers may obtain ethyl alcohol tax free from an Ethanol Producer. Once this fuel is transferred from the Ethanol Broker to a licensed South Dakota Supplier, taxes and TI fees need to be collected from the Supplier by the Ethanol Broker and remitted on the Ethanol Broker's tax return.

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

## ETHANOL BROKER (EB)

An Ethanol Broker is any person who engages in the business of marketing ethyl alcohol produced by Ethanol Producers located in South Dakota.

All Ethanol Brokers that sell, use, or distribute ethyl alcohol in South Dakota must be licensed ([SDCL 10-47B-68.1](#)).

*Ethyl alcohol* is a motor fuel typically derived from agricultural products that have been denatured.

An *ethanol blend* is defined as a blended motor fuel containing ethyl alcohol of at least ninety-nine percent purity, typically derived from agricultural products which are blended exclusively with a product commonly or commercially known or sold as gasoline. The blending of casinghead or natural Gasoline is not permitted in an Ethanol Blend fuel product in quantities larger than required to denature the alcohol. Notwithstanding this prohibition, a natural gasoline blended product can be made by blending natural Gasoline and Ethyl Alcohol. The natural gasoline blended product shall contain no more than twenty-five percent of natural gasoline and shall contain a minimum of seventy-five percent ethyl alcohol. The natural gasoline blended product may only be further blended using gasoline ([SDCL 10-47B-3.1](#)).

### **Fuel Tax Responsibilities**

Ethanol Brokers are required to collect and remit taxes and tank inspection (TI) fees for ethyl alcohol that they sell unless the ethyl alcohol is sold to a licensed Exporter for export, to the U.S. Government, or to another licensed Ethanol Broker for resale.

Ethyl Alcohol and Methyl Alcohol are taxed at the rate Ethyl and Methyl Alcohol plus the tank inspection fee ([SDCL 10-47B-4.3](#)). Each licensed supplier and out-of-state supplier who sells 100 percent ethyl alcohol (ethanol) and/or 100 percent methyl alcohol (methanol) are required to collect and remit fuel excise tax, plus the tank inspection fee on all sales of these products. These products are now taxed because of the various levels of Ethanol Blends now being seen in the industry.

Ethyl Alcohol or Methyl Alcohol transferred in bulk into a terminal or in bulk within a terminal will NOT be exempt from South Dakota taxes and TI fees. Ethanol Brokers may purchase Ethyl Alcohol tax free from an Ethanol Producer. Once this fuel transfers from the Ethanol Broker to a licensed South Dakota Supplier, taxes and TI fees must be collected from the Supplier and remitted on the Ethanol Broker's tax return ([SDCL 10-47B-9.1](#))

If a Supplier sells an ethanol blend or methanol blend, the invoice must list the alcohol gallons and gasoline gallons separately ([SDCL 10-47B-159 \(5\)](#)). Since the blends are separate types of fuel and are taxed at different rates, they must be listed separately on the invoices to properly reflect the difference in tax rates.

## Fuel Taxes and Monthly Returns

Ethanol Brokers are required to file an electronic return by using the EPath Schedule. This schedule must show each individual transaction that takes place during the month.

Ethanol Brokers who properly remit tax are able to earn an allowance on their tax return. They may retain an amount equal to two and one-fourth percent (2.25 percent) of the tax due on each gallon of fuel withdrawn from the rack ([SDCL 10-47B-34](#)). They may keep one-third of this amount to help offset the administrative expenses

involved in reporting and remitting taxes. The remaining two-thirds is passed on to the customer who withdrew the fuel ([SDCL 10-47B-35](#)).

If an Ethanol Broker is late in submitting the monthly tax return or remitting the taxes due, they may not retain any of the 2.25 percent allowance. If they report and remit on time, but the customers are late in paying the fuel tax owed to the Ethanol Broker, the Ethanol Broker may keep the entire 2.25 percent allowance ([SDCL 10-47B-36](#)).

#### **Bulk Transfers of Alcohol Into or Within a SD Terminal**

Ethyl alcohol or methyl alcohol transferred in bulk into a terminal or in bulk within a terminal will *not* be exempt from South Dakota taxes and TI fees. Ethanol Brokers may purchase ethyl alcohol tax free from an Ethanol Producer outside the terminal. Once this fuel transfers from the Ethanol Broker to a licensed South Dakota Supplier, taxes and TI fees must be collected from the Supplier and remitted on the Ethanol Broker's tax return ([SDCL 10-47B-9.1](#)).

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

# BIODIESEL PRODUCER (BP)

A *Biodiesel Producer* is a person who engages in the business of producing biodiesel for sale, use, or distribution.

All Biodiesel Producers that sell, use, or distribute biodiesel in South Dakota must be licensed ([SDCL 10-47B-67.1](#)).

*Biodiesel* is a fuel that is comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100 and/or a derivative of any organic material, without regard to the process used, that meets the registration requirements for fuels and chemicals established by the Environmental Protection Agency (EPA) and the American Society of Testing and Materials (ASTM), but does not include oil, natural gas, or coal (including lignite), or any products thereof.

*Biodiesel Blend* is a blended special fuel containing a minimum of five percent by volume of biodiesel.

## ***Fuel Tax Responsibilities***

Biodiesel Producers are required to collect taxes and tank inspection (TI) fees for unblended biodiesel that they sell unless the biodiesel is sold to a licensed Blender, a licensed Supplier for resale, or a licensed Exporter for export ([SDCL 10-47B-9](#)).

Once biodiesel production facilities in South Dakota reach a name plate capacity of at least twenty million gallons per year and fully produce at least ten million gallons of biodiesel within one year, a two cents reduction on the tax rate of biodiesel will be implemented. This tax reduction will be repealed once thirty-five million gallons of taxed biodiesel and biodiesel blend are sold after the effective date of the tax rate reduction ([SDCL 10-47B-4](#)).

## **Records Required (In addition to [Required Records](#))**

Biodiesel Producers are required to maintain inventory records that show ([SDCL 10-47B-157](#)):

1. Total gallons on hand at the beginning of the month;
2. Total gallons produced during the month;
3. Total gallons sold during the month; and
4. Total gallons remaining at the end of the month.

Records of plant capacity must be maintained because production and sales of biodiesel will be reported monthly on the Biodiesel Producer tax return ([SDCL 10-47B-115.10](#)).

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

## BLENDER (BL)

A *Blender* is a person engaged in the activity of making blends.

A person producing a biodiesel blend is required to be licensed as a Blender ([SDCL 10-47B-62](#)).

*Biodiesel Blend* is a blended special fuel containing a minimum of five percent by volume of biodiesel.

A person does not need to be licensed as a blender to mix two or more substances that fuel excise tax has already been paid on. A person does not need to be licensed as a blender to mix two or more substances that fuel excise tax has not been paid on if the result of the mixed product does not produce a motor fuel or special fuel. A person producing an ethanol blend or methanol blend is no longer required to be licensed as a Blender.

Licensed Blenders are permitted to purchase undyed (clear) biodiesel on a tax-exempt basis. Once the Biodiesel is blended with another product to make a motor or special fuel, taxes and tank inspection fees that are due on the product must be reported on the Blender's tax return ([SDCL 10-47B-9](#)).

### ***Fuel Tax Responsibilities and Monthly Returns***

All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month following each monthly period ([SDCL 10-47B-29](#)).

Blenders must file a monthly electronic return that contains information from the previous month using EPath. The return must be submitted on or before the twentieth day of the month. This means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed ([SDCL 10-47B-111](#) & [SDCL 10-47B-112](#)).

All fuel transactions must be reported, and taxes paid to South Dakota or credits claimed during the period in which they occur. Prior period adjustments are not allowed.

- For example: if a sale of fuel takes place on July 31st the Ethanol Broker cannot delay reporting that transaction until the August or September reporting period. The transaction must be reported on the July tax return.

Blenders are required to file an electronic return using the EPath Schedule. This schedule must show ([SDCL 10-47B-113](#)):

1. The number of gallons of any substances blended with motor fuel or special fuel;
2. Names and address of all sales of blend in quantities of twenty-five gallons or more;
3. The number of gallons of biodiesel, the number of gallons of biodiesel blend, and the number of gallons of special fuel used to make a biodiesel blend; and
4. The number of gallons of unblended biodiesel sold, including the tax-exempt sales made to licensed blenders, to licensed suppliers for resale, and to licensed exports for export to a state for which the exporter is specifically licensed to export.

If a transaction occurs at the end of the month and is not reported on that month's tax return, the Blender is to amend the tax return and report the additional transaction on it. If a paper return was filed, the return must be amended on paper and if an electronic return was filed it must be amended online using EPath unless the return has already been electronically amended before. For more information on amending returns please refer to the [Amending Returns](#) section of the manual.

## **Records Required (In addition to Required Records)**

Blenders are required to maintain inventory records that show:

1. The total gallons of each type of previously taxed fuel blended during the month;
2. The total gallons of previously untaxed fuel blended during the month;
3. The total gallons of other fuels that are blended during the month; and
4. The total gallons of biodiesel that is sold to unlicensed parties.

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

# MARKETER (MK)

A *Marketer* is a person who is engaged in the wholesale or retail sale of Motor Fuel or Special Fuel.

Marketers must be licensed to do business in South Dakota and a separate license is required for each business location within the state ([SDCL 10-47B-65](#)).

## ***Fuel Tax Responsibilities***

Marketers only purchase tax paid motor fuel, tax paid clear special fuel and tax-exempt dyed special fuel; they have no fuel tax reporting or remitting responsibilities to the state.

### ***Selling Dyed Diesel and Dyed Biodiesel***

Marketers may sell dyed diesel and dyed biodiesel tax exempt to customers using it for agricultural purposes ([SDCL 10-45-19](#)). Dyed diesel or dyed biodiesel may also be sold tax exempt to the state or its political subdivisions for use in their vehicles, machinery, and equipment that are used in highway construction.

Marketers selling dyed diesel and dyed biodiesel to Highway Contractors must collect sales tax. These sales are to be reported on the Marketer's sales tax return ([SDCL 10-47B-20](#) & [SDCL 10-47B-135\(2\)](#))

Please contact the Business Tax Division at 1-800-829-9188 for further information on the Marketer sales tax return.

All diesel or biodiesel sold to the state, political subdivisions, and school systems for vehicular use must be undyed. This includes fuel being used in buses.

### ***Selling Ethanol and Methanol Blends***

Ethyl alcohol and methyl alcohol are taxed at the rate of \$.14 per gallon plus the \$.02 per gallon tank inspection fee ([SDCL 10-47B-4.3](#)). These products are now taxed because of the various levels of ethanol blends now being produced in the industry.

If a Marketer sells an ethanol blend or methanol blend, the sales invoice must indicate what type of ethanol blend or methanol blend was sold.

- For example: E10, E20, E30 etc.

### ***Fuel Additive***

If a fuel additive is added to the motor fuel prior to being dispensed at the pump, additional licensing may be required.

## **Records Required (In addition to [Required Records](#))**

Marketers are also required to keep:

1. Fuel disbursement records
2. Monthly fuel inventories
3. Weekly pump meter readings
4. Daily storage tank measurements

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

## Fuel Taxes and Marketer Refunds

Marketers only purchase tax paid motor fuel, tax paid clear special fuel and tax-exempt dyed special fuel. They have no fuel tax reporting or remitting responsibilities to the state.

Marketers may obtain a refund on tax paid fuel sold to tax exempt entities by completing the Marketer Refund Claim. The claim will only be filed when a Marketer qualifies for a refund. This return is custom filed and can be submitted as activity occurs.

- For example: if a Marketer sells fuel to the U.S. Government during the months of March, May, and July. They can file for a refund each month the activity occurred or within the year that the transactions took place.

Refund claims must be filed within 36 months of the transaction date. After that time, they will be denied.

There are several situations where Marketers qualify for refunds (fuel taxes must have already been paid to qualify):

1. For fuel that is sold in bulk to an approved Indian Tribal School holding an exempt user number. These refunds can only be claimed for deliveries made into bulk storage at the tribal school ([SDCL 10-47B-122](#))
2. For fuel that is sold to the Federal Government or Defense Supply Center for consumption ([SDCL 10-47B-124](#))
3. For undyed diesel or undyed biodiesel delivered into a motor carrier refrigeration unit which is not attached to the engine supply fuel tank of the vehicle. Sales tax is charged on the product and "reefer" must be noted on the sales invoice ([SDCL 10-47B-131](#)).
4. For fuel that is sold to an enrolled tribal member purchasing fuel in Indian country controlled by the member's tribe, or an Indian tribe purchasing motor fuel or special fuel in Indian country controlled by the Indian tribe.
5. For fuel that is sold and has already been deducted as an expense on the Marketer's Federal Income Tax Return to customers that fail to pay the required fuel tax to the Marketer ([SDCL 10-47B-134](#))
  - A Marketer can only claim a refund of a customer's delinquent taxes once every three years and must furnish sufficient evidence and testimony to support any tax collection effort made by the Department. A separate claim form must be submitted to support each bad debt loss.
  - Afterwards, all taxes due from that customer on any later sales must be collected at the time of purchase for the next three years.
  - The Department will notify all licensed Suppliers, out-of-state Suppliers, and Marketers that a customer has been delinquent and is not entitled to delayed payment of fuel tax and tank inspection (TI) fees for the next three years. No further refunds of delinquent taxes will be made on any sales to this customer during the three-year period.
6. For fuel that is lost because of leakage, theft, or a single incident that is caused by fire, flood, tornado, windstorm, or explosion in excess of 100 gallons ([SDCL 10-47B-123](#)). The Marketer will be refunded the amount of tax on the lost gallons upon compliance with the following requirements ([SDCL 10-47B-137](#))
  - A Marketer must notify the Department by registered or certified mail within 10 days of the loss in order to collect any refund.

- An Affidavit of Loss of Taxable Fuel must be completed and submitted to the Department within 30 days after the loss is discovered. If the affidavit has not been submitted within that time frame the Marketer will no longer be eligible for the refund.
- Copies of police reports in cases of theft and insurance reports must accompany all claims. No claims for less than five hundred gallons will be considered or allowed; such loss is considered to be shrinkage.
- The books and records of the claimant must be available for inspection by the Department.

If a transaction occurs at the end of the reported claim period and is not recorded on that period's tax return, the Marketer is to amend the tax return and report the additional transaction on it. If a paper return was filed, the return must be amended on paper and if an electronic return was filed it must be amended online using EPath unless the return has already been electronically amended before. For more information on amending returns please refer to the [Amending Returns](#) section of the manual.

If a claim for refund is allowed and approved by the Department, the state auditor must issue a warrant for the amount allowed, upon the presentation of a claim bearing the approval of the Department.

## **Marketer Refund Claim Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

# TRIBAL MARKETER (TM)

A *Tribal Marketer* is a person that engages in the wholesale or retail sale of motor fuel or special fuel on Indian reservations and/or in Indian country that have tax agreements with the State of South Dakota and the Department of Revenue.

Tribal Marketers must be licensed to do business in South Dakota. A separate license is required for each business location within the State.

## ***Fuel Tax responsibilities***

Tribal Marketers only purchase tax paid motor fuel, tax paid clear special fuel and tax-exempt dyed special fuel. They have no fuel tax remitting responsibilities to the state.

Tribal Marketers are advised to file a monthly electronic schedule that contains information from the previous month using EPath. The return should be submitted on or before the twentieth day of the month. This means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed.

By submitting the monthly return, the tribe that the Tribal Marketer is affiliated with will receive a portion of the tax amount reported on these returns back.

The amount of tax that will be received by each tribe will be determined based off the tribal agreement they have with the State of South Dakota and the Department of Revenue.

For information on how to file a Tribal Marketer return, please [click here](#).

## ***Selling Dyed Diesel and Dyed Biodiesel***

Tribal Marketers may sell dyed diesel and dyed biodiesel tax-exempt used for agricultural purposes. Dyed diesel or dyed biodiesel may also be sold tax-exempt to the state or its political subdivisions for use in their vehicles, machinery, and equipment that are used in highway construction.

Tribal Marketers are required to charge and collect sales tax on sales of dyed diesel and dyed biodiesel to licensed Highway Contractors. These sales are to be reported on the Marketer's sales tax return. Please contact the Business Tax Division at 1-800-829-9188 for further information on the Marketer sales tax return.

All diesel or biodiesel sold to the state, political subdivisions, and school systems for vehicular use must be undyed. This includes fuel being used in buses.

## ***Selling Ethanol Blends and Methanol Blends***

Ethyl alcohol and methyl alcohol are taxed at the rate of \$.14 per gallon plus the \$.02 per gallon tank inspection fee. These products are now taxed because of the various levels of Ethanol Blends being produced in the industry.

If a Tribal Marketer sells an ethanol blend or methanol blend, the sales invoice must indicate what type of ethanol blend or methanol blend was sold.

- For example: E10, E20, E30 etc.

## Records Required (In addition to [Required Records](#))

Tribal Marketers must keep monthly inventory records that contain all the following:

1. Total gallons of each type of fuel in storage at the beginning of the month;
2. Total gallons of each type of fuel received during the month;
3. Total gallons of each type of fuel sold during the month; and
4. Total gallons of each type of fuel in storage at the end of the month.

Tribal Marketers must keep all sales and or purchase invoices. A copy of the invoice must be maintained by both the seller and the purchaser. These files must be kept in either their original format, through film retrieval or electronic media. Invoices must be serially numbered and contain all the following information ([SDCL 10-47B-159](#)):

1. The seller's name and address;
2. The selling Supplier's license number if the fuel is sold from a pipeline; or the selling Marketer's number if not sold from pipeline;
3. The purchaser's name and address;
4. The date of sale and delivery of the fuel;
5. The number of gallons sold and delivered, the type of fuel, and if diesel whether or not it was dyed.
6. The price charged per gallon of fuel;
7. If charged, the amount of fuel tax or sales tax; and
  - Fuel tax must either be listed separately or as a statement that the price per gallon includes the South Dakota fuel tax.
8. The total amount of the sales invoice.

These records are necessary and will be used to complete the Marketer Schedule of Fuel Sales on Indian Reservations and in Indian Country.

Tribal Marketers must maintain all fuel shipping documents they receive in their records. Marketers are responsible for inspecting any shipping document to ensure that it indicates South Dakota as the destination state. These fuel shipping documents required to be maintained in their records must include:

1. Bills of lading
2. Drop load tickets
3. Diversion tickets

Tribal Marketers are also required to keep:

1. Fuel disbursement records
2. Weekly pump meter readings

Tax Return Instructions Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

## CNG VENDOR (CV)

A CNG Vendor is a person engaged in the business of selling compressed natural gas for use in the engine fuel supply tanks of motor vehicles ([SDCL 10-47B-64](#)).

For purposes of taxation, CNG must be converted into equivalent liquid gallons of gasoline at the rate of 126.67 cubic feet of natural gas at its natural service delivery line pressure to one volumetric gross gallon of gasoline ([SDCL 10-47B-3 \(6\)](#)). In South Dakota only utility companies may operate as CNG Vendors. These companies must be regulated by the Public Utilities Commission and must also be licensed by the Department of Revenue.

### ***Fuel Tax Responsibilities and Monthly Returns***

CNG Vendors are to collect and remit fuel tax on all CNG sold for use in motor vehicles ([SDCL 10-47B-11](#)). All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month following each monthly period ([SDCL 10-47B-29](#)).

CNG Vendors must file a monthly electronic return that contains information from the previous month using EPath. The return must be submitted on or before the twentieth day of the month. This means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed ([SDCL 10-47B-168](#) & [SDCL 10-47B-169](#)).

All fuel transactions must be reported, and taxes paid to South Dakota or credits claimed during the period in which they occur. Prior period adjustments are not allowed.

- For example: if a sale of fuel takes place on July 31st the CNG Vendor cannot delay reporting that transaction until the August or September reporting period. The transaction must be reported on the July tax return.

If a transaction occurs at the end of the month and is not reported on that month's tax return, the CNG Vendor is to amend the tax return and report the additional transaction on it. If a paper return was filed, the return must be amended on paper and if an electronic return was filed it must be amended online using EPath unless the return has already been electronically amended before.

For more information on amending returns, please refer to the [Amending Returns](#) section of the manual.

CNG Vendors are required to file an electronic return using the EPath Schedule. This schedule must show each individual transaction that takes place during the month ([SDCL 10-47B-170](#)). The number of gallons of compressed natural gas sold upon which fuel tax was charged must be included on the schedule. Compressed natural gas sold for use in motor vehicles must be metered separately from other sales.

## **Required Records**

See [Required Records](#).

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

## LNG VENDOR (LN)

An *LNG Vendor* is any person engaged in the business of selling liquid natural gas in South Dakota, wholesale or retail, for use in the engine fuel supply tanks of motor vehicles.

LNG Vendors are required to be licensed in this state as an LNG Vendor ([SDCL 10-47B-64.5](#)).

They are also required to report any other LNG sales made in the state and any LNG that is imported or exported ([SDCL 10-47B-6](#)).

For purposes of taxation, LNG which has been cooled to approximately -260 degrees Fahrenheit and is in a liquid state that is used as a motor fuel must be converted to equivalent liquid gallons of gasoline at the rate of 1.5536 gallons of liquid natural gas to equal one volumetric gross gallon of gasoline.

### ***Fuel Tax Responsibilities and Monthly Returns***

LNG Vendors are required to collect and remit fuel tax on all LNG sold for use in motor vehicles in South Dakota ([SDCL 10-47B-11](#) & [SDCL 10-47B-27](#)). All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month following each monthly period ([SDCL 10-47B-29](#)).

An LNG Vendor must file a monthly electronic return that contains information for the preceding month using EPath. The return must be submitted on or before the twentieth day of the month ([SDCL 10-47B-168](#) & [SDCL 10-47B-169](#)).

File tax returns electronically by the twentieth day, not the twenty-third. If the twentieth lands on a Saturday, Sunday, a legal holiday, or day the Federal Reserve is closed, the filing date moves to the next business day.

LNG Vendors are required to file an electronic Uniform Schedule of Disbursement is with each return by using the EPPath Schedule. This schedule must show each individual transaction that takes place during the month and contain all the following:

1. The FEIN number of the purchaser is entered on the schedule and must match the number that is authorized for purchaser.
2. The correct schedule type must also be entered for each transaction.
3. The fuel type is to be identified by the FTA Product Code that is listed for it in the chart.

The EPPath Schedule can be created in Microsoft Excel and must be saved as a .csv or .txt file. The file must be saved in one of these formats for the EPPath program to recognize the data when the file is uploaded. Data may also be entered manually and saved before submitting the tax return. Follow the prompts given to create the schedule.

All fuel transactions must be reported, and taxes paid to South Dakota or credits claimed during the period in which they occur. Prior period adjustments are not allowed. If a transaction occurs at the end of the month and is not reported on that month's tax return, the LNG Vendor is to amend the tax return and report the additional transaction on it. If a paper return was filed, the return must be amended on paper and if an electronic return was filed it must be amended online using EPPath unless the return has already been electronically amended before.

For more information on amending returns please refer to the [Amending Returns](#) section of the manual.

## Required Records

See [Required Records](#).

## Tax Return Instructions

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

## LPG USER (LU)

An *LPG User* is a person who uses liquid petroleum gas in the engine fuel supply tank of a motor vehicle and wishes to purchase LPG in bulk, into a storage tank which has a delivery hose attached thereto on a tax unpaid basis ([SDCL 10-47B-66](#)).

A licensed LPG User is required to pay fuel excise taxes on any LPG transferred from their bulk storage and used in licensed vehicles on the public roads and highways in this state.

### ***Fuel Taxes and Monthly Returns***

All fuel tax due from an LPG User must be remitted to the Department of Revenue on a semiannual basis ([SDCL 10-47B-170.1](#)). All fuel tax payments must be remitted to the Department by electronic transfer and received on or before the twenty fifth day of the month each reporting period ([SDCL 10-47B-29](#)).

LPG Users must file a semiannual electronic return that contains information for the preceding months using EPath. The return must be submitted on or before the twentieth day of the month. Filing tax returns electronically by the twentieth day means days that are not Saturdays, Sundays, legal holidays, and days that the Federal Reserve Bank is closed.

All fuel transactions must be reported, and taxes paid to South Dakota or credits claimed during the period in which they occur. Prior period adjustments are not allowed. If a transaction occurs at the end of the reporting period and is not reported on that period's tax return, the LPG User is to amend the tax return and report the additional transaction on it. If the return was filed on paper, then the LPG User must amend the return on paper and fill out the Summary for Amending Tax Returns Form for that reporting period. For more information on amending returns please refer to the [Amending Returns](#) section of the manual.

For additional information on how to file an LPG User tax return please refer to the [Tax Return Instructions](#) for LPG Users.

### **Required Records (In addition to Required Records)**

LPG Users must also keep accurate records of all of the following ([SDCL 10-47B-158](#)):

1. Individual vehicle and machinery fuel-consumption records or logbooks
2. Motor vehicle odometer readings
3. Machinery hour readings
4. Monthly fuel use and odometer summaries

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

# HIGHWAY CONTRACTOR (HC)

A *Highway Contractor* is any person engaged in the activity of highway construction work in this state.

Any person engaged in highway construction work in this state is required to become licensed as a Highway Contractor before performing this work ([SDCL 10-47B-69](#)).

To be awarded a public highway or street contract from the State of South Dakota, or from any county, township or municipality within the state, a bidder must be licensed as a Highway Contractor. The state, counties, townships, and municipalities have access to the Department's Highway Contractor Verification System and will check online to verify that a company is properly licensed and not delinquent in filing tax returns or paying taxes prior to awarding a bid or making the final payment on a highway contract.

A Highway Contractor, who has been issued a Highway Contractor's fuel tax license, may also operate as a licensed Liquid Petroleum Gas User without obtaining a separate license.

A Highway Contractor does not include any person who only owns and operates motor vehicles within the right-of-way hauling gravel or concrete and does not own or operate off-road machinery in the highway construction work.

*Public Roads & Highways* are defined as any way or place of whatever nature, including waterways and snowmobile trails, which are open to the use of the public as a matter of right for the purpose of vehicular, snowmobile, or watercraft travel, even if the way or place is temporarily closed for the purpose of construction, reconstruction, maintenance, or repair.

The *Road Right-of-Way* is defined as a strip of land over which a public road is built. The boundaries for public highways and township roads are from fence post to fence post, while city streets are from curb to curb. Storm sewers, ditches, and gutters are included within the road right- of-way.

*Highway Construction Work* is defined as all work which is performed in any capacity to propel vehicles, machinery, or equipment within the right-of-way in the construction, reconstruction, repair, or maintenance of public roads & highways.

## ***Other Licenses***

Some other license types that might relate to you as a Highway Contractor are as follows:

### **Importer/Exporter License**

- This license is required if you purchase and bring fuel into South Dakota.
- This license is also required if you remove fuel from South Dakota.
- If your importing, exporting, and transporting activities are a required part of a Highway Contractor's work, you will only need to file a Highway Contractor tax return. However, if these activities are not directly related to the contracting work, a separate return must be filed for each activity.

### **Transporter License**

- This license is required if you transport fuel in or out of South Dakota in quantities greater than 4,200 gallons.

## **Contractor's Excise Tax License**

- This license is required if you are entering into a contract for construction services which may be listed in Division C of the Standard Industrial Classification Manual of 1987.
- To obtain this license, call the Business Tax Division at 1-800-TAX-9188 or complete an online application at <https://apps.sd.gov/rv23cedar/main/main.aspx>.

## **Highway Contractor Examples**

**These are examples and do not cover every situation.**

### ***How and Where Fuel is Consumed***

The following examples are intended to assist you in determining the type of tax that applies based on how and where the fuel is consumed:

1. A scraper may extract dirt from outside the road right of way. The scraper could then transport the dirt to a location inside the road right of way for distribution. When the scraper is outside of the road right-of-way, the dyed fuel used is subject to sales/use tax. The dyed fuel that is used inside of the road right-of-way is subject to fuel excise tax.
2. A bulldozer might be used for ripping out the road surface on one project and then used for pushing a scraper outside of the road right-of-way to extract more dirt for road fill on another project. The dyed fuel used on the first project would be subject to fuel excise tax, while the dyed fuel used for the second project would be subject to sales or use tax. On such occasions, records based on each type of use need to be maintained on the bulldozer.

Project managers and foremen should be able to identify a percentage of time when equipment is used inside the road right-of-way versus outside the road right-of-way. Percentages will vary, depending on how and where the equipment is used.

### ***Construction Projects***

Questions have arisen over the years on whether certain projects are considered highway construction work.

Listed below are some examples of how to classify different construction projects:

1. Construction or maintenance of storm sewers, ditches or gutters is considered highway construction work since they direct water and debris away from the road or highway. If a subcontractor is hired for the sole purpose of installing water or sewer mains, the subcontractor's work is not considered highway construction. Utility work performed in ditches would not be highway construction work either because it has nothing to do with maintenance of the actual roadway.
2. Boring under the road to install utilities is not considered highway construction work because it does not involve the tearing up of the road.
3. Construction of airport runways is not highway construction because while the runway may be open for private aircraft usage, they are not open for public use.
4. The paving of private parking lots and driveways are not considered highway construction because they are not within the road right-of-way and because they are privately funded.
5. Dyed diesel used for the creation or maintenance of roads with annexation is considered highway construction work and subject to motor fuel tax.

6. Grading and snow removal performed on state, city, county, township, and municipal roads are considered highway construction. When this work is billed to the state, county, city, or township, it is exempt from sales tax, but the dyed diesel or biodiesel fuel used in the equipment is subject to the fuel excise tax. The best way to report these gallons is to identify the average gallons per hour used in the equipment and take the gallons times the number of hours the equipment was used.
7. Mowing ditches, seeding, and laying sod within the road right-of-way are considered highway work. These activities help maintain and improve the road right-of-way.
8. Light pole installation and road painting are also considered highway construction work. They are both considered maintenance of the road right-of-way.
9. Installing a culvert through an approach is highway construction work. The culvert helps divert water in the ditches and the approach is located inside the road right-of-way.
10. Construction of or maintenance on boat ramps and boat ramp parking is considered highway construction. Boat ramps are comparable to access ramps to a road and considered part of the right-of-way.
11. Dredging of rivers and lakes is also considered highway construction. This process clears waterways, which are considered highways for watercraft travel.

## Records Required (In addition to [Required Records](#) on page 18)

Highway Contractors are to keep detailed records of all fuel purchases and fuel usage as well as machinery and equipment used on highway construction. Fuel and shipping records are also required to be maintained ([SDCL 10-47B-157](#)).

1. Records are to be maintained at the place of business or delivery location at least 30 days;
2. Records may then be stored offsite; and
3. All records must be preserved for the current year and the three preceding calendar years

Records must be presented to Department personnel if you are audited or have your records reviewed.

Highway Contractors must keep all bills-of-lading and purchase invoices for fuel received for use in highway construction projects. These records must be kept for both bulk and retail transactions including credit card receipts and statements from unattended automated pump facilities.

Receipts for fuel must contain all the following information:

1. The Suppliers' or fuel Marketers' name and address (must be machine printed, or rubber stamped on the invoice);
2. The license number of the Supplier or fuel Marketer from whom they purchased the fuel;
3. The Highway Contractor's name and address;
4. The sale and delivery date of the fuel;
5. The type of fuel and number of gallons purchased, and in the case of diesel or biodiesel fuel, if it was dyed or undyed;
6. Ethanol blend invoices must list gasoline gallons & 100% ethyl alcohol gallons separately;
7. The price charged per gallon for the fuel;
8. The amount of fuel excise tax or sales tax paid for the fuel. Either the fuel excise tax or sales tax must be

listed separately on the purchase invoice or a statement by the Supplier or Marketer must be included in your records that says the price per gallon includes South Dakota fuel tax; and

9. The total cost of the fuel.

Highway Contractors must keep all sales and or purchase invoices. A copy of the invoice must be maintained in the records of both the seller and purchaser. These files must be kept in either their original format, through film retrieval or electronic media. Invoices must be serially numbered and must contain the following information:

1. The seller's name and address
2. The selling Supplier's license number if the fuel is sold from a pipeline; or the selling Marketer's number if not sold from pipeline
3. The purchaser's name and address
4. The date of sale and delivery of the fuel.
5. The number of gallons sold and delivered, the type of fuel, and if diesel whether or not it was dyed.
6. The price charged per gallon of fuel;
7. If charged, the amount of fuel tax or sales tax
  - Fuel tax must either be listed separately or as a statement that the price per gallon includes the South Dakota fuel tax.
8. The total amount of the sales invoice.

Highway Contractors are also required to keep records of the following:

1. All fuel consumption records to support statements of fuel used in self-propelled motor vehicles, and equipment within the road right-of-way;
2. All fuel consumption records to support statements of fuel used in stationary equipment or in self-propelled motor vehicles, machinery and equipment used outside of the road right-of-way; and
3. The serial number and year of manufacture for all motor vehicles, machinery and equipment used to complete the project or contract.
4. Any of the following records may also be used to substantiate fuel usage and time spent on projects:
  - Machine hour listings;
  - Time sheets;
  - Mileage records;
  - Average gallons per hour as furnished by the manufacturer.

The Department of Revenue reserves the right to determine if these records will be considered valid or not. **The Department will not accept a deduction of fuel used while vehicles, equipment, or machinery are idling.**

The Secretary of Revenue may require other pertinent records and papers necessary for the enforcement of fuel tax laws, including purchase records, journals, ledgers, payment records and banking records ([SDCL 10-47B-160](#)).

# Taxation and Fuel Usage

Fuel is only subject to either sales/use tax or fuel excise tax in South Dakota. The tax that applies is based on how and where the fuel is consumed.

## ***Equipment Used for Multiple Purposes***

Only one type of tax (fuel excise or sales or use tax) is due on fuel when it is purchased. How and where the fuel is consumed ultimately determines which type of tax is due.

### ***Dyed Fuel***

Under the dyed fuel program, diesel & biodiesel fuel that is used for off-road purposes will have dye added to it at the refinery or at the fuel terminal. Fuel Marketers (retail stations, convenience stores or bulk fuel distributors) must charge sales tax to Highway Contractors when the contractor purchases dyed fuel.

The following situations indicate which type of tax should be paid on the dyed fuel that has been purchased:

1. Dyed fuel used for **off-road** construction (for example, in the pit area or on private property), is subject to sales tax
2. Dyed fuel used in **stationary equipment** within the road right-of-way during road construction, repair or maintenance is subject to sales tax
3. Dyed fuel that is **used within the road right-of-way** in self-propelled movable machinery and equipment is subject to South Dakota's fuel excise tax

### ***Undyed Fuel***

When you purchase undyed fuel from a retail fuel station, convenience store or bulk fuel distributor in South Dakota, they will charge you the fuel excise tax. Undyed fuel purchased outside of South Dakota and imported into the state is subject to fuel excise tax. This tax must be remitted with the Highway Contractor's Tax Return.

Highway Contractors may only use undyed fuel in licensed vehicles, regardless of how or where the fuel is to be used.

Undyed fuel is:

- Gasoline
- 100 percent ethyl alcohol
- Clear diesel
- Clear biodiesel
- Liquid propane gas (LPG)

Undyed Diesel or Biodiesel fuel consumed in stationary equipment within the road right-of-way or in other equipment outside of the road right-of-way is not subject to a refund of fuel excise taxes. Gasoline, ethanol blend, and LPG that is consumed in licensed vehicles, machinery or movable equipment within the road right-of-way is subject to the fuel excise tax. **No refund or credit of fuel excise taxes will be allowed for gasoline, ethanol blend, undyed diesel, undyed biodiesel, or any other undyed fuel that is used outside of the road right-of-way in licensed vehicles for highway construction.**

## **Tax Return Instructions**

Licensees file their tax returns electronically using EPath. For step-by-step guidance on filing, please see the Motor Fuel Filing Guides at <https://dor.sd.gov/businesses/taxes/motor-fuel/>.

## APPENDIX

### Appendix A – South Dakota Motor Fuel Tax System and Laws

South Dakota has 81,825 miles of roadway - 7,789 miles are state highways and even though it's only 9.5% of the total mileage, the state highway system carries approximately 69% of all vehicle miles traveled.

South Dakota's 8,000-mile network of roads and highways and its airport facilities and runways are essential to the state's economy and its citizens' quality of life. Through the taxation of fuels, the costs of creating and maintaining this transportation infrastructure are distributed proportionately to the individuals and businesses that use our transportation system.

Fuel Tax Laws	Description
<a href="#">10-47B-1</a>	Secretary to collect taxes.
<a href="#">10-47B-1.1</a>	Point or location of sale or transfer.
<a href="#">10-47B-2</a>	Promulgation of rules.
<a href="#">10-47B-3</a>	Definition of terms.
<a href="#">10-47B-3.1</a>	Blending of casing head or natural gasoline with ethyl alcohol prohibited in quantities larger than required for denaturing--Natural gasoline blended products
<a href="#">10-47B-4</a>	Fuel excise tax rates.
<a href="#">10-47B-5</a>	Excise tax on motor fuel and special fuel removed from terminal or used at terminal--Exceptions.
<a href="#">10-47B-6</a>	Excise tax on certain imported fuel.
<a href="#">10-47B-7</a>	Excise tax on special fuel in supply tank of qualified motor vehicles involved in interstate commerce.
<a href="#">10-47B-8</a>	Excise tax on substances blended with motor fuel or undyed special fuel.
<a href="#">10-47B-9</a>	Excise tax on unblended biodiesel--Exceptions.
<a href="#">10-47B-9.1</a>	Excise tax on ethyl alcohol or methyl alcohol--Exceptions.
<a href="#">10-47B-10</a>	Excise tax on fuel destined for another state but diverted or transferred in-state--Exceptions.
<a href="#">10-47B-11</a>	Excise tax on liquid petroleum gas and compressed natural gas sold or used by licensed vendors--Exception.
<a href="#">10-47B-12</a>	Excise tax on liquid petroleum gas in tank of vehicle used on public roads.
<a href="#">10-47B-13</a>	Excise tax on motor fuel, special fuel, and liquid petroleum gas used in certain self-propelled highway construction machinery or vehicles.
10-47B-14	Repealed
10-47B-15	Repealed
10-47B-16	Repealed
10-47B-17	Repealed

10-47B-18	Repealed
<a href="#"><u>10-47B-19</u></a>	Exemptions from fuel excise tax.
<a href="#"><u>10-47B-20</u></a>	Dye added to exempted special fuel.
<a href="#"><u>10-47B-21</u></a>	Remittance of excise tax on fuels imposed by § 10-47B-5.
<a href="#"><u>10-47B-22</u></a>	Remittance by importer of certain imported fuel--Exception.
<a href="#"><u>10-47B-23</u></a>	Remittance of tax when out-of-state supplier owns title to fuel.
<a href="#"><u>10-47B-24</u></a>	Remittance of tax on ethyl alcohol and other substances blended with fuel or undyed special fuel.
<a href="#"><u>10-47B-25</u></a>	Remittance of tax on ethyl alcohol and methyl alcohol.
<a href="#"><u>10-47B-25.1</u></a>	Remittance of tax on unblended biodiesel.
<a href="#"><u>10-47B-26</u></a>	Remittance of tax on fuel destined for another state but diverted or transferred in-state.
<a href="#"><u>10-47B-27</u></a>	Remittance of tax on liquid petroleum gas and compressed natural gas sold or used by licensed vendors.
<a href="#"><u>10-47B-28</u></a>	Remittance of tax on liquid petroleum gas in vehicle used on public roads.
<a href="#"><u>10-47B-29</u></a>	Due date for remittance of excise taxes.
<a href="#"><u>10-47B-30</u></a>	Calculation and payment of tax on special fuel used by qualified motor vehicles in interstate commerce.
<a href="#"><u>10-47B-31</u></a>	Payment of tax on certain fuels used in self-propelled highway construction machinery or vehicles.
<a href="#"><u>10-47B-32</u></a>	Delayed payment of tax by wholesale distributor or retail dealer.
10-47B-33	Repealed
<a href="#"><u>10-47B-34</u></a>	Percentage allowed to be retained to off-set administrative expenses of timely reporting.
<a href="#"><u>10-47B-35</u></a>	Distribution of amount retained for administrative expenses.
<a href="#"><u>10-47B-36</u></a>	Retention of administrative expenses not allowed for late reporting or remittance of tax.
<a href="#"><u>10-47B-37</u></a>	Percentage supplier allowed to retain if payment is late from wholesale distributor, retail dealer, or end user.
<a href="#"><u>10-47B-38</u></a>	Amount importer allowed to retain for timely remittance.
<a href="#"><u>10-47B-39</u></a>	Payment by exporter of administrative cost allowance on refunded tax for fuel diverted to out-of-state location.
<a href="#"><u>10-47B-40</u></a>	Percent of remitted tax liquid petroleum vendor allowed to retain.
<a href="#"><u>10-47B-41</u></a>	Joint and several liability of officers, managers, or partners with entity for filing returns and payment of tax.
<a href="#"><u>10-47B-42</u></a>	Required taxes belong to state.
<a href="#"><u>10-47B-43</u></a>	Preparation and delivery of bill-of-lading setting out fuel destination.
<a href="#"><u>10-47B-44</u></a>	Transportation of motor fuel or special fuel to carry bill-of-lading-- Diversion tickets or drop load tickets also required.
<a href="#"><u>10-47B-45</u></a>	Required documentation for importing motor fuel or special fuel.

<a href="#"><u>10-47B-46</u></a>	Bill-of-lading, drop load tickets, or diversion tickets provided to receiver of fuel.
<a href="#"><u>10-47B-47</u></a>	Required time period for retention of shipping papers by receiver of fuel.
<a href="#"><u>10-47B-48</u></a>	Acceptance of fuel without bill-of-lading, drop load ticket, or diversion ticket prohibited--Inadvertent acceptance.
<a href="#"><u>10-47B-49</u></a>	Circumstances requiring issuance of diversion ticket.
<a href="#"><u>10-47B-50</u></a>	Issuance of drop load ticket--Copy of ticket.
<a href="#"><u>10-47B-51</u></a>	Reliance on transporter's intended destination state--Joint and several liability for fuel tax.
<a href="#"><u>10-47B-52</u></a>	Exemptions for bulk plant operator delivering fuel into tank wagon.
<a href="#"><u>10-47B-53</u></a>	Information required on bill-of-lading.
<a href="#"><u>10-47B-54</u></a>	Information required on diversion ticket.
<a href="#"><u>10-47B-55</u></a>	Information required on drop load ticket.
<a href="#"><u>10-47B-56</u></a>	Supplier's license required.
<a href="#"><u>10-47B-57</u></a>	Application for out-of-state supplier's license.
<a href="#"><u>10-47B-58</u></a>	Terminal operator's license required.
<a href="#"><u>10-47B-59</u></a>	Exporter's license required--Licensure in destination state required.
<a href="#"><u>10-47B-60</u></a>	Transporter's license required.
<a href="#"><u>10-47B-61</u></a>	Importer's license required.
<a href="#"><u>10-47B-62</u></a>	Blender's license required.
<a href="#"><u>10-47B-63</u></a>	Liquid petroleum gas vendor's license required.
<a href="#"><u>10-47B-64</u></a>	Compressed natural gas vendor's license required.
<a href="#"><u>10-47B-64.5</u></a>	Liquid natural gas vendor's license required.
<a href="#"><u>10-47B-65</u></a>	Marketer license for wholesale distributor or retail dealer.
<a href="#"><u>10-47B-66</u></a>	Liquid petroleum gas user's license required.
<a href="#"><u>10-47B-67</u></a>	Ethanol producer's license required.
<a href="#"><u>10-47B-67.1</u></a>	Biodiesel producer's license required.
<a href="#"><u>10-47B-67.2</u></a>	Methanol producer's license required.
<a href="#"><u>10-47B-68</u></a>	Bulk plant operator's license required.
<a href="#"><u>10-47B-68.1</u></a>	Ethanol broker's license required.
<a href="#"><u>10-47B-69</u></a>	Highway contractor fuel tax license required.
<a href="#"><u>10-47B-70</u></a>	Refund claimant license required.
<a href="#"><u>10-47B-71</u></a>	Information required on license form.
<a href="#"><u>10-47B-72</u></a>	Renewal of licenses.
<a href="#"><u>10-47B-73</u></a>	Reasons for refusal to issue license.
<a href="#"><u>10-47B-74</u></a>	Fuel license application process.

<a href="#"><u>10-47B-75</u></a>	Revocation and cancellation of license or permit--Hearing--Notice.
<a href="#"><u>10-47B-76</u></a>	Cancellation of license by written request.
<a href="#"><u>10-47B-77</u></a>	Cessation of business--Notice to secretary--Reports and payments due.
<a href="#"><u>10-47B-78</u></a>	Cancellation of license for non-activity--Request for hearing.
<a href="#"><u>10-47B-79</u></a>	Assignment of license prohibited--License presented upon request-- Reporting sale--Application for license by new owner.
<a href="#"><u>10-47B-80</u></a>	Filing security concurrently with license application.
<a href="#"><u>10-47B-81</u></a>	Bond requirements.
<a href="#"><u>10-47B-82</u></a>	Form of security other than bond.
<a href="#"><u>10-47B-83</u></a>	Reasons for requiring increase in amount of security or bond--Notice-- Cancellation of license--Hearing.
<a href="#"><u>10-47B-84</u></a>	Determining amount of increased security.
<a href="#"><u>10-47B-85</u></a>	Release of surety on a bond--Written request for release--Replacement bond or security--Cancellation of license for failure to file new bond or security.
<a href="#"><u>10-47B-86</u></a>	Cancellation of bond.
<a href="#"><u>10-47B-87</u></a>	Surety company to send bond form, rider, amendment, or cancellation notice to department by registered mail.
<a href="#"><u>10-47B-88</u></a>	Decrease in bond amount, or waiver of bond, upon demonstration of financial condition.
<a href="#"><u>10-47B-89</u></a>	Display of license at place of business.
<a href="#"><u>10-47B-90</u></a>	Surrender of license upon discontinuance of business.
<a href="#"><u>10-47B-91</u></a>	Monthly report by supplier--Information required.
<a href="#"><u>10-47B-92</u></a>	Time for filing supplier's report.
<a href="#"><u>10-47B-93</u></a>	Necessary information reported by supplier.
<a href="#"><u>10-47B-94</u></a>	All fuel destined for South Dakota to be reported monthly by out-of-state supplier.
<a href="#"><u>10-47B-95</u></a>	Monthly report required from importer.
<a href="#"><u>10-47B-96</u></a>	Time for filing importer's report.
<a href="#"><u>10-47B-97</u></a>	Necessary information reported by importer.
<a href="#"><u>10-47B-98</u></a>	Monthly report required from terminal operator.
<a href="#"><u>10-47B-99</u></a>	Time for filing terminal operator's report.
<a href="#"><u>10-47B-100</u></a>	Necessary information reported by terminal operator.
<a href="#"><u>10-47B-101</u></a>	Monthly report required from bulk plant operator.
<a href="#"><u>10-47B-102</u></a>	Time for filing bulk plant operator's report.
<a href="#"><u>10-47B-103</u></a>	Necessary information to be reported by bulk plant operator.
<a href="#"><u>10-47B-104</u></a>	Monthly report required from exporter.
<a href="#"><u>10-47B-105</u></a>	Time for filing exporter's report.
<a href="#"><u>10-47B-106</u></a>	Necessary information reported by exporter.

<a href="#"><u>10-47B-107</u></a>	Monthly report required from transporter.
<a href="#"><u>10-47B-108</u></a>	Time for filing transporter's report--Request for specific information.
<a href="#"><u>10-47B-109</u></a>	Penalty for transporter's failure to report--Hearing.
<a href="#"><u>10-47B-110</u></a>	Waiver of certain reporting requirements.
<a href="#"><u>10-47B-111</u></a>	Monthly report required from blender.
<a href="#"><u>10-47B-112</u></a>	Time for filing blender's report.
<a href="#"><u>10-47B-113</u></a>	Necessary information reported by blender.
<a href="#"><u>10-47B-114</u></a>	Quarterly report required from highway contractor.
<a href="#"><u>10-47B-114.1</u></a>	Time for filing highway contractor's report.
<a href="#"><u>10-47B-115</u></a>	Necessary information reported by highway contractor.
<a href="#"><u>10-47B-115.1</u></a>	Monthly report required from ethanol producer.
<a href="#"><u>10-47B-115.2</u></a>	Time for filing ethanol producer's report.
<a href="#"><u>10-47B-115.3</u></a>	Necessary information reported by ethanol producer.
<a href="#"><u>10-47B-115.4</u></a>	Monthly report required from ethanol broker.
<a href="#"><u>10-47B-115.5</u></a>	Time for filing ethanol broker's report.
<a href="#"><u>10-47B-115.6</u></a>	Necessary information reported by ethanol broker.
<a href="#"><u>10-47B-115.7</u></a>	Monthly report required from methanol producer.
<a href="#"><u>10-47B-115.8</u></a>	Time for filing methanol producer's report.
<a href="#"><u>10-47B-115.9</u></a>	Necessary information reported by methanol producer.
<a href="#"><u>10-47B-115.10</u></a>	Monthly report required from biodiesel producer.
<a href="#"><u>10-47B-115.11</u></a>	Time for filing biodiesel producer's report.
<a href="#"><u>10-47B-115.12</u></a>	Necessary information reported by biodiesel producer.
<a href="#"><u>10-47B-116</u></a>	Final report by licensee.
<a href="#"><u>10-47B-117</u></a>	Aggregate reporting.
<a href="#"><u>10-47B-118</u></a>	Importing, selling, using, delivering or storing fuel in bulk prohibited if no dye added or taxes unpaid--Penalty.
<a href="#"><u>10-47B-119.2</u></a>	Tax refund for motor fuel that is integral component of product that is not motor fuel or special fuel.
<a href="#"><u>10-47B-120</u></a>	Tax refund for gasoline and natural gasoline used to denature ethyl alcohol.
<a href="#"><u>10-47B-120.1</u></a>	Tax refund for methanol used to produce biodiesel.
<a href="#"><u>10-47B-121</u></a>	Tax report credit available to blender--No refund.
<a href="#"><u>10-47B-121.1</u></a>	Tax report credit allowed to blender for special fuel blended with biodiesel.
<a href="#"><u>10-47B-122</u></a>	Tax refund to dealer for sale of fuel to approved tribal Indian school.
<a href="#"><u>10-47B-123</u></a>	Tax refund to dealer for lost fuel.
<a href="#"><u>10-47B-124</u></a>	Tax refund to retail dealer on fuel sold to federal government or defense supply center.

<a href="#"><u>10-47B-125</u></a>	Tax refund available to licensed exporter.
<a href="#"><u>10-47B-126</u></a>	Credit for taxes paid on fuel acquired by importer from out-of-state supplier.
<a href="#"><u>10-47B-128</u></a>	Circumstances allowing tax refund for undyed special fuel used as heating oil.
<a href="#"><u>10-47B-129</u></a>	Tax credit for special fuel exported in supply tank of qualified motor vehicle engaged in interstate commerce.
<a href="#"><u>10-47B-130</u></a>	Credit for taxes mistakenly paid--Refund.
<a href="#"><u>10-47B-131</u></a>	Tax refund to dealer for undyed special fuel delivered to certain motor carrier refrigeration units.
<a href="#"><u>10-47B-131.1</u></a>	Refund of taxes on undyed special fuel used in process where dyed special fuel cannot be used.
<a href="#"><u>10-47B-131.2</u></a>	Refund of taxes on motor fuel or undyed special fuel preempted by federal or constitutional law.
<a href="#"><u>10-47B-131.3</u></a>	Refund of taxes on undyed special fuel purchased during shortage of dyed special fuel.
<a href="#"><u>10-47B-132</u></a>	Refund for taxes paid when undyed diesel fuel accidentally mixed with dyed diesel fuel--Conditions for refund.
<a href="#"><u>10-47B-133</u></a>	Tax refund to supplier if purchaser fails to pay for product and taxes-- Application--Limitations.
<a href="#"><u>10-47B-134</u></a>	Refund for taxes paid on fuel sold to customer whose accounts are worthless-- Sufficient evidence and testimony.
<a href="#"><u>10-47B-135</u></a>	No tax refund for certain uses of fuel.
<a href="#"><u>10-47B-136.1</u></a>	Tax report credit for special fuel blended with biodiesel to create biodiesel blend.
<a href="#"><u>10-47B-137</u></a>	Lost fuel--Requirements for tax refund.
<a href="#"><u>10-47B-143</u></a>	Rejection of fraudulent claim.
<a href="#"><u>10-47B-144</u></a>	Interest on refund claim not refunded within required time period.
<a href="#"><u>10-47B-145</u></a>	Rejection of tax refund claim--Assessment of tax against refund claimant.
<a href="#"><u>10-47B-146</u></a>	Cooperation of state agencies--Information exchange with federal government and agencies of other states.
<a href="#"><u>10-47B-147</u></a>	Interstate agreements or compacts authorized--Access to instruments.
<a href="#"><u>10-47B-148</u></a>	Collection and distribution of tax, fee, penalty assessment, and interest assessment.
<a href="#"><u>10-47B-149</u></a>	Monthly adjustment to motor fuel tax fund balance.
<a href="#"><u>10-47B-149.1</u></a>	Distribution to counties and townships.
<a href="#"><u>10-47B-149.2</u></a>	Amount of motor fuel taxes collected annually on motor fuel for non- highway agricultural uses.
<a href="#"><u>10-47B-150</u></a>	Taxes used in airplanes and aircraft transferred to state aeronautics fund.
<a href="#"><u>10-47B-151</u></a>	Funds from motor fuel tax used to improve boating facilities.
<a href="#"><u>10-47B-152</u></a>	Use of funds transferred to parks and recreation fund.
<a href="#"><u>10-47B-153</u></a>	Improving boating facilities declared to be public purpose.
<a href="#"><u>10-47B-155</u></a>	License revocation hearing--Written notice of revocation.

<a href="#"><u>10-47B-156</u></a>	Sworn statement in lieu of verification of report before a notary public.
<a href="#"><u>10-47B-157</u></a>	Record keeping required of licensee.
<a href="#"><u>10-47B-158</u></a>	Additional records to be kept by liquid petroleum gas user or consumer refund claimant.
<a href="#"><u>10-47B-159</u></a>	Fuel transactions to be supported by sales/purchase invoice--Copies-- Required information.
<a href="#"><u>10-47B-160</u></a>	Examination of licensee by secretary--Reason for examination.
<a href="#"><u>10-47B-161</u></a>	In-office review of refund claimant's or licensee's, records--Full field audit not precluded.
<a href="#"><u>10-47B-164.1</u></a>	Ethanol infrastructure incentive fund established.
<a href="#"><u>10-47B-164.2</u></a>	Promulgation of rules concerning the ethanol infrastructure incentive fund.
<a href="#"><u>10-47B-167</u></a>	Exemption from fuel tax for certain sales of liquefied petroleum gas-- Conditions.
<a href="#"><u>10-47B-168</u></a>	Monthly report by liquid petroleum gas and natural gas vendor required.
<a href="#"><u>10-47B-169</u></a>	Time for filing liquid petroleum gas and natural gas vendor's report.
<a href="#"><u>10-47B-170</u></a>	Information required in report of liquid petroleum gas and natural gas vendors.
<a href="#"><u>10-47B-170.1</u></a>	Semiannual report required of liquid petroleum gas users.
<a href="#"><u>10-47B-170.2</u></a>	Time for filing liquid petroleum gas user's report.
<a href="#"><u>10-47B-171</u></a>	Information in liquid petroleum gas user's report.
<a href="#"><u>10-47B-172</u></a>	Advanced arrangements for paying taxes on special fuels
<a href="#"><u>10-47B-173</u></a>	Application for permanent fuel user license--Security--Fees.
<a href="#"><u>10-47B-174</u></a>	Permanent fuel user licensee to carry copy of license in vehicle--Quarterly report by user required.
<a href="#"><u>10-47B-175</u></a>	Temporary single-trip permit for unlicensed interstate fuel user--Cost of permit.
<a href="#"><u>10-47B-176</u></a>	Determining tax liability of interstate fuel user licensee--Overpayment refund.
<a href="#"><u>10-47B-177</u></a>	Information required in interstate fuel user's report.
<a href="#"><u>10-47B-178</u></a>	Leased qualified vehicles used by interstate user--Copy of lease agreement in vehicle--Types of lease agreements--Records.
<a href="#"><u>10-47B-179</u></a>	Calculating tax liability of interstate fuel user when user's records are inadequate.
<a href="#"><u>10-47B-180</u></a>	Interstate fuel user required to keep operational records.
<a href="#"><u>10-47B-180.1</u></a>	Records required of persons who store motor fuel or special fuel-- Penalties.

<a href="#"><u>10-47B-181</u></a>	Supplier or bulk plant operator penalized for authorizing sales for export to unlicensed person.
<a href="#"><u>10-47B-182</u></a>	Civil penalty for failure to issue required documents--Request for hearing.
<a href="#"><u>10-47B-183</u></a>	Civil penalty against importer or transporter for importation or sale without valid documents--Request for hearing.
<a href="#"><u>10-47B-185</u></a>	Civil penalty for operation of vehicle with certain dyed special fuels-- Request for hearing--Criminal penalty for failure to pay civil assessment-- Exempted vehicles.
<a href="#"><u>10-47B-186</u></a>	Penalty for inadequate records of bills-of-lading, diversion tickets, or drop load tickets.
<a href="#"><u>10-47B-187</u></a>	Penalties for violations.
<a href="#"><u>10-47B-188</u></a>	State officials authorized to withdraw fuel for testing.
<a href="#"><u>10-47B-189</u></a>	Refusal to allow inspection as misdemeanor.
<a href="#"><u>10-47B-190</u></a>	Electronic filing of returns and reports and electronic transfer of funds required-- Exception.
<a href="#"><u>10-47B-191</u></a>	Fuel excise tax on motor vehicle fuel not otherwise specifically taxed by chapter-- Reports--Remittance.

## Appendix B – Definitions

These definitions come from [SDCL 10-47B-3](#).

<b>Term</b>	<b>Definition</b>
<b>ASTM</b>	the American Society for Testing and Materials, a private organization that utilizes committees of industry representatives and regulators to develop product quality standards and test methods to be used by industries, regulatory agencies, and purchasing agents;
<b>Aviation Gasoline</b>	a motor fuel that is formulated and produced specifically for use in aircraft;
<b>Biobutanol</b>	butyl alcohol produced from cereal grains;
<b>Biodiesel</b>	<p>a fuel that is comprised of:</p> <p class="list-item-l1">(a) Mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated B100, and meeting the requirements of the American Society of Testing and Materials D 6751 as of January 1, 2008;</p> <p class="list-item-l1">(b) A derivative of any organic material, without regard to the process used, that meets the registration requirements for fuels and chemicals established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545) as of January 1, 2008, and the American Society of Testing and Materials (ASTM) D975 or D396 as of January 1, 2008, but does not include oil, natural gas, or coal (including lignite), or any products thereof; or</p> <p class="list-item-l1">(c) Both;</p>
<b>Biodiesel Blend</b>	a blended special fuel containing a minimum of five percent by volume of biodiesel;
<b>Biodiesel Producer</b>	a person who engages in the business of producing biodiesel for sale, use, or distribution.
<b>Blender</b>	a person engaged in the activity of making blends. A person need not be a blender to mix two or more substances which have previously been subject to the fuel excise tax imposed by this chapter. A person need not be a blender to mix two or more substances which have not been subject to the fuel excise tax imposed by this chapter, if the mixed product does not result in producing a motor fuel or special fuel;
<b>Blends</b>	one or more petroleum product, mixed with or without another product, regardless of the original character of the product blended, if the product obtained by the blending is capable of use in the generation of power for the propulsion of a motor vehicle, an airplane, or a motorboat. The term does not include those blends that occur in the process of refining by the original refiner of crude petroleum or by the blending of products known as lubricating oil and greases. The term does not apply to fuel additives which have been subject to sales or use tax imposed by chapters 10-45 and 10-46, or to dye;

<b>Book Transfer</b>	<p>a transaction in which a product is transferred from one supplier or out-of-state supplier or position holder to another, if:</p> <p>(a) The transaction includes a transfer from the person who holds the inventory position for motor fuel or special fuel in the terminal as indicated in the records of the terminal operator; and</p> <p>(b) The transfer is completed within the terminal at the time of the removal from the terminal for delivery to a customer of the transferee. The bill of lading issued by the terminal operator shall indicate the transferee as the supplier or shipper;</p>
<b>Bulk Container or Bulk Cargo Area</b>	any tank, vessel, or container used to store or transport fuel. This term does not include a supply tank which is mounted on a motor vehicle and connected to the engine of that motor vehicle;
<b>Bulk Plant</b>	a motor fuel or special fuel storage facility, other than a terminal, that is primarily used for redistribution of motor fuel or special fuel by a transport truck, tank wagon, or rail car;
<b>Bulk Plant Operator</b>	a person who has responsibility and physical control over the operation of a bulk plant.
<b>Compressed Natural Gas</b>	natural gas which has been compressed, but not to a liquid state, for use as a motor vehicle fuel and which for purposes of taxation as a motor vehicle fuel, shall be converted to equivalent liquid gallons of gasoline at the rate of 126.67 cubic feet of natural gas as its natural service delivery line pressure to equal one volumetric gross gallon of gasoline;
<b>Compressed Natural Gas Vendor</b>	a person engaged in the business of selling compressed natural gas for use in the engine fuel supply tanks of motor vehicles and is regulated by the Public Utilities Commission;
<b>Consignee</b>	the first person to hold title to fuel after it is withdrawn at a terminal rack or bulk plant and delivered into a bulk cargo area of a transport truck or railcar. The name of the consignee shall be identified and prominently displayed on the bill of lading
<b>Department</b>	the Department of Revenue;
<b>Destination State</b>	the state for which a motor vehicle, railcar, or barge is destined for off-loading of motor fuel or special fuel from its bulk cargo area by the consignee into storage facilities for consumption or resale. If title of the fuel passes from the consignee to another party prior to off-loading, the destination state is the state in which title passes. The destination state shall be identified and prominently displayed on the bill of lading. If the destination state is not prominently displayed on the bill of lading, it is presumed that South Dakota is the destination state;

<b>Ethanol Blend</b>	a blended motor fuel containing ethyl alcohol of at least ninety-nine percent purity typically derived from agricultural products which is blended exclusively with a product commonly or commercially known or sold as gasoline;
<b>Ethanol Broker</b>	any person who engages in the business of marketing ethyl alcohol produced by ethanol producers located in South Dakota;
<b>Ethanol Producer</b>	any person who engages in the business of producing ethyl alcohol for sale, use, or distribution;
<b>Ethyl Alcohol</b>	a motor fuel typically derived from agricultural products that has been denatured as prescribed in § 10-47B-166. This definition does not apply to § 10-47B-162;
<b>Export</b>	with respect: <ul style="list-style-type: none"> <li>(a) To a seller, when the seller's motor fuel or special fuel is delivered out-of-state by or for the seller; and</li> <li>(b) To a purchaser, when the purchaser's motor fuel or special fuel is delivered out-of-state by or for the purchaser;</li> </ul>
<b>Exporter</b>	any person, who purchases or owns motor fuel or special fuel in this state and transports or delivers or causes the fuel to be transported or delivered to another state or country by any means other than pipeline;
<b>Gallon</b>	for purposes of fuel taxation, a United States gallon measured on a gross volume basis. Temperature adjusted or net gallons of measurement are not acceptable as units of measurement for taxation purposes unless used for the calculation of liquid petroleum gas, compressed natural gas, or liquid natural gas;
<b>Gasoline</b>	a fuel product commonly or commercially known or sold as gasoline or reformulated gasoline, which has not been blended with alcohol, naphtha, or any other fuel products such as casinghead, absorption, drip, or natural gasolines;
<b>Fuel Additive</b>	a product purchased or acquired for the purpose of adding it to motor fuel or special fuel which was formulated and produced exclusively to enhance the performance or quality of the fuel. The term does not include kerosene;
<b>Heating Fuel</b>	a special fuel that is burned in a boiler furnace, or stove for heating or industrial processing purposes;
<b>Highway Construction Work</b>	all work which is performed in any capacity to propel vehicles, machinery, or equipment within the right-of-way in the construction, reconstruction, repair, or maintenance of public highways;

<b>Highway Contractor</b>	any person engaged in the activity of highway construction work in this state. The term does not include any person who only owns and operates motor vehicles within the right-of-way hauling gravel or concrete and does not own or operate off-road machinery in the highway construction work;
<b>Import</b>	with respect: <ul style="list-style-type: none"> <li>(a) To a seller, when the seller's motor fuel or special fuel is delivered into South Dakota from out-of-state by or for the seller; and</li> <li>(b) To a purchaser, when the purchaser's motor fuel or special fuel is delivered into South Dakota from out-of-state by or for the purchaser;</li> </ul>
<b>Importer</b>	any person who purchases or owns motor fuel or special fuel in another state or country and transports or delivers or causes the fuel to be transported or delivered into this state by any means other than pipeline;
<b>Jet Fuel</b>	a special fuel that is formulated and produced specifically for use in jet aircraft;
<b>Liquid</b>	any substance that is liquid in excess of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute;
<b>Liquid Natural Gas</b>	natural gas which has been cooled to approximately -260 degrees Fahrenheit and is in a liquid state, for use as a motor vehicle fuel and which for purposes of taxation as a motor vehicle fuel, shall be converted to equivalent liquid gallons of gasoline at the rate of 1.5536 gallons of liquid natural gas to equal one volumetric gross gallon of gasoline;
<b>Liquid Natural Gas Vendor</b>	any person engaged in the business of selling liquid natural gas for use in the engine fuel supply tanks of motor vehicles;
<b>Liquid Petroleum Gas</b>	liquid petroleum gas (LPG) when used as a motor vehicle fuel shall be converted for purposes of taxation to equivalent liquid gross gallons using the conversion factor of 4.24 pounds per gallon of liquid at sixty degrees Fahrenheit;
<b>Liquid Petroleum Gas User</b>	a person who uses liquid petroleum gas in the engine fuel supply tank of a motor vehicle and wishes to purchase liquid petroleum gas in bulk into a storage tank which has a delivery hose attached thereto on a tax unpaid basis in this state;
<b>Liquid Petroleum Gas Vendor</b>	a person engaged in the business of selling liquid petroleum gas, wholesale or retail, for use in the engine fuel supply tank of a motor vehicle in this state or has the capability of selling liquid petroleum gas for use in the engine fuel supply tank of a motor vehicle. The term applies to any vendor who uses LPG in a motor vehicle;
<b>Marketer</b>	any person who is engaged in business as a wholesale distributor or retail dealer;
<b>Methyl Alcohol</b>	a motor fuel typically derived from wood products;

<b>Motor Fuel</b>	<p>includes:</p> <p>(a) All products commonly or commercially known or sold as gasoline, ethyl alcohol, methyl alcohol, and all gasoline blends. These products may include in some quantity casing head, absorption, natural gasoline, benzol, benzene, naphtha, except that flashing above one hundred degrees Fahrenheit, and Tagliabue closed cup test, which is sold and used only as cleaner's or painter's solvent; and</p> <p>(b) Any liquid prepared, advertised, offered for sale, or sold for use as commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene, and similar petroleum products (American Society of Testing Material Designation D-86) shows not less than ten percent distilled (recovered) below three hundred forty-seven degrees Fahrenheit and not less than ninety-five percent distilled (recovered) below four hundred sixty-four degrees Fahrenheit;</p> <p>(c) The term does not include liquefied gases which would not exist as liquids at a temperature of sixty degrees Fahrenheit and a pressure of fourteen and seven-tenths pounds per square inch absolute;</p>
<b>Motor Vehicle</b>	includes all vehicles that are required to be registered and licensed by a jurisdiction and are designed for use upon the public roads and highways. Terrigators and spray coupes that are not designed for use upon the public roads and highways are not included in this definition;
<b>Nonhighway Agricultural Use</b>	fuel used off the public highways and roads of this state for producing, raising or growing, and harvesting of food or fiber upon agricultural land, including dairy products, livestock, and crops. The services of custom harvesters, chemical applicators, fertilizer spreaders, hay grinders, and cultivators are considered agricultural purposes;
<b>Nonhighway Commercial Use</b>	fuel used off the public highways and roads of this state for business purposes other than a nonhighway agricultural use. Recreational vehicles including snowmobiles, go-carts, golf carts, bumper boats, and similar vehicles are not included in this definition;
<b>Out-Of-State Supplier</b>	any person who does not meet the geographic jurisdictional connections to this state required of a supplier, and is registered under Section 4101 of the Internal Revenue Code;
<b>Person</b>	a natural person, a partnership, a limited partnership, a joint venture, a firm, an association, a corporation, a cooperative, a representative appointed by a court, the state, a political subdivision, or any other entity, group, or syndicate;
<b>Petroex Number</b>	a string of alpha or numeric characters that are used to communicate transactional information between a transporter or consignee and a supplier;

<b>Public Highways Or Roads</b>	any way or place of whatever nature, including waterways and snowmobile trails, which are open to the use of the public as a matter of right for the purpose of vehicular, snowmobile, or watercraft travel, even if the way or place is temporarily closed for the purpose of construction, reconstruction, maintenance, or repair;
<b>Qualified Biobutanol Producer</b>	any person who engages in the business of producing biobutanol for sale, use, or distribution and who produced qualified ethyl alcohol on or before December 31, 2006, and is therefore eligible for receiving incentive payments for the production of ethyl alcohol under § 10-47B-162;
<b>Qualified Motor Vehicle</b>	<p>a motor vehicle used, designed, or maintained for transportation of persons or property and:</p> <p class="list-item-l1">(a) Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds;</p> <p class="list-item-l1">(b) Having three or more axles regardless of weight; or</p> <p class="list-item-l1">(c) Is used in combination when the weight of such combination exceeds twenty-six thousand pounds gross vehicle weight. The term does not include recreational vehicles used for pleasure;</p>
<b>Racing Fuel</b>	a motor or special fuel that is specifically produced for use in race cars;
<b>Rack</b>	a dock, a platform, or an open bay with metered pipes, hoses or both that is used for delivering motor fuel or special fuel from a refinery or terminal into the cargo area of a motor vehicle, rail car, marine vessel, or aircraft for subsequent transfer or use into the engine fuel supply tank of a locomotive or any self-propelled vehicle. The term includes a pipe, series of pipes, or pipeline used to withdraw motor fuel or special fuel from one pipeline system to another pipeline system or storage facility, if the fuel withdrawn is committed for sale or use in this state;
<b>Retail Dealer</b>	a person who sells or distributes motor fuel or special fuel to the end user within this state;
<b>Sale</b>	the title of fuel passed from the seller to the buyer for a consideration;
<b>Secretary</b>	the secretary of the Department of Revenue;

<b>Special Fuel</b>	<p>all combustible gases and liquids that are:</p> <p class="list-item-l1">(a) Suitable for the generation of power in an internal combustion engine or motor; or</p> <p class="list-item-l1">(b) Used exclusively for heating, industrial, or farm purposes other than for the operation of a motor vehicle.</p> <p>The term includes diesel fuel, fuel oil, heating fuel, biodiesel, all special fuel blends, and all kerosene products except K-1. The term does not include motor fuel, liquid petroleum gas, liquid natural gas, compressed natural gas, or natural gas which is not compressed natural gas. The term, special use fuel, is synonymous with the term, special fuel;</p>
<b>Supplier or Shipper</b>	<p>a person that imports or acquires upon import into this state motor fuel or special fuel by pipeline or marine vessel from another state, territory, or possession of the United States into a terminal within this state, or that imports motor fuel or special fuel into this state from a foreign country or that produces, manufactures, or refines motor fuel or special fuel within this state, or that owns motor fuel or special fuel in the pipeline and terminal distribution system in this state and makes sales or authorizes removal of motor fuel or special fuel from a terminal in this state at the rack or is the receiving exchange partner in a two party exchange or the final transferee in a book transfer, and is subject to the general taxing or police jurisdiction of this state, or is required to be registered under Section 4101 of the Internal Revenue Code for transactions in taxable fuels in the bulk distribution system. The person need not be required to be registered under Section 4101 of the Internal Revenue Code if operating as a railroad company or utility company. A terminal operator may not be considered a supplier merely because the terminal operator handles motor fuel or special fuel consigned to it within a terminal. The name of the supplier or shipper shall be identified and prominently displayed on the bill of lading;</p>
<b>Tank Wagon</b>	<p>a vehicle designed to transport motor fuel or special fuel in bulk, in lots of four thousand two hundred gallons or less;</p>
<b>Terminal</b>	<p>a fuel refinery or storage and distribution facility that is supplied by pipeline or marine vessel, from which motor fuel or special fuel may be removed at a rack and that has been registered as a qualified terminal by the Internal Revenue Service for receipt of taxable fuels free of federal fuel taxes;</p>
<b>Terminal Operator</b>	<p>the person who by ownership or contractual agreement is charged with the responsibility and physical control over the operation of the terminal;</p>

<b>Transfer In Bulk Into or Within A Terminal</b>	includes the following: <ul style="list-style-type: none"> <li>(a) A marine barge movement of fuel from a refinery or terminal to a terminal;</li> <li>(b) Pipeline movements of fuel from a refinery or terminal to terminal;</li> <li>(c) Book transfers of product within a terminal between suppliers, out-of-state suppliers, or position holders before completion of the removal of the fuel across the terminal rack;</li> <li>(d) Two-party exchanges between licensed suppliers and out-of- state suppliers or position holders;</li> </ul>
<b>Transmix</b>	the buffer between two different products in a pipeline shipment, or a mix of two different products within a refinery or terminal that results in an off-grade mixture;
<b>Transporter Or Carrier</b>	any person who engages in the activity of interstate or intrastate movement of fuel within this state by transport truck, rail car, or by any other means in quantities of over four thousand two hundred gallons. The term does not include persons who transport fuel by pipeline or barge. The name of the transporter or carrier shall be identified and prominently displayed on the bill of lading;
<b>Transport Truck</b>	a vehicle, combination of vehicles, or railcar designed to transport motor fuel or special fuel in bulk, in lots greater than four thousand two hundred gallons;
<b>Two-Party Exchange</b>	a transaction in which a product is transferred from one supplier or out-of- state supplier or position holder to another in exchange for other product, sometimes located at a different location, if: <ul style="list-style-type: none"> <li>(a) The transaction includes a transfer from the person who holds the original inventory position for motor fuel or special fuel in the terminal as indicated in the records of the terminal operator; and</li> <li>(b) The exchange transaction is completed before removal from the terminal by the receiving exchange partner. The bill of lading issued by the terminal operator shall indicate the receiving exchange partner as the supplier or shipper;</li> </ul>
<b>Wholesale Distributor</b>	any person who purchases motor fuel or special fuel from a supplier or another wholesale distributor or removes the fuel from a terminal at the rack, for subsequent sale to another wholesale distributor or retail dealer.

## Appendix C – EPath Tax Returns and Schedules

All licensees that are required to file returns with the Department are also required to file [Uniform Schedules of Receipts](#), and/or [Uniform Schedules of Disbursements](#), or EPath Schedules. These schedules must identify each transaction that takes place during a reporting period.

### **Uniform Schedule of Receipts**

The Uniform Schedule of Receipts is used to show fuel products that are imported into the state for sales, use, or storage. The only Schedule Types that are to be entered on this form are Schedule Type 1a, for gallons imported on a tax-paid basis and Schedule Type 2a, for gallons imported on a tax-unpaid basis.

### ***Uniform Schedule of Disbursements***

The Uniform Schedule of Disbursements is used to show fuel products that are pulled from a South Dakota terminal or bulk plant for sale in state or for export from the state. There are many Schedule Types that are identified on this form.

### ***EPath***

Epath section – update to: South Dakota requires all motor fuel returns be filed electronically using their online filing system, EPath. The system allows licensees to file tax returns and schedules, to amend previously filed tax returns and schedules (see conditions in each license section, to set up electronic fund transfers (EFTs)) and to cancel fuel tax licenses.

You can log on to the EPPath program at <https://apps.sd.gov/rv23epath/login.aspx> to file your returns and schedules. EPPath Schedule Instructions:

Enter the following information on the EPPath Schedule for each transaction that occurred during the reporting period.

1. Column 1 - Enter the Schedule Type
2. Column 2 - Enter the Carrier Name
3. Column 3 - Enter the Carrier FEIN #
4. Column 4 – Enter Mode
5. Column 5 - Enter the Point of Origin
  - The Point of Origin only needs the two-digit state abbreviation listed (SD, MN, AL, etc.)
6. Column 6 - Enter the Point of Destination for the fuel
  - The Point of Destination only needs the two-digit state abbreviation listed (SD, MN, AL, etc.)
7. Column 7 - Enter the Company or individuals name the fuel was sold to or purchased from
8. Column 8 – Enter Purchaser's or Seller's FEIN
9. Column 9- Enter the date the fuel was received or loaded by you (BOL Date)
10. Column 10- Enter the Manifest (BOL) Number
11. Column 11- Enter the Gross Gallons
12. Column 12- Enter the Product Type

## Product Types

All fuel that is sold, imported, or exported is to be reported using the Product Codes listed below:

054	Propane
061	Natural Gasoline
065	Gasoline
072	Kerosene (Dye added)
073	Kerosene Low Sulfur (Dye added)
074	Kerosene High Sulfur (Dye added)
092	Other- Undefined Products
123	Alcohol
125	Aviation Gasoline (AVGAS)
130	Jet Fuel
142	Kerosene (Undyed-Clear)
145	Kerosene Low Sulfur (Undyed- Clear)
147	Kerosene High Sulfur (Undyed-Clear)
160	Diesel Fuel (Undyed)
170	Clear Biodiesel Blend
171	Dyed Biodiesel Blend
224	Compressed Natural Gas
228	Dyed Diesel Fuel
243	Methanol
284	Clear Biodiesel
290	Dyed Biodiesel

## Mode of Delivery

The mode of delivery must also be listed using the types listed below:

B	Barge
J	Truck
PL	Pipeline
R	Railcar

Key:	Supplier	Importer/Exporter	Ethanol Producer	Ethanol Broker	LPG Vendor
<b>Biodiesel Producer </b>					
<b>Schedule 1A</b>	<ul style="list-style-type: none"> <li>Gallons received, SD state tax paid</li> <li>Gallons of fuel imported by means other than a pipeline into SD</li> <li>Gallons of fuel imported that were purchased from a licensed SD Supplier at an out of state terminal with SD taxes paid</li> </ul>	<ul style="list-style-type: none"> <li>Gallons received, SD tax unpaid.</li> <li>Gallons of fuel imported by means other than a pipeline into SD</li> <li>Gallons of fuel imported that were purchased from a licensed SD Supplier at an out of state terminal with SD taxes paid</li> </ul>			
<b>Schedule 2C</b>	<ul style="list-style-type: none"> <li>Gallons received imported, SD motor fuel tax unpaid diversion</li> <li>Gallons pulled from a SD pipeline with an original destination outside SD but then diverted back into SD</li> </ul>	<ul style="list-style-type: none"> <li>Gallons delivered with tax collected gallons withdrawn from pipeline(s) located within SD</li> <li>Gallons of fuel pulled from a pipeline in SD or purchased from a licensed SD Supplier at an out of state terminal, with SD taxes paid which were directed to a state other than SD</li> <li>Gallons withdrawn from pipeline(s) outside SD with a SD destination on the bill-of-lading</li> <li>Gallons of 100% ethyl alcohol and methyl alcohol that was previously taxed</li> </ul>			
<b>Schedule 6D</b>					
<b>Schedule 8</b>					
<b>Schedule 2</b>	<ul style="list-style-type: none"> <li>Gallons received from terminals, refineries, or distributors, SD motor fuel tax unpaid</li> <li>Gallons of fuel imported by means other than a pipeline into South Dakota</li> </ul>	<ul style="list-style-type: none"> <li>Gallons received from terminals, refineries, or distributors, SD motor fuel tax unpaid</li> <li>Gallons of fuel imported by means other than a pipeline into South Dakota</li> </ul>			
<b>Schedule 5</b>	<ul style="list-style-type: none"> <li>Gallons delivered with tax collected gallons withdrawn from pipeline(s) located within SD</li> <li>Gallons of fuel pulled from a pipeline in SD or purchased from a licensed SD Supplier at an out of state terminal, with SD taxes paid which were directed to a state other than SD</li> <li>Gallons withdrawn from pipeline(s) outside SD with a SD destination on the bill-of-lading</li> <li>Gallons of 100% ethyl alcohol and methyl alcohol that was previously taxed</li> </ul>	<ul style="list-style-type: none"> <li>Gallons sold exempt of taxes because customer is a licensed exporter</li> <li>The following situations apply: <ul style="list-style-type: none"> <li>Gallons withdrawn from pipeline(s) located in SD and sold to licensed Exporters for an out of state destination</li> <li>Gallons of 100% ethyl alcohol and 100% methyl alcohol previously taxed</li> </ul> </li> </ul>			
<b>Schedule 6E</b>					
<b>Schedule 10</b>					
<b>Schedule 2B</b>	<ul style="list-style-type: none"> <li>Gallons received SD motor fuel tax unpaid on stock that can be blended</li> <li>Gallons of dyed or undyed biodiesel purchased by a licensed Blender with tax unpaid</li> </ul>	<ul style="list-style-type: none"> <li>Gallons received SD motor fuel tax unpaid on stock that can be blended</li> <li>Gallons of dyed or undyed biodiesel purchased by a licensed Blender with tax unpaid</li> </ul>			
<b>Schedule 6B</b>	<ul style="list-style-type: none"> <li>Gallons sold exempt of taxes because customer is a licensed blender</li> </ul>	<ul style="list-style-type: none"> <li>Gallons sold exempt of taxes because customer is a licensed blender</li> </ul>			
<b>Schedule 7</b>					
<b>Schedule 10A</b>	<ul style="list-style-type: none"> <li>Gallons delivered to other tax exempt entities for agricultural non-highway</li> </ul>	<ul style="list-style-type: none"> <li>Gallons delivered to other tax exempt entities for agricultural non-highway</li> </ul>			
<b>Schedule 10G</b>	<ul style="list-style-type: none"> <li>Gallons sold to other tax exempt entities</li> </ul>	<ul style="list-style-type: none"> <li>Gallons sold to other tax exempt entities</li> </ul>			

## SD Motor Fuel Schedule Types