

On State Regulation of Manufacturing and Turnover of Biofuel

Unofficial translation

The Law of the Republic of Kazakhstan dated 15 November, 2010 № 351-IV.

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This Law regulates social relations arising in the sphere of manufacturing and turnover of biofuel.

Chapter 1. GENERAL PROVISIONS

Article 1. The basic definitions used in this Law

The following basic definitions shall be used in this Law:

1) biologically sourced raw materials - the biologically sourced products, including those, that break into biochemical elements and used for biofuel manufacturing;

2) biofuel - fuel produced from the biologically sourced raw materials;

3) turnover of biofuel - processes (stages) of selling (trading or delivery) biofuel, including coming-in (import) or coming-out (export) of biofuel, as well as related processes of spreading, marking, storage and transportation;

4) the authorised body in the field of turnover of biofuel - a state body that carries out administration in the field of state regulation of turnover of biofuel;

5) recycling of biofuel - processing treatment of biofuel that is worthless for intended use and of by-products of biofuel manufacturing into biofuel of program quality or other products ;

6) production of tobacco products - a set of technological processes that ensure the manufacture of tobacco products that comply with standardization documents;

7) manufacturing of biofuel - a set of operations on processing of raw materials that ensure the biofuel production;

8) a biofuel manufacturer - a legal entity that carries out manufacturing and turnover of biofuel in accordance with the legislation of the Republic of Kazakhstan;

9) the authorised body in the field of biofuel manufacturing - a state body that carries out administration in the field of state regulation of biofuel manufacturing;

10) bioethanol - dehydrated ethyl alcohol obtained from raw materials of biological origin , produced for compulsory blending with petroleum products or for use in the production of fuel components, octane enhancers, fuel additives, esters, and other types of biofuel, or for purposes of production of chemical and related industries;

11) dehydrated ethyl alcohol - ethyl alcohol that was subject to dehydration process, water share of which is no more than one percent;

12) denaturated bioethanol - dehydrated ethyl alcohol that was subject to process of mixing with chemical substances in order to give the properties prohibiting the use as food product or additives to food product;

13) a manufacture passport - a document on the duly form that reflects capacity indicators of a biofuel manufacturing plant, its basic characteristics, and that regulates the use of available equipment for compliance with the technological process of biofuel manufacturing;

14) food raw materials - a type of biologically sourced raw materials suitable for manufacturing of food products and biofuel;

15) an accompanying waybill for goods - a unified document required for registration of operations for the release and receipt of biofuels.

Footnote. Article 1 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day its first official publication); dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020); № 144-VII of 10.10.2022 (shall enter into force sixty calendar days after the date of its first official publication).

Article 2. Legislation of the Republic of Kazakhstan on state regulation of manufacturing and turnover of biofuel

1. The legislation of the Republic of Kazakhstan on state regulation of manufacturing and turnover of biofuel is based on the Constitution of the Republic of Kazakhstan and consists of this Law and other regulatory legal acts of the Republic of Kazakhstan.

2. If international treaty ratified by the Republic of Kazakhstan establishes the rules other than those provided by this Law, then the rules of international treaties shall be applied.

Chapter 2. STATE REGULATION AND SUPPORT OF MANUFACTURING AND TURNOVER OF BIOFUEL

Article 3. State regulation of manufacturing and turnover of biofuel

1. Production and turnover of biofuels shall be regulated by the authorised bodies in the field of production and turnover of biofuels and local executive bodies of oblasts, cities of national importance and the capital city.

Within the competence established by other laws, acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan, other public authorities shall regulate certain issues of production and (or) turnover of biofuels stipulated herein.

2. Main objectives of state regulation of manufacturing and turnover of biofuel shall be:

1) reduction of pollution emissions into atmosphere;

2) development of manufacturing and turnover of biofuel;

3) enforcement of legislation of the Republic of Kazakhstan on state regulation of manufacturing and turnover of biofuel.

3. State regulation of manufacturing and turnover of biofuel shall include:

1) defining the limiting volumes of manufacturing capacities on biofuel manufacturing;

2) state control in the field of manufacturing and turnover of biofuel;

3) fixing up quotas on food raw materials used for the further processing into biofuel in case of food safety hazard.

Footnote. Article 3 as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); № 144-VII of 10.10.2022 (shall be brought into force sixty calendar days after the date of its first official publication); № 223-VII of 19.04.2023 (shall become effective ten calendar days after the date of its first official publication).

Article 4.State support of manufacturing and turnover of biofuel

The state provides support to manufacturing and turnover of biofuel by financing researches on priority directions of development of the biofuel market in order to ensure development of the biofuel market.

Article 5.Competence of the Government of the Republic of Kazakhstan

Footnote. Article 5 is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 6.Competence of the authorised body in the field of biofuel manufacturing

The authorised body in the field of biofuel manufacturing shall:

1) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

1-1) develop and implement the state policy in the field of state regulation and support of biofuel production and turnover;

2) on equipment that meets the requirements established by standardization documents;

3) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

4) develop and approve the list of required information for approval of a manufacture passport;

5) is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 № 159-V (shall be enforced upon expiry of ten calendar days after its first official publication);

6) develop technical regulations;

7) is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication);

8) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

9) is excluded by the Law of the Republic of Kazakhstan dated 13.01.2014 № 159-V (shall be enforced upon expiry of ten calendar days after its first official publication)

10) is excluded by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication);

11) develop and approve the rules on application of control metering instruments that provide automated information transmission about the volumes of biofuel manufacturing;

12) develop and approve the procedure for establishing quotas for food raw materials used for subsequent processing into biofuel in case of a threat to food security;

13) is excluded by the Law of the Republic of Kazakhstan dated 29.12.2014 № 269-V (shall be enforced from 01.01.2015);

13-1) determine the limit volumes of production capacities for production of biofuel;

13-2) approves the forms and procedure for submitting reports by biofuel producers to the local executive body of the region, city of republican significance and the capital, necessary to monitor biofuel production;

13-3) is excluded by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

14) carry out the other powers provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and Government of the Republic of Kazakhstan.

Footnote. Article 6 as amended by the Laws of the Republic of Kazakhstan dated 06.01.2011 № 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 13.01.2014 № 159-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.12.2014 № 269-V (shall be enforced from 01.01.2015)); dated 05.10.2018 № 184-VI (shall be enforced upon expiry of six months after the day of its first official publication); dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); № 223-VII of 19.04.2023 (shall be put into effect ten calendar days after the date of its first official publication).

Article 7. Competence of the authorised body in the field of turnover of biofuel

The authorised body in the field of turnover of biofuel shall:

1) implement a state policy in the field of state regulation of turnover of biofuel within its competence;

2) develop and approve within its competence the regulatory legal acts in the field of state regulation of turnover of biofuel;

3) carry out an in-house audit of turnover of biofuel;

4) develop and approve the form, procedure and deadlines for submission of declarations on turnover of biofuel;

5) develop and approve the form of notifications;

6) carry out a state control in the field of turnover of biofuel;

7) excluded by the Law of the Republic of Kazakhstan dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020);

8) is excluded by the Law of the Republic of Kazakhstan dated 29.12.2014 № 269-V (shall be enforced from 01.01.2015);

9) carry out the other powers provided by this Law, other Laws of the Republic of Kazakhstan, acts of the President of the Republic of Kazakhstan and Government of the Republic of Kazakhstan.

Footnote. Article 7 as amended by the Laws of the Republic of Kazakhstan dated 06.01.2011 № 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 26.12.2012 № 61-V (shall be enforced from 01.01.2013); dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.12.2014 № 269-V (shall be enforced from 01.01.2015); dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020).

Article 7-1. Competence of local executive authorities of regions, cities of republican significance and capital

The local executive authority of region, city of republican significance and capital shall:

1) implement state policy for state regulation for production of biofuel within its competence;

2) exercise state control for production of biofuel;

3) is excluded by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication);

4) monitor the production of biofuels;

5) make proposals to the authorized agency for production of biofuel to determine the limit volumes of production capacities for production of biofuel.

Footnote. Chapter 2 is supplemented by Article 7-1 in accordance with the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 8. Organisation of biofuel manufacturing

Footnote. Is excluded by the Law of the Republic of Kazakhstan dated 10.07.2012 № 36-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 9. Conditions of manufacturing and turnover of biofuel

1. Biofuel manufacturing shall be carried out:

1) if there is a production passport and controlling metering devices ensuring automated transfer of information on biofuel production volumes to the competent authority in the field of biofuel production, to the local executive body of the region, city of national importance and the capital;

2) in the biofuel manufacturing plant that is owned by biofuel manufacturer as property or having other property rights.

2. The sale of biofuels must be carried out with the issuance of shipping invoices for goods.

3. Transportation of biofuel is allowed if there are accompanying waybills for goods along the entire route.

4. Biofuel shall be stored in premises belonging to biofuel producers and producers of petroleum products containing biofuel, producers of products of chemical and related industries by virtue of ownership or other proprietary right.

Footnote. Article 9 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020); № 144-VII of 10.10.2022 (shall be promulgated sixty calendar days after the date of its first official publication).

Article 10. Rights and obligations of a biofuel manufacturer and manufacturer of oil products with biofuel content

1. A biofuel manufacturer and manufacturer of oil products with biofuel content shall have the right to:

- 1) sell the manufactured products in his discretion, including for export;
- 2) receive a state support aimed at development of the biofuel market;
- 3) have the other rights in accordance with the Laws of the Republic of Kazakhstan.

2. A biofuel manufacturer shall:

1) to submit to the local executive body of the region, the city of republican significance and the capital the reports necessary to monitor biofuel production;

2) to ensure the confirmation of the compliance of each batch of produced biofuel with the requirements established in accordance with the legislation of the Republic of Kazakhstan in the field of technical regulation;

3) to utilize (destroy) biofuel in case of its non-compliance with the composition;

4) submit declarations on turnover of biofuel to the authorised body in the field of turnover of biofuel in accordance with a form, procedure and deadlines established by the authorised body in the field of turnover of biofuel;

5) draw up and submit to the authorized body in the field of biofuel turnover accompanying invoices for goods in the manner prescribed by the Code of the Republic of Kazakhstan "On taxes and other obligatory payments to the budget" (Tax Code);

6) comply with general safety requirements related to biofuel and processes of its life cycle, established by Chapter 3 of this Law;

7) develop and approve a manufacture passport according to the procedure provided for by the authorised body in the field of biofuel manufacturing;

8) conduct repair and reclamation work in accordance with the deadlines specified in a manufacture passport;

9) install control metering devices ensuring the automated transfer of information on biofuel production volumes to the competent authority in the field of biofuel production, the local executive body of the region, the city of national importance and the capital according to the procedure established by the competent authority in the field of biofuel production.

3. According to the procedure, on form and within deadlines established by the authorised body in the field of turnover of biofuel, a manufacturer of oil product with biofuel content shall:

1) submit declarations on turnover of biofuel;

2) draw up and submit accompanying waybills for goods in the circulation of biofuels .

Footnote. Article 10 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020); № 144-VII of 10.10.2022 (shall come into effect sixty calendar days after the date of its first official publication).

Article 11. Restrictions in the field of manufacturing and turnover of biofuel

1. During manufacturing and turnover of biofuel it shall be prohibited:

1) to use food raw materials for the further processing into biofuel in the volume that exceed the quota established by the authorized agency for production of biofuel;

2) to use a grain of the 1 and 2 class as food raw materials;

3) to sell biofuels that do not correspond to the composition;

4) to circulate the undenatured bioethanol, except for the cases of its delivery to a biofuel plant or oil refinery for delivery to an enterprise for production of fuel components, octane-enhancing additives, fuel additives, ethers or for processing into other types of biofuel;

5) to conduct and carry out turnover of alcoholic products;

6) to receive for processing raw materials that are the genetically modified source (object) or contain genetically modified sources (objects) without scientifically grounded confirmation of their safety and their state registration;

7) to carry out biofuel manufacturing by two or more biofuel manufacturers at the same biofuel manufacturing plant;

8) to carry out biofuel manufacturing without manufacture passport, control metering instruments of the volumes of biofuel manufacturing or during their malfunctions;

9) to sell biofuels to persons who do not produce biofuels and/or compound petroleum products and (or) manufacture chemical and related products, excluding the export of biofuels with the relevant documents, if not provided otherwise herein;

10) to sell the biofuel produced for storage to non-biofuel market participants and producers of chemical and related industries excluding the export of biofuel provided the relevant documents are available;

11) to sell biofuels without issuing accompanying consignment notes.

2. Persons not engaged in the production of biofuels and/or the compounding of petroleum products and/or the production of chemical and related products shall be prohibited from storing biofuels, except for the export of biofuels provided that the relevant documents are available.

Footnote. Article 11 as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication); dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020); № 144-VII of 10.10.2022 (shall become effective sixty calendar days after the date of its first official publication).

Chapter 3. GENERAL SAFETY REQUIREMENTS TO BIOFUEL AND PROCESSES OF ITS LIFE CYCLE

Article 12. The subject matter of technical regulation

Biofuel and processes of its life cycle shall be subject matter of technical regulation.

Article 13. Confirmation of biofuel conformity

Confirmation of the compliance of biofuels with the requirements established by the legislation of the Republic of Kazakhstan in the field of technical regulation is carried out in the manner prescribed by the legislation of the Republic of Kazakhstan.

Footnote. Article 13 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 14. Requirements to information on a safety and quality of biofuel

Biofuel manufacturers shall according to the procedure provided for by the legislation of the Republic of Kazakhstan provide full and accurate information on indicators of safety and quality of biofuel to customers and consumers, in order to prevent the action that mislead consumers in respect of safety and quality of biofuel.

Article 15. Safety requirements for biofuels and processes of its life cycle

Biofuel and the processes of its life cycle must be safe for human life and health and environmental protection, meet the requirements established by the legislation of the Republic of Kazakhstan in the field of technical regulation.

Footnote. Article 15 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 16. Safety requirements during storage of biofuel

1. Storage of biofuel shall be carried out in specially intended storage facilities that meet the safety requirements in accordance with the legislation of the Republic of Kazakhstan.

2. Safety requirements for storage of biofuel, depending on the risks, are established in accordance with the legislation of the Republic of Kazakhstan in the field of technical regulation.

Footnote. Article 16 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Article 17. Safety requirements during transport of biofuel

1. Transport of biofuel shall be allowed by specially equipped transport, eligible for transportation according to requirements applicable to transportation of hazardous materials, and rules for technical maintenance.

2. Documents related to transport of biofuel shall comply with requirements, established by the legislation of the Republic of Kazakhstan for transportation of hazardous materials, for each type of transport.

3. Transport of biofuel shall provide safety, quality and security of biofuel.

Article 18. Safety requirements during recycling and destruction of biofuel

Biofuel, recognized as unsuitable for the intended use based on the results of laboratory research, is subject to examination for its further use or destruction (disposal) in accordance with the legislation of the Republic of Kazakhstan in the field of technical regulation.

Footnote. Article 18 as amended by the Law of the Republic of Kazakhstan dated 28.10.2019 № 268-VI (shall be enforced upon expiry of ten calendar days after the day of its first official publication).

Chapter 4. STATE CONTROL IN THE FIELD OF MANUFACTURING AND TURNOVER OF BIOFUEL

Article 19. State control in the field of manufacturing and turnover of biofuel

1. State control in the field of production and circulation of biofuels is carried out in the form of an unscheduled inspection, preventive control with a visit to the subject (object) of control in accordance with the Entrepreneurial Code of the Republic of Kazakhstan.

2. In-house audit shall be also carried out in the field of manufacturing and turnover of biofuel.

Footnote. Article 19 as amended by the Law of the Republic of Kazakhstan dated 06.01.2011 № 378-IV (shall be enforced upon expiry of ten calendar days after its first official publication); dated 29.10.2015 № 376-V (shall be enforced from 01.01.2016); dated 24.05.2018 № 156-VI (shall be enforced upon expiry of ten calendar days after its first official publication); dated 06.04.2024 № 71-VIII (shall be enforced upon expiration of sixty calendar days after the day of its first official publication).

Article 20. In-house audit for production of biofuel

In-house audit for production of biofuel shall be carried out by the local executive authority of region, city of republican significance and capital on the basis of the survey and analysis of departmental reports, reporting, criteria for assessing risk degree, testimony of control devices provided by biofuel producers.

Footnote. Article 20 is in the wording of the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication).

Article 21. In-house audit in the field of turnover of biofuel

In-house control in the field of biofuel circulation is carried out by the authorized body in the field of biofuel circulation on the basis of the study and analysis of declarations on the circulation of biofuels, accompanying invoices for goods submitted by participants in the biofuel market.

Footnote. Article 21 as amended by the Law of the Republic of Kazakhstan dated 05.01.2021 № 407-VI (shall be enforced from 01.01.2020).

Article 22. The procedure for conducting in-house audit in the field of manufacturing and turnover of biofuel

1. Should a breach be detected (the biofuel market participant fails to submit the documents referred to in Articles 20 and 21 hereof, or a breach is detected when examining and analysing them), the local executive body of the region, the city of national importance and the capital, the biofuel circulation authority shall, within five working days from the detection of the breach, serve the biofuel market participant with a notice.

2. A notice forwarded by post by registered letter with notification or in electronic form via electronic communication channel, providing guaranteed delivery of communications, shall be recognised as delivered from the date of receipt of reply by post or other communication organisations or upon expiry of five business days from the date of forwarding a notice in electronic form.

Fulfillment of a notice on remedy of defaults that were discovered according to results of in-house audit, shall be carried out within thirty calendar days from the date of its delivery (receipt).

Footnote. Article 22 as amended by the Law of the Republic of Kazakhstan dated 29.09.2014 № 239-V (shall be enforced upon expiry of ten calendar days after its first official publication); № 144-VII of 10.10.2022 (shall be put into force sixty calendar days after the date of its first official publication).

Chapter 5. FINAL PROVISIONS

Article 23. Liability for violation of the legislation of the Republic of Kazakhstan on state regulation of manufacturing and turnover of biofuel

The violation of legislation of the Republic of Kazakhstan on state regulation of manufacturing and turnover of biofuel shall entail a liability established by the Laws of the Republic of Kazakhstan.

Article 24. The order of the entry into force of this Law

This Law shall enter into force upon expiry of ten calendar days from the date of its first official publication.

*The President
of the Republic of Kazakhstan*

N. Nazarbayev