



**DEPARTMENT OF AGRICULTURE
STATE OF NEW MEXICO**

**MSC 3189, Box 30005
Las Cruces, New Mexico 88003-8005
Telephone (575) 646-3007**


MICHELLE LUJAN GRISHAM
Governor

JEFF M. WITTE
Secretary

June 14, 2021

MEMORANDUM

TO: Petroleum Refiners, Marketers, and Biodiesel Suppliers

FROM: Jeff M. Witte, Secretary of Agriculture 

SUBJECT: Temporary Suspension of New Mexico's Biodiesel Mandate

In accordance with Section 57-19-28, paragraph C NMSA 1978 and in consultation with the secretary of the Energy, Minerals and Natural Resources Department and pursuant to regular, periodic monitoring of biodiesel supplies and price differentials, New Mexico Department of Agriculture (NMDA) has issued a "Temporary Suspension of New Mexico's Biodiesel Mandate."

Section 57-19-29, paragraph C of the Petroleum Products Standards Act will be suspended for a period of six months effective June 16, 2021, through December 15, 2021.

The concurrence letter from Secretary Cottrell Propst with Energy, Minerals and Natural Resources Department is attached which details the justification for the suspension.

If you have any questions or need additional information, please contact Mrs. Roxanne Chepsongol, Assistant Division Director for Standards and Consumer Services Division, at (575) 646-1616.

Attachment: Secretary Cottrell Propst Letter, May 21st, 2021.



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Secretary

May 21, 2021

The Honorable Sarah Cottrell Propst
Secretary
Energy, Minerals and Natural Resources
1220 South St. Francis Drive
Santa Fe, NM 87505

RE: Biodiesel Mandate

Dear Secretary Cottrell Propst:

In accordance with the Petroleum Products Standards Act:

57-19-28. Duties of the board; authority of the director

*C. If in consultation with the secretary of energy, minerals and natural resources and pursuant to regular, periodic monitoring, **the director determines that sufficient amounts of biodiesel are not available to meet the requirements of Section 57-19-29 NMSA 1978 or that the price of the biodiesel blend significantly exceeds the price of diesel fuel for at least two months, the director shall suspend those requirements for a period of up to six months.***

57-19-29. Quality standards

C. On or after July 1, 2012, all diesel fuel sold to consumers for use in motor vehicles on the streets and highways of this state shall contain five percent biodiesel, except that this standard may be temporarily suspended by the director in accordance with Section 57-19-28 NMSA 1978.

Availability and pricing have been evaluated, and the following information has been compiled:

Diesel sold in the New Mexico Market:

In 2017 New Mexico sold 524,820,613¹ qualifying gallons of diesel for a monthly average of 43,735,051. In

¹ Qualifying gallons are calculated by New Mexico Tax and Revenue Department on reported special fuel sales (New Mexico Terminals 2A plus Import schedule 3 minus Export schedule 7 minus US Government schedule 8

2018 the qualifying gallons sold were 560,826,143 for a monthly average of 46,735,512. In 2019 the qualifying gallons sold were 596,943,473 for a monthly average of 49,745,289. In 2020 the qualifying gallons sold were 628,439,086 for a monthly average of 52,369,924. Based on the information provided for the past six months (October 2020 – March 2021), the qualifying gallons sold were 322,838,087 for a monthly average of 53,806,348. New Mexico terminals supplied 57 percent of the diesel sold to the state and 43 percent of the diesel sold to the state was imported. These numbers have been trending the same for the last several years. (Attachment 1).

Biodiesel Sold in the New Mexico Market:

A breakdown of biodiesel sold by category (B100, B99, B02, B05, B20, and 170) was provided by the New Mexico Tax and Revenue Department (NMTRD). For categories B100, B99, B02, B05, and B20, NMTRD was able to calculate the biodiesel sold from reported data.

Under Category 170, NMTRD was unable to determine a biodiesel sales number as this reporting line could be a combination of B02, B05, or B20. To address the omission of data, through a statistical analysis using historical sampling data, New Mexico Department of Agriculture calculated a distribution of product by percentage for Category 170.

Biodiesel gallons sold in the New Mexico market were derived from NMTRD reporting biodiesel data plus the statistical distribution of Category 170. The cumulative monthly totals of biodiesel sold, plus the required biodiesel gallons necessary to fulfill the mandate, are as follows:

2017- 2020 CFT Biodiesel Report		
Year	Biodiesel Gallons Reported	Biodiesel Gallons Required
2017	14,904,347	26,091,704
2018	16,508,941	27,812,896
2019	17,448,535	29,847,169
2020	17,182,532	31,421,954
2020-2021 CFT Biodiesel Report		
Month	Biodiesel Gallons Reported	Biodiesel Gallons Required
October	1,816,507	2,881,623
November	823,458	2,694,506
December	942,500	2,523,103
January	1,799,816	2,587,814
February	1,794,371	2,395,405
March	2,061,703	3,059,454

(Attachment 2)

*Currently there are no active biodiesel producers in New Mexico; however, HollyFrontier’s renewable diesel plant, located in Artesia, is scheduled for completion the first quarter of 2022.

Supporting Information:

- Identified supply points and their ability to blend biodiesel
- Contracts
- Splash blending
- Availability and price differentials (Attachment 3)
- *Federal Register* / Vol. 83, No. 219/ Tuesday, November 13, 2018, notices (Attachment 4)

Price differentials were sourced from:

- Federal EPA RIN pricing (Attachment 5)
- United States Department of Energy (DOE) – Clean Cities Alternative Fuel Price Report (Attachment 6)
- HollyFrontier – Biodiesel, RIN, and ULSD price quotes from OPIS for 2018-2021 (Attachment 7).

Industry feedback on availability and pricing provided by:

- HollyFrontier Corporation
- Exxon Mobil Corporation
- Marathon Petroleum Corporation
- Chevron Products Company

(Attachment 7)

There were no comments received from the biodiesel industry.

Recommendation:

Based on the following impeding issues:

1. Infrastructure at 30 percent of distribution points lack the ability to blend on an annual basis. Of the remaining distribution points, 25 percent can only blend during warm months.
2. Based on discussions with the petroleum industry (Exxon Mobil, Marathon, Chevron, and HollyFrontier) to build infrastructure would require 24 to 30 months to accomplish; however, there is not an economic incentive to undergo the construction.
3. Implementation of the mandate without infrastructure would cause availability issues in the state, driving up costs to the end consumer and making New Mexico a drive-through state for the trucking industry, removing the tax base from the New Mexico economy.
4. The inability to deliver biodiesel via the pipeline requires that it be delivered via truck or rail infusing additional transportation costs as a result of the mandate.
5. The economics to blend biodiesel are not supported in part due to diminished RIN values and the loss of the federal tax credit for 2018/ 2019. Even though the biodiesel blender's credit was reinstated through December 31, 2022, there are still ongoing challenges with tariffs and international trade disputes.
6. Current reporting from NMTRD indicates the average monthly (October 2020 – March 2021) supply of biodiesel into the state is 1,539,726 gallons or 43 percent short on a monthly basis in order to fulfill the requirement of the mandate.

The Honorable Sarah Cottrell Propst

Page 4

May 21, 2021

It is my recommendation that implementation of the biodiesel mandate be suspended until there is sufficient infrastructure to support the mandate and OPIS pricing and DOE reports supporting implementation. Factors that need to be addressed would be infrastructure necessary to deliver biodiesel into the New Mexico market and pricing reports generated by DOE showing that price differentials do not exist which impede implementation. As such, the suspension should remain in place based on reviews completed in six-month intervals. I request your concurrence in issuing a temporary suspension of the biodiesel mandate as spelled out in Section 57-19-28 of the Petroleum Products Standards Act effective June 16, 2021, through December 15, 2021.

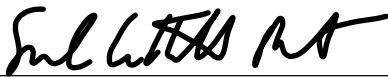
Sincerely,



Jeff M. Witte

JMW/rmc/ya

Attachments: Seven



Secretary Sarah Cottrell Propst
Energy, Minerals and Natural Resources

I concur in issuing a temporary suspension effective June 16, 2021, of the biodiesel mandate as spelled out in Section 57-19-28 of the Petroleum Products Standards Act.