



**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

December 8, 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 four months effective December 16, 2021, through April 15, 2022.

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, Division Director for Standards and Consumer Services Division, at (575) 646-1616.

Attachment: Secretary Cottrell Propst Letter, December 1, 2021.



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December 1, 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 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. In 2021 the qualifying gallons sold through

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

September were 499,551,409 for a monthly average of 55,505,712. Based on the information provided for 2021 New Mexico terminals supplied 43 percent of the diesel sold to the state and 57 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
2021 (Jan-Sept.)	10,853,439	24,977,570
2021 CFT Biodiesel Report		
Month	Biodiesel Gallons Reported	Biodiesel Gallons Required
January	1,799,816	2,587,814
February	1,794,371	2,395,405
March	2,061,703	3,059,454
April	1,193,974	2,842,020
May	749,234	2,763,669
June	830,193	2,643,252
July	771,312	2,813,982
August	870,123	3,052,054
September	782,713	2,819,921

(Attachment 2)

*Currently there are no active biodiesel producers in New Mexico.

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
- Renewable Energy Group

(Attachment 7)

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. Current reporting from NMTRD indicates the average monthly (January 2021- September 2021) supply of biodiesel into the state is 1,205,938 gallons (57 percent short) on a monthly basis in order to fulfill the requirement of the mandate that all diesel fuel on a per gallon basis shall contain five percent biodiesel.

Currently there is no biodiesel production in New Mexico. The lack of production in the state will need to be

The Honorable Sarah Cottrell Propst

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addressed in order to meet the requirements of the mandate going forward. Pricing and RIN related issues are no longer an impediment to the implementation of the mandate based on the most recent OPIS and United States Department of Energy data. At the current production and availability level and with the desire of the State to ensure adequate supply on hand to meet the requirements of the mandate, it is my recommendation that a limited wavier of 4 months be granted until April 15th, 2022. This time period will allow industry to review production and develop market strategies and supply to meet the implementation of the mandate following this limited wavier.

Sincerely,



Jeff M. Witte

JMW/rmc

Attachments: Seven



Secretary Sarah Cottrell Propst
Energy, Minerals and Natural Resources

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