



## States' Biofuels Statutes

### STATE OF NEW MEXICO

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#).*

*Current through the 2013 Legislative Session of the New Mexico General Assembly.*

#### **§ 7-9-79.2. Gross receipts tax; compensating tax; biodiesel blending facility tax credit**

A. A taxpayer who is a rack operator as defined in the Special Fuels Supplier Tax Act and who installs biodiesel blending equipment in property owned by the taxpayer for the purpose of establishing or expanding a facility to produce blended biodiesel fuel is eligible to claim a credit against gross receipts tax or compensating tax. The credit shall be an amount equal to thirty percent of the purchase cost of the equipment plus thirty percent of the cost of installing that equipment. The credit provided by this section may be referred to as the "biodiesel blending facility tax credit".

B. The biodiesel blending facility tax credit shall not exceed fifty thousand dollars (\$50,000) with respect to equipment installed at any one facility.

C. Upon application from a taxpayer wishing to claim the biodiesel blending facility tax credit, the energy, minerals and natural resources department shall determine if the equipment for which the tax credit will be claimed meets the requirements of this section and if purchase and installation costs reported by the taxpayer are legitimate. Upon these determinations being made in favor of the taxpayer, the energy, minerals and natural resources department shall issue a dated certificate of eligibility containing this information and an estimate of the amount of the biodiesel blending facility tax credit for which the taxpayer is eligible.

D. To claim the biodiesel blending facility tax credit, the taxpayer shall provide to the taxation and revenue department the certificate of eligibility from the energy, minerals and natural resources department. Upon receipt of the certificate, the taxation and revenue department shall approve the claim for the credit if the total cumulative amount of approved claims for the credit for all taxpayers for the calendar year does not exceed one million dollars (\$1,000,000). The department shall maintain a record of the cumulative amount of claims for the credit that have been approved and when it determines that this cumulative amount has reached one million dollars (\$1,000,000), it shall cease approving any additional claims for the biodiesel blending facility tax credit.

E. If a taxpayer who has received the biodiesel blending facility tax credit ceases biodiesel blending

without completing at least one hundred eighty days of availability of the facility within the first three hundred sixty-five days after the issuance of the certificate of eligibility from the energy, minerals and natural resources department, any amount of approved credit not applied against the taxpayer's gross receipts tax or compensating tax liability shall be extinguished. The taxpayer must amend the taxpayer's return, self-assess the tax owed and return any biodiesel blending facility tax credit received within four hundred twenty-five days of the date of issuance of the certificate of eligibility.

F. The tax credit provided by this section may only be applied against the taxpayer's gross receipts tax liability or compensating tax liability. If the credit exceeds the taxpayer's tax liability in the reporting period for which it is granted, the credit may be carried forward for four years from the date of the certificate of eligibility.

G. For the purposes of this section:

- (1) "biodiesel" means renewable, biodegradable, monoalkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American society for testing and materials D 6751 standard specification for biodiesel B100 blend stock for distillate fuels;
- (2) "biodiesel blending equipment" means equipment necessary for the process of blending biodiesel with diesel fuel to produce blended biodiesel fuel;
- (3) "blended biodiesel fuel" means a diesel fuel that contains at least two percent biodiesel; and
- (4) "diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle.

**Credits:** Added by L. 2007, Ch. 204, § 9, eff. July 1, 2007.