

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 492

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

AN ACT

RELATING TO PETROLEUM PRODUCTS; AGGREGATING THE TIME PERIOD  
WHEN REQUIRED PERCENTAGES OF BIODIESEL FUEL SHALL BE USED;  
CHANGING THE REQUIRED PERCENTAGES OF BIODIESEL FUEL; PROVIDING  
FOR THE REPORTING OF BIODIESEL FUEL SALES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 57-19-28 NMSA 1978 (being Laws 1993,  
Chapter 98, Section 4, as amended) is amended to read:

"57-19-28. DUTIES OF THE BOARD--AUTHORITY OF THE  
DIRECTOR.--

A. The board is responsible for the administration  
and enforcement of the provisions of the Petroleum Products  
Standards Act. The board shall adopt rules and regulations  
necessary to administer and enforce the provisions of that act.  
The board shall provide public notice and allow public comment

.214458.2

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1 on all proposed rules and regulations.

2 B. The director shall have the authority to:

3 (1) inspect, investigate, analyze and take  
4 appropriate actions to administer and enforce the provisions of  
5 the Petroleum Products Standards Act;

6 (2) enter any commercial premises from which  
7 petroleum products are offered for sale during normal business  
8 hours. If the premises are not open to the public, the  
9 director shall present the director's credentials and enter  
10 only with consent from the commercial entity. If no consent is  
11 given, the director shall obtain a search warrant;

12 (3) collect or cause to be collected samples  
13 of petroleum products offered for sale and cause such samples  
14 to be tested or analyzed to determine if they are in compliance  
15 with the provisions of the Petroleum Products Standards Act and  
16 regulations adopted pursuant to that act;

17 (4) issue and enforce stop-sale, hold and  
18 removal orders with respect to a petroleum product kept,  
19 offered or exposed for sale in violation of the provisions of  
20 the Petroleum Products Standards Act and regulations adopted  
21 pursuant to that act;

22 (5) require distributors and retailers to  
23 retain records pertaining to petroleum product purchases and  
24 sales for a period of not ~~[more than one year]~~ less than two  
25 years;

.214458.2

1                   (6) maintain and operate a petroleum product  
2 testing laboratory to ensure that all petroleum products  
3 offered for sale in New Mexico meet standards prescribed in the  
4 Petroleum Products Standards Act and regulations adopted  
5 pursuant to that act;

6                   (7) issue and enforce stop-use orders for  
7 measuring equipment or vehicle tanks that are used commercially  
8 and that do not conform to the provisions of the Petroleum  
9 Products Standards Act and regulations adopted pursuant to that  
10 act; and

11                   (8) delegate to authorized representatives any  
12 of the responsibilities for the proper administration of the  
13 Petroleum Products Standards Act.

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

23                   D. If the director, in agreement with the secretary  
24 of energy, minerals and natural resources, determines that  
25 biodiesel plants permitted by the state of New Mexico by

.214458.2

1 January 1, 2022 do not have the capacity to produce twelve  
2 million gallons of biodiesel fuel per year, the director may  
3 suspend the requirements of Section 57-19-29 NMSA 1978 until  
4 such production capacity is demonstrated."

5 SECTION 2. Section 57-19-29 NMSA 1978 (being Laws 1993,  
6 Chapter 98, Section 5, as amended) is amended to read:

7 "57-19-29. QUALITY STANDARDS.--

8 A. Unless modified by regulation of the board, the  
9 quality standards, tests and methods of conducting analyses on  
10 petroleum products manufactured, kept, stored, sold or offered  
11 for sale in New Mexico shall be those last adopted and  
12 published by the American society for testing and materials or  
13 the society of automotive engineers and shall be used to  
14 determine compliance with the Petroleum Products Standards Act  
15 and regulations adopted pursuant to that act. In the absence  
16 of a petroleum product quality standard, test or method from  
17 the American society for testing and materials or the society  
18 of automotive engineers, the board may adopt a regulation that  
19 establishes a quality standard, test or method to conduct  
20 analyses on petroleum products.

21 B. [~~After July 1, 2010 and before July 1, 2012~~] All  
22 diesel fuel sold to state agencies, political subdivisions of  
23 the state and public schools for use in motor vehicles on the  
24 streets and highways of this state shall contain [~~five percent~~  
25 ~~biodiesel~~] yearly, on an aggregate basis, at least three

1 percent biodiesel fuel beginning January 1, 2020; at least four  
2 percent biodiesel fuel beginning January 1, 2021; and at least  
3 five percent biodiesel fuel beginning January 1, 2022, except  
4 that this standard may be temporarily suspended by the director  
5 in accordance with Section 57-19-28 NMSA 1978.

6 C. ~~[On or after July 1, 2012]~~ All diesel fuel sold  
7 to consumers for use in motor vehicles on the streets and  
8 highways of this state shall contain ~~[five percent biodiesel]~~  
9 yearly, on an aggregate basis, at least three percent biodiesel  
10 fuel beginning January 1, 2020; at least four percent biodiesel  
11 fuel beginning January 1, 2021; and at least five percent  
12 biodiesel fuel beginning January 1, 2022, except that this  
13 standard may be temporarily suspended by the director in  
14 accordance with Section 57-19-28 NMSA 1978.

15 D. Rack operators and special fuel suppliers  
16 subject to taxation pursuant to the Special Fuels Supplier Tax  
17 Act shall:

18 (1) provide annually to the department the  
19 amounts of diesel fuel and biodiesel fuel that have been  
20 supplied during that year; and

21 (2) provide the information described in  
22 Paragraph (1) of this subsection in accordance with rules  
23 promulgated by the department on a form designed and provided  
24 by the department, which form shall include a sworn statement  
25 under penalty of perjury that the information contained on the

.214458.2

1 form is complete and accurate.

2 E. In accordance with rules promulgated by the  
3 department, information provided pursuant to Subsection D of  
4 this section shall be aggregated for the prior calendar year  
5 and made available to the governor and legislature by no later  
6 than the twenty-fifth day of March each calendar year."

7 **SECTION 3. EFFECTIVE DATE.**--The effective date of the  
8 provisions of this act is January 1, 2020.

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