

State of New Mexico - Taxation and Revenue Department
**BIODIESEL BLENDING FACILITY TAX CREDIT APPROVAL REQUEST FORM
INSTRUCTIONS**

ABOUT THIS CREDIT: A rack operator as defined in the Special Fuels Supplier Tax Act (see *Important Definitions* below) who installs biodiesel blending equipment owned by the rack operator 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 rack operator must be registered with the New Mexico Taxation and Revenue Department (TRD) and filing Form RPD-41307, *Rack Operator Report*. The rack operator must obtain a dated certificate of eligibility from the Energy, Minerals and Natural Resources Department (EMNRD) to apply for this credit. The credit is equal to 30% of the purchase cost of the equipment plus 30% of the cost of installing that equipment. The credit cannot exceed \$50,000 with respect to equipment installed at any one facility. The credit may only be applied against the taxpayer's gross receipts tax liability or compensating tax liability. If the credit exceeds the taxpayer's gross receipts and compensating 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.

To qualify for the credit, a taxpayer must first apply to EMNRD who shall determine if the equipment for which the tax credit will be claimed meets the requirements and if purchase and installation costs reported by the taxpayer are legitimate. If approved EMNRD will issue a dated certificate of eligibility containing an estimate of the amount of the biodiesel blending facility tax credit for which the taxpayer is eligible.

Upon receipt of the certificate of eligibility, the taxpayer submits to TRD a completed Form RPD-41339, *Biodiesel Blending Facility Tax Approval Request Form*, and the certificate of eligibility received from EMNRD. Request for credit approval are reviewed for approval in the order of receipt. After TRD approves the credit the taxpayer may begin to claim the credit. TRD may not approve biodiesel blending facility tax credits if the total cumulative amount of claims for the credit for all taxpayers for the calendar year exceeds \$1,000,000. Requests for credit approval that exceed the maximum allowed in a calendar year may be considered for approval in the next calendar year.

RECAPTURE MAY BE REQUIRED: If a rack operator who has claimed biodiesel blending facility tax credit against gross receipts tax or compensating tax due ceases biodiesel blending without completing at least 180 days of availability of the facility within the first 365 days after the issuance of a certificate of eligibility from EMNRD, the taxpayer must notify TRD that they are no longer eligible for the approved credit and that the liabilities for the reports to which the credit had been applied are now due. TRD will extinguish any amount of the approved credit not applied against the taxpayer's gross receipts tax or compensating tax liability and assess the taxpayer for the tax owed. The taxpayer must pay the assessments within 425 days of the date of issuance of the certificate of eligibility. The taxpayer may still qualify for subsequent biodiesel blending facility tax credits.

IMPORTANT DEFINITIONS

"Rack operator" means the operator of a refinery in this state, any person who blends special fuel in this state or the owner of special fuel stored at a pipeline terminal in this state.

"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.

"Biodiesel blending equipment" means equipment necessary for the process of blending biodiesel with diesel fuel to produce blended biodiesel fuel.

"Blended biodiesel fuel" means a diesel fuel that contains at least 2% biodiesel.

"Diesel fuel" means any diesel-engine fuel used for the generation of power to propel a motor vehicle.

HOW TO APPLY FOR THIS CREDIT: Upon receipt of the certificate of eligibility from EMNRD, submit this completed Form RPD-41339, *Biodiesel Blending Facility Tax Credit Approval Request Form*, a copy of the certificate of eligibility from EMNRD, and a copy of the invoice(s) for the certified equipment and installation costs. After approval is received from TRD, use Form RPD-41321, *Biodiesel Blending Facility Tax Credit Claim Form*, to claim the credit against gross receipts and compensating tax due.

How to complete this form: Complete the name and address block of the eligible rack operator. Complete Section I. Sign and date the approval request. Mail to the Taxation and Revenue Department, Special Fuels Tax, P.O. Box 25123, Santa Fe, New Mexico 87504-25123.