

# **State of Rhode Island - Division of Taxation**

## **Biodiesel Fuel**

### **Regulation MF 09-08**

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**RULE 1. PURPOSE**

These rules and regulations implement Chapter 31-36 of the Rhode General Laws. This Section defines manufactured biodiesel fuel. These rules govern the interpretation and application of motor fuel tax as it applies to biodiesel fuel.

**RULE 2. AUTHORITY**

These rules and regulations are promulgated pursuant to RIGL §44-1-4 and RIGL §31-36-22 as amended. The rules and regulations have been prepared in accordance with the requirements of RIGL §§42-35-1 et. seq. (Rhode Island Administrative Procedures Act).

**RULE 3. APPLICATION**

These rules and regulations shall be liberally construed so as to permit the Division of Taxation to effectuate the purpose of Chapter §31-36 and other applicable state laws and regulations.

**RULE 4. SEVERABILITY**

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

## **RULE 5. DEFINITIONS**

"Fuels" includes gasoline and other volatile and inflammable liquids (other than lubricating oils, diesel fuel for the propulsion of marine craft, fuels used for the propulsion of airplanes, oils used for heating purposes, and manufactured biodiesel fuels as defined below) used or suitable for use for operating or propelling motor vehicles with internal combustion engines. This term does not include benzol and naphtha sold or used for a purpose other than for the operation or propulsion of motor vehicles. Any article or product represented as gasoline for use in internal combustion type engines, used in motor vehicles, shall be equal to or better in quality and specification than that known as "United States government motor gasoline".

"Manufactured biodiesel fuel" means (i) mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats which conform to ASTM D6751 specifications for use in diesel engines, (ii) that results in employment in Rhode Island at a fixed location at a manufacturing facility for biodiesel fuel; and (iii) any volume of biodiesel fuel that is subsequently blended with other fuels and is used for heating purposes or for operating or propelling motor vehicles.

"Manufacturing facility" is a factory at a fixed location in Rhode Island primarily engaged in the manufacturing of biodiesel fuel.

"Processing" means a series of actions or occurrences or a continuous operation, whereby a result or effect is produced.

## **RULE 6. GENERAL**

Biodiesel fuel refers to pure fuel that has not been blended with petroleum diesel fuel. Biodiesel fuels that are processed and blended with petroleum fuels are denoted as "BXX" with "XX" representing the percentage of biodiesel contained in the blend (ex: B20 is 20% biodiesel and 80% petroleum diesel).

Biodiesel fuel that is processed and then blended with other fuels and meets the definition of manufactured biodiesel fuel in Rule 5 is exempt from motor fuel tax; however, to qualify for the exemption, the biodiesel fuel must be produced at a manufacturing facility in Rhode Island and sold as blended product B99 (blended so manufacturer can receive federal blending credit). A biodiesel manufacturer must receive as a raw material mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats and process these raw materials so they conform to ASTM D6751 specifications for use in diesel engines. The mere blending of biodiesel with petroleum diesel does not meet the manufacturing requirement.

If a manufacturer of biodiesel fuel does not meet either (i) the specifications in accordance with ASTM D6751 or, (ii) does not result in employment in Rhode Island at a fixed location at a manufacturing facility for biodiesel fuel, the product is not considered "manufactured biodiesel fuel" and would be subject to the motor fuel tax.

Motor fuel tax is due on the sale of fuels as defined in Rule 5 and RIGL 31-36-1 (4). It is noted that to the extent biodiesel is blended into any fuel, only the biodiesel portion of the fuel shall be exempt from taxation under chapter 31-36.

Manufacturers must apply for a permit to sell biodiesel fuel that is exempt from the motor fuel tax by submitting a Biodiesel Permit Application to the Rhode Island Division of Taxation. A qualifying manufacturer will be issued a certificate with a permit number and will be required to file a monthly Biodiesel Manufacturing Tax Report on a form prescribed by the Tax Administrator. When filing the monthly Biodiesel Manufacturing Tax Report, a biodiesel fuel manufacturer is required to attach the most current certification from a certified biodiesel testing laboratory verifying that the product meets the ASTM D6751 specifications.

## **RULE 7. EXAMPLES**

Only the biodiesel percentage of the blend with petroleum diesel is exempt from motor fuel tax.

### **Example 1**

A licensed distributor blends 200 gallons of biodiesel fuel (which is exempt from motor fuel tax) with 800 gallons of petroleum diesel (subject to motor fuel tax). The tax on this blended product is calculated as follows:

200 gallons of biodiesel / 1,000 total gallons (200 + 800) = 20% (B20)

1,000 gallons x .80 (80% is the taxable percentage of a B20 blend) = 800 gallons X .32 ( the current motor fuel tax rate).

### **Example 2**

A licensed distributor blends 200 gallons of **B20** (only 20% of this blend is biodiesel fuel and is exempt from motor fuel tax) with 800 gallons of petroleum diesel (which is subject to motor fuel tax). The tax on the blended product is calculated as follows:

200 gallons of B20 = 40 gallons (200 x .20 = 40) which is exempt from the motor fuel tax.

160 gallons of this blend of product is petroleum diesel and subject to motor fuel tax

800 gallons of petroleum diesel fuel to be blended with the B20 blend above is subject to motor fuel tax (160 gallons + 800 gallons = 960 gallons subject to motor fuel tax).

40 gallons biodiesel / 1,000 total gallons = B4

1,000 gallons x .96 (96% is the taxable percentage of a B4 blend) = 960 gallons X .32 (the current motor fuel tax rate).

**RULE 8. EFFECTIVE DATE:** This Regulation shall take effect January 1, 2010

**DAVID SULLIVAN  
TAX ADMINISTRATOR**