

CHAPTER 8125
DEPARTMENT OF REVENUE
PETROLEUM TAXES
TAXATION; INSPECTION; PETROLEUM PRODUCTS

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8125.0200 TERMINAL RECORDS AND REPORTS.

Subpart 1. **Terminal defined.** As used herein, the word "terminal" shall mean a facility for storage of petroleum products which have not theretofore been received in this state by a licensed distributor.

Subp. 2. **Records and terminal reports.** All operators of terminals in this state shall keep a true and accurate record of all petroleum products delivered into and withdrawn from their terminal. A terminal report on a form approved by the commissioner shall be filed for each month showing receipts, disbursements, and inventories.

Subp. 3. **Manifests to be furnished.** A manifest or a bill of lading shall be issued for each withdrawal from a terminal in this state at the time of such withdrawal. Manifests or bills of lading shall show the following information: state tax number, date shipped, name of carrier, origin (point of loading), name of supplier, name and address of distributor who will report and pay the tax (consignee), destination, kind of product, and number of gallons. The state tax number may be the manifest or bill of lading number if designated as the state tax number. The required information contained in the manifest or bill of lading shall be filed with the commissioner either as a legible duplicate copy of each manifest or bill of lading, or in any other format approved by the commissioner. The commissioner will approve alternative formats provided they contain the required information and are presented in an organized and readable manner.

No petroleum product shall be loaded into a tank car, the cargo tank of a tank truck, or a truck transport at any terminal located outside the state for shipment to a Minnesota destination unless the distributor who will report and pay the tax (consignee) shall require that a manifest or bill of lading be issued showing the following information: state tax number, date shipped, name of carrier, origin (point of loading), name of supplier, name and address of consignee, destination, kind of product, and number of gallons. The state tax number may be the manifest or bill of lading number if designated as the state tax number. The required information contained in the manifest or bill of lading shall be filed with the commissioner either as a legible duplicate copy of each manifest or bill of lading, or in any other format approved by the commissioner. The commissioner will approve alternative formats provided they contain the required information and are presented in an organized and readable manner.

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351*

8125.0300 TRANSPORT REQUIREMENTS.

Subpart 1. **Truck transports.** Any unit operated on the public highways of this state which is used to transport petroleum products shall be deemed to be a truck transport if the cargo tank has a capacity of 2,100 gallons or more.

Subp. 2. [Repealed, 17 SR 351]

Subp. 3. [Repealed, 17 SR 351]

Subp. 4. [Repealed, 17 SR 351]

Subp. 5. **Diversions to be reported.** Any supplier or transporter of petroleum products who diverts a shipment to any other destination than that which is listed on the manifest shall

notify the commissioner within a reasonable time, setting forth the manifest number (state tax number), date, kind of product, number of gallons, the consignee to whom the shipment has been diverted, and the final destination.

Subp. 6. [Repealed, 17 SR 351]

Subp. 7. **Manifest to be carried.** Operators of tank trucks or truck transports transporting petroleum products in this state on which the gasoline tax has not been assumed shall carry proof of ownership of such material (bill of lading, manifest, invoice, or other identification).

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351*

8125.0400 DISTRIBUTOR RECORDS.

Subpart 1. **Records to be kept.** Licensed distributors shall keep a true and accurate record of all purchases, transfers, sales, and use of petroleum products. A record shall be kept showing the following information for each receipt of petroleum products: manifest number (state tax number), point of origin, from whom received, kind of product, gallons received, and date unloaded. A daily record shall be kept of the totals of all sales of each petroleum product.

Subp. 2. **Sales invoices.** A sales invoice shall be made for each bulk sale of petroleum products at the time of the sale, regardless of gallonage. All sales invoices issued for bulk sales shall be machine-numbered serially with numbers of at least three digits, and shall show the following: name and address of distributor printed or rubber-stamped upon the invoice, date of sale, name and address of the purchaser, kind of product, price per gallon, number of gallons, and rate and amount of tax if any. The words "bulk sale," as used in this part, shall mean any sale of a petroleum product dispensed into a fixed or portable storage tank. When issued for the purpose of securing refunds or credits of the Minnesota gasoline tax, the invoices shall, in addition to the aforementioned requirements, be prepared at least in duplicate, and one copy shall be given to the purchaser.

When issued for other than bulk sales and for the purpose of securing refunds or credits of the Minnesota gasoline tax, the invoices or receipts shall show the names and locations of the seller and purchaser, date of purchase, number of gallons, total price, and type of equipment in which the fuel is to be consumed.

When issued for deliveries made into another state, invoices shall be issued in the same manner with a separate set of numbers.

Subp. 3. **Inventories.** A physical inventory shall be taken at the end of each month of all petroleum products and a record kept of the quantity in each tank, tank capacity, tank number if any, and kind of product.

Subp. 4. **Records to be retained.** Copies of all manifests, bills of lading, invoices, delivery tickets, and tax returns required to be filed pursuant to Minnesota Statutes, chapter 296, as well as all other records relating to the purchase, transfer, sales, and use of petroleum products and special fuel, shall be retained for a period of four years.

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351*

8125.0410 DISTRIBUTOR'S LICENSES.

Subpart 1. **Exemption from depositing securities or filing a bond.** The commissioner will determine which distributor license applicants are financially responsible and, as a result, qualify for the statutory exemption from depositing securities or filing a bond, by taking into consideration all relevant factors. Those factors include the following:

A. whether the applicant's financial statement reflects that the applicant's current assets are at least equal to its current liabilities and that the applicant's net worth is at least three times its average quarterly motor fuel tax liability;

B. whether the applicant has failed to file or has been delinquent in filing any motor fuel tax returns;

C. whether the applicant has ever failed to pay its motor fuel tax liability, paid it late, or paid with a check that was later returned by the bank unpaid; and

D. any other evidence of the financial responsibility of the applicant.

Subp. 2. **Seizure.** The seizure authorized by Minnesota Statutes, section 296.165, will be performed by the commissioner of revenue or authorized designee in cases where there is an intent to evade the tax imposed by Minnesota Statutes, chapter 296. Intent to evade the tax will be presumed if the manifest either does not list a shipper or lists a shipper not a licensed distributor under Minnesota Statutes, chapter 296, and the consignee is not listed or is not a licensed distributor under Minnesota Statutes, chapter 296.

Statutory Authority: *MS s 270.06*

History: *17 SR 351*

8125.0500 DISTRIBUTOR AND DEALER CREDITS AND REFUNDS.

Subpart 1. **Distributor credits, how allowed.** The credits under Minnesota Statutes, section 296.14, subdivision 2, shall be allowed as follows:

A. under clause (1), credit shall be taken prior to computing the allowance for evaporation and loss;

B. under clause (2), credit on sales made directly from terminals shall be taken prior to computing the allowance for evaporation and loss; credit on all other sales shall be taken after computing the allowance for evaporation and loss;

C. under clause (3), credit shall be taken prior to computing the allowance for evaporation and loss;

D. under clauses (4) and (5), credit shall be taken only when supported by a credit memorandum issued by the commissioner. Such credit memorandum will reflect the adjustment for the allowance for evaporation and loss;

E. under clause (6), credit shall be taken after computing the allowance for evaporation and loss.

Subp. 2. **Unusual losses.** A written notice of any unusual loss of gasoline or special fuel by a distributor or dealer while in possession, including gasoline or special fuel destroyed by accident, shall be given to the commissioner within 30 days after the discovery of the loss in order to qualify for credit or refund of tax paid, and, in addition, all claims of a distributor or dealer for refund or credit of gasoline or special fuel tax paid as a result of such unusual loss shall be filed with the commissioner within 90 days after the discovery of such loss.

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351; 17 SR 1279*

8125.0600 DEALER RECORDS.

Subpart 1. **Records to be kept.** Dealers shall keep a true and accurate record of all purchases and sales of petroleum products. Purchase records shall show the kind of product, from whom purchased, number of gallons, and date unloaded. A daily record shall be kept of the total of all sales of each petroleum product.

Subp. 2. **Sales invoices.** When issued for the purpose of securing refunds or credits of the Minnesota gasoline tax, sales invoices representing bulk sales shall be machine-numbered serially with numbers of at least three digits, and shall show the following: name and address of the dealer printed or rubber-stamped upon the invoice, date of sale, name and address of the purchaser, kind of product, price per gallon, number of gallons, and rate and amount of tax. They shall be prepared at least in duplicate and one copy shall be given to the purchaser. The words "bulk sale," as used in this part, shall mean any sale of a petroleum product dispensed into a fixed or portable storage tank.

When issued for other than bulk sales and for the purpose of securing refunds or credits of the Minnesota gasoline tax, the invoices or receipts shall show the names and locations of the seller and purchaser, date of purchase, number of gallons, total price, and type of equipment in which the fuel is to be consumed.

When issued for the purpose of securing a refund or credit of the Minnesota gasoline tax, a separate invoice shall be issued for each sale, at time of sale, regardless of gallonage.

Invoices issued to operators of portable feed mills, corn shellers, and other portable units for gasoline serviced to the unit tank, shall show separately the number of gallons, if any, serviced to the vehicle supply tank.

Subp. 3. [Repealed, 17 SR 351]

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351*

8125.0700 SPECIAL FUEL REQUIREMENTS.

Subpart 1. [Repealed, 17 SR 351]

Subp. 2. **Sales invoices.** Sales invoices issued for sales of special fuel made by a distributor or a special fuel dealer shall bear the name and address of the purchaser, date of sale, type of product, number of gallons, price per gallon, and total amount of sale. Sales invoices shall have the name and address of the distributor or special fuel dealer making the sale printed or rubber-stamped thereon and shall be machine-numbered serially with numbers of at least three digits and issued in sequence. A separate sales invoice book shall be maintained for special fuel sales, and one copy of each such sales invoice shall be retained in the special fuel sales invoice book, unless otherwise authorized by the commissioner. Sales invoices issued for fuel other than for use as special fuel shall show the kind of fuel, type of equipment in which the fuel is to be consumed, and the name and address of the purchaser.

Subp. 3. **Meter readings and inventories.** Distributors, special fuel dealers, and bulk purchasers shall at the end of each month take and record:

A. through a mechanical accumulating meter in working order, meter readings on each pump through which special fuel is dispensed; and

B. physical inventories of special fuel showing quantity in each tank, tank capacity, and kind of product.

Subp. 4. **Users' records and reports.** All users of special fuel shall keep a true and accurate record of all purchases, sales, transfers, and use of special fuel and shall retain all such records for a period of four years.

Subp. 5. [Repealed, 17 SR 351]

Subp. 6. [Repealed, 17 SR 351]

Subp. 7. **Records to be retained.** Copies of all manifests, bills of lading, invoices, sales and delivery tickets, tax returns required to be filed pursuant to Minnesota Statutes, chapter 296, as well as all other records relating to the purchase, transfer, sales, and use of special fuel, shall be retained for a period of four years.

Subp. 8. **Changes in storage capacity or location.** Distributors, special fuel dealers, and bulk purchasers shall report to the commissioner in writing within seven days any change in storage capacity or location of special fuel facilities.

Subp. 9. [Repealed, 17 SR 351]

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351*

8125.0800 [Repealed, 17 SR 351]

8125.0900 MIXTURES OF PRODUCTS.

All mixtures of petroleum products which occur at bulk stations, service stations, or in tank trucks and truck transports resulting in a product that does not meet state of Minnesota specifications shall be reported to the commissioner promptly, setting forth the date and the number of gallons of each petroleum product mixed. Such mixtures of petroleum products shall not be moved or disposed of until authorization is given by the commissioner.

Statutory Authority: *MS s 296.27*

8125.1000 IDENTIFICATION OF PUMPS AND CONTAINERS.

Service pumps and containers located at service stations and other outlets used for dispensing fuel oil and special fuel to the consumer shall be painted green or a color approved by the commissioner and shall be identified as to the product.

Statutory Authority: *MS s 296.27*

8125.1100 OWNERSHIP CHANGES.

Licensed distributors, special fuel dealers, and bulk purchasers shall immediately report in writing to the commissioner all changes of ownership or storage facilities.

Statutory Authority: *MS s 296.27*

8125.1200 RECORDS KEPT ACCESSIBLE.

The books and records of all persons buying and selling petroleum products or special fuel, or using special fuel, and of all carriers of petroleum products shall be made accessible to the commissioner at Saint Paul or at any other location satisfactory to the commissioner.

Statutory Authority: *MS s 296.27*

8125.1300 REFUNDS AND CREDITS.

Subpart 1. Ethanol development fund. When the total claims made by producers of ethanol or wet alcohol under Minnesota Statutes, section 41A.09, subdivision 3, in any quarter exceed the remaining money allowed to be paid from the fund for that fiscal year or biennium, the commissioner shall reduce all claims proportionately. Each claimant shall receive a portion of the available money based on the percentage that the claimant's allowable claims in the quarter bears to all allowable claims in the quarter. Allowable claims do not include any portion of a claim which, if paid, would allow the claimant total payments in excess of the maximum annual payments allowable to a claimant in a fiscal year.

Claims for payment may be made only for ethanol or wet alcohol produced during the three calendar months preceding the month the claim is required to be filed. No payments will be made for claims filed after the due date.

Once the total amount of money appropriated to the fund for a fiscal year or biennium has been paid, no further payments will be made in that fiscal year or biennium. Unpaid claims may not be carried forward to a future year.

Subp. 2. Public transit systems. The exemption from the gasoline excise tax for gasoline purchased by a transit system in Minnesota Statutes, section 296.02, subdivision 1a, applies only to gasoline purchased by a transit system which is actually used by the transit system for purposes necessary in carrying out its responsibility to provide public transportation as defined in Minnesota Statutes, sections 174.24 and 473.384. Gasoline that is used for purposes that are not necessary in carrying out the transit system's responsibility to provide public transportation is not exempt from taxation.

Subp. 3. Gasoline used in aircraft. Refunds for gasoline, other than aviation gasoline, purchased and used to produce or generate power for propelling aircraft shall be issued only to those claimants who have received approval to use such gasoline from the Federal Aviation Administration as evidenced by a supplemental type certificate.

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351*

8125.1400 ROAD TAX.

Subpart 1. [Repealed, 17 SR 351]

Subp. 2. Vehicles exempted from road tax. The following vehicles are exempted from the road tax law:

A. all trucks having a gross weight of 26,000 pounds or less;

B. all motor vehicles having three or more axles on which is permanently mounted a corn sheller, feed grinder, back hoe, crane, well-drilling machine, or other similar equipment and the use of which on the public highways of this state is only for transporting the special equipment to and from the site of operation.

Subp. 3. [Repealed, 17 SR 351]

Subp. 4. Reports of motor carriers and payment of tax. All reports must be accompanied by a remittance for the full amount of the tax shown to be due on the report. If no travel takes place in Minnesota during any quarter, a report must be filed, with the word "None" written in the appropriate column on line 4 of the return. The person who is responsible for the payment of the motor fuel used in the vehicle is liable for the filing of the report whether the vehicle is owned or leased.

Subp. 5. Annual return. If a motor carrier has a road tax liability of less than \$1,000 in a base year, the motor carrier, for the qualifying year, may elect to file an annual return and make an annual payment of the tax due, and is thereafter relieved from filing quarterly returns and making quarterly payments under Minnesota Statutes, section 296.17, subdivision 1.1. The annual return and payment are due on or before the last day of January of the calendar

year following the calendar year the road tax liability accrued. The Department of Revenue, applying the criteria of this subpart, will annually determine which motor carriers are eligible to file an annual return and notify those motor carriers who qualify. Motor carriers who have not filed all road tax returns and paid all road tax due for the base year are not eligible to file an annual return. Only those motor carriers so notified by the Department of Revenue are eligible to elect to file an annual return. At the time of notification, eligible motor carriers may still elect to file returns and make payments quarterly. Motor carriers who make an election are required to make all returns and payments required by Minnesota Statutes, section 296.17, in the calendar year for which the election was made, and are subject to all applicable penalties. Motor carriers who elect to file annually may file refund claims annually, but not quarterly.

"Base year" means the most recent period of four consecutive quarters for which the Department of Revenue has compiled data on all motor carriers road tax for that period. The first base year is the four-consecutive quarter period beginning October 1990 and ending September 1991.

"Qualifying year" means the calendar year for which the Department of Revenue notifies the motor carrier that it is eligible to file an annual return. The first qualifying year is the 1992 calendar year.

Subp. 6. Records and invoices. An accurate record must be kept by all motor carriers of the following:

- A. the miles traveled within and without Minnesota;
- B. the miles traveled in Minnesota;
- C. the number of gallons of fuel used in the entire operation within and without Minnesota; and
- D. the number of gallons of retail and bulk fuel purchased in Minnesota.

Subp. 7. Substantiation. To substantiate the purchases of fuel in Minnesota, the original invoices or receipts must show the following:

- A. date of purchase;
- B. name and location of seller printed thereon;
- C. name and address of purchaser;
- D. kind of product;
- E. number of gallons;
- F. price per gallon;
- G. total sales price.

Subp. 8. [Repealed, 17 SR 351]

Subp. 9. Surrender of motor carrier license. When the motor carrier shall voluntarily or involuntarily sell, dispose of, or discontinue business, the motor carrier shall immediately notify the commissioner in writing and shall within ten days surrender the motor carrier license together with all copies of such license.

Subp. 10. Enforcement powers. The officers of the Minnesota highway patrol shall assist the commissioner of revenue in the enforcement of the provisions of the road tax act. Prosecution for violation of the road tax act may be commenced in the county in which the violation occurred or in Ramsey County.

Statutory Authority: *MS s 270.06; 296.27*

History: *17 SR 351; 17 SR 1279*