

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operators of terminals in this state shall keep a true and accurate record of all petroleum products delivered into and withdrawn from their terminal.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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; L 2005 c 151 art 1 s 114*

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]

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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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; L 2005 c 151 art 1 s 114*

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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; L 2005 c 151 art 1 s 114*

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,

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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 296A.24, 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 296A. 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 296A, and the consignee is not listed or is not a licensed distributor under Minnesota Statutes, chapter 296A.

Statutory Authority: *MS s 270.06; 270C.06*

History: *17 SR 351; L 2005 c 151 art 1 s 114*

8125.0500 DISTRIBUTOR AND DEALER CREDITS AND REFUNDS.

Subpart 1. **Distributor credits, how allowed.** The credits under Minnesota Statutes, section 296A.16, subdivision 1, 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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; 17 SR 1279; L 2005 c 151 art 1 s 114*

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.

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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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; L 2005 c 151 art 1 s 114*

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 296A, 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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; L 2005 c 151 art 1 s 114*

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 270C.06; 296.27; 296A.02*

History: *L 2005 c 151 art 1 s 114*

8125.1000 [Repealed, L 2003 c 127 art 7 s 15]

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 270C.06; 296.27; 296A.02*

History: *L 2005 c 151 art 1 s 114*

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 270C.06; 296.27; 296A.02*

History: *L 2005 c 151 art 1 s 114*

8125.1300 REFUNDS AND CREDITS.

Subpart 1. [Repealed, L 2003 c 127 art 7 s 15]

Subp. 2. **Public transit systems.** The exemption from the gasoline excise tax for gasoline purchased by a transit system in Minnesota Statutes, section 296A.07, subdivision 4, 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; 270C.06; 296.27; 296A.02*

History: *17 SR 351; L 2003 c 127 art 7 s 15; L 2005 c 151 art 1 s 114*

8125.1301 REFUNDS FOR POWER TAKE-OFF UNITS OR AUXILIARY ENGINES.

Subpart 1. **General rule.** A person who purchases and uses any gasoline or special fuel, on which the Minnesota gasoline or special fuel tax has been paid, for the operation

of a power take-off unit (PTO) or auxiliary engine fueled from the same supply tank as the highway vehicle, may obtain a refund of the tax paid on the fuel consumed by the PTO, as calculated under subpart 4 or 5. The taxpayer must file a claim for refund as outlined in subpart 2. Refunds may not be obtained for fuel consumed during idling time.

Subp. 2. **Claim for refund.** All claims for refund must be submitted on a form PDR-1 or other form as prescribed by the commissioner. Claims must be filed within one year of the date of purchase of the fuel; however, if a claimant chooses to file on an annual basis, whether calendar year or fiscal year, the claim must be received by the commissioner within 60 days of the end of the claimant's accounting year. Claims may be filed as often as monthly. All refund requests must have attached an original sales ticket, bulk fuel invoice, or a signed dealer affidavit. Claimants must maintain records as prescribed under subpart 3.

Subp. 3. **Records to be maintained.** The claimant must maintain the following records:

A. The original sales ticket must have a preprinted number, the dealer's name and address, date, number of gallons, type of fuel, price per gallon, a description of the vehicle in which the fuel was placed, the purchaser's (customer's) name and address, the dollar amount of the sale, and the rate of tax or a statement that Minnesota tax is included in the price.

B. If bulk fuel is purchased, the customer must keep dispersal records that indicate the date of disbursement, the number of gallons withdrawn, and a description of the vehicle in which the fuel was delivered.

C. Fuel logs must be maintained and must be made available to the Department of Revenue upon demand.

D. In lieu of original sales tickets, the department will accept alternative records, including computer-generated listings or other electronically generated listings, as long as they clearly provide the necessary information.

Subp. 4. **Calculation of refund.** The percentages in this subpart are allowed for the refund of tax paid on gasoline or special fuel used in operating a PTO or auxiliary engine, when records as outlined in subpart 3 are maintained. The amounts are specified as a percentage of the total taxable fuel used by the vehicle; in other words, the fuel actually placed into the supply tank of the motor vehicle on which the PTO is attached. The refund will be equal to the tax actually paid on that percentage of the fuel.

The percentages are:

Concrete pumping truck	75%
Corn shellers	70%
Sewer cleaning or jet vactor	35%
Ready mixed concrete truck	30%
Sanitation and garbage trucks, including transfer trailers, rolloff trucks, recycling trucks, and container delivery trucks; septic pumps	25%
Self-loaders and chip hauling vans (timber or logging)	20%
Line truck with digger or aerial lift (utility trucks)	20%
Semi-wreckers	15%
Bulk feed truck	15%
Service truck with jack hammer, drill, or crane	15%

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Oil and water well service trucks (pump hoists and drill rigs)	15%
Dump trailer trucks and dump trucks	15%
Seeder trucks	15%
Tank trucks	15%
Tank transport	15%
Fertilizer spreaders or bulk fertilizer tender trucks	15%
Feed grinders	15%
Truck with hydraulic winch	15%
Carpet cleaning van	10%
Wreckers	10%
Hot asphalt distribution trucks	10%
Car carrier with hydraulic winch	10%
All other qualifying vehicles	10%

Subp. 5. **Optional means of calculating refund; information needed for refund claim.** A claimant may choose to forego taking the straight percentage under subpart 4 if accurate records and sufficient documentation are provided to the commissioner to substantiate the refund claim.

A. A claim for refund may include alternative information provided from a hubometer (hub meter) or similar device that accurately measures the road use mileage of a vehicle. This information is needed in order to separate the road miles from the PTO miles. The information provided must be sufficient to determine the actual number of miles for which the PTO is engaged while the vehicle is stationary. The refund will then be based on the actual amount of fuel used to run the PTO. This provision is only applicable if the claimant chooses not to take the straight percentage available under subpart 4, and if the claimant provides the commissioner with the documentation needed to substantiate the claim.

B. A claimant with a vehicle that contains an on-board computer, which enables the claimant to produce accurate printouts containing detailed information regarding the amount of fuel used to propel the PTO, may submit those printouts to the commissioner with a refund claim. In such a case, the applicable general percentage under subpart 4 will not be used and the computer information shall be used by the commissioner to independently calculate the refund.

C. A claimant may use an alternative method, other than those listed in item A or B, to calculate the refund, provided that the claimant furnishes the commissioner with the proposed formula to be used, or other manner of substantiation, and receives written prior approval from the commissioner to use the alternate method.

Subp. 6. **Insufficient information or documentation.** If the commissioner determines that the optional information provided under subpart 5 is not sufficient, the applicable general percentage under subpart 4 shall be used to calculate the refund.

Statutory Authority: *MS s 270.06; 270C.06; 296.18; 296.27; 296A.02; 296A.16*

History: *22 SR 2156; L 2005 c 151 art 1 s 114*

8125.1400 Subpart 1. [Repealed, 17 SR 351; L 2003 c 127 art 7 s 15]

Subp. 2. [Repealed, L 2003 c 127 art 7 s 15]

Subp. 3. [Repealed, 17 SR 351; L 2003 c 127 art 7 s 15]

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- Subp. 4. [Repealed, L 2003 c 127 art 7 s 15]
- Subp. 5. [Repealed, L 2003 c 127 art 7 s 15]
- Subp. 6. [Repealed, L 2003 c 127 art 7 s 15]
- Subp. 7. [Repealed, L 2003 c 127 art 7 s 15]
- Subp. 8. [Repealed, 17 SR 351; L 2003 c 127 art 7 s 15]
- Subp. 9. [Repealed, L 2003 c 127 art 7 s 15]
- Subp. 10. [Repealed, L 2003 c 127 art 7 s 15]