

Weights and Measures

CHAPTER 239

WEIGHTS, MEASURES

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METRIC SYSTEM

239.001 CITATION.

Sections 239.001 to 239.003 may be cited as the "Metric Implementation and Standards Act."

History: 1974 c 474 s 1

239.002 PURPOSE AND POLICY.

In recognition of the facts that (1) only about one dozen countries in the world have not yet adopted or begun to implement the metric system of weights and measures; (2) the United States is one, and the only major industrialized nation, of that remaining number; (3) the secretary of commerce of the United States, pursuant to a two-year study under the Metric Study Act of 1968, has recommended that the United States now begin a deliberate change to the metric system; (4) economists and other students of international trade recognize the pressing necessity of such a change if this country is to maintain and improve its rightful place in the world trade community; and (5) as the continued economic growth of this state and its local industry is inextricably linked with the ability of the United States to hold and competitively serve foreign export markets, it is, therefore, declared to be in the best interest of the state of Minnesota and its citizens that this state now begin the gradual but deliberate implementation of the metric system of weights and measures.

History: 1974 c 474 s 2; 1986 c 444

239.003 IMPLEMENTATION RULES; COMMISSIONER OF ADMINISTRATION.

(a) The commissioner of administration shall have general supervisory authority over the implementation of the metric system in the state of Minnesota.

(b) The commissioner of administration shall promulgate such rules as may be necessary to plan for the gradual implementation in the commerce of this state the metric system of weights and measures. The rules promulgated by the commissioner of administration pursuant to this subdivision shall:

(1) provide for the full conversion of the commerce of this state to the metric system when this system has been fully adopted as national standards by the Congress of the United States; and

(2) insure that all state departments, divisions, agencies, boards and commissions having any authority and/or responsibility in matters concerning standards of weights and measurement in this state shall forthwith initiate planning for the gradual conversion to and implementation of the metric system of weights and measures in this state.

History: 1974 c 474 s 3; 1985 c 248 s 70

239.004 [Repealed, 1Sp2003 c 9 art 10 s 14]

WEIGHTS AND MEASURES DIVISION

239.01 WEIGHTS AND MEASURES DIVISION; JURISDICTION.

The Weights and Measures Division, referred to in this chapter as the division, is created under the jurisdiction of the Department of Commerce. The division has supervision and control over all weights, weighing devices, and measures in the state.

History: (5270) 1911 c 156 s 1; 1971 c 25 s 42,44; 1971 c 74 s 5; 1991 c 198 s 1; 1Sp2001 c 4 art 6 s 70

239.011 DIVISION RESPONSIBILITIES AND POWERS.

Subdivision 1. **Responsibilities.** The division shall:

(1) ensure that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate, and properly maintained by their owners or users;

(2) prevent unfair or deceptive dealing by weight or measure in a commodity or service advertised, packaged, sold, or purchased within the state;

(3) make the precision calibration and related metrological certification capabilities of the division available to users of physical standards or weighing and measuring equipment;

(4) promote uniformity, to the extent practicable and desirable, between the weights and measures requirements of Minnesota and those of other states and federal agencies; and

(5) adopt weights and measures requirements that will protect consumers, promote equity between buyers and sellers, and encourage desirable economic growth.

Subd. 2. **Duties and powers.** To carry out the responsibilities in section 239.01 and subdivision 1, the director:

(1) shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and keep a seal so formed as to impress, when appropriate, the letters "MINN" and the date of sealing upon the weights and measures that are sealed;

(2) has general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use in the state;

(3) shall maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology;

(4) shall enforce this chapter;

(5) shall grant variances from department rules, within the limits set by rule, when appropriate to maintain good commercial practices or when enforcement of the rules would cause undue hardship;

(6) shall conduct investigations to ensure compliance with this chapter;

(7) may delegate to division personnel the responsibilities, duties, and powers contained in this section;

(8) shall test annually, and approve when found to be correct, the standards of weights and measures used by the division, by a town, statutory or home rule charter city, or county within the state, or by a person using standards to repair, adjust, or calibrate commercial weights and measures;

(9) shall inspect and test weights and measures kept, offered, or exposed for sale;

(10) shall inspect and test, to ascertain if they are correct, weights and measures commercially used to:

(i) determine the weight, measure, or count of commodities or things sold, offered, or exposed for sale, on the basis of weight, measure, or count; and

(ii) compute the basic charge or payment for services rendered on the basis of weight, measure, or count;

(11) shall approve for use and mark weights and measures that are found to be correct;

(12) shall reject, and mark as rejected, weights and measures that are found to be incorrect and may seize them if those weights and measures:

(i) are not corrected within the time specified by the director;

(ii) are used or disposed of in a manner not specifically authorized by the director;

or

(iii) are found to be both incorrect and not capable of being made correct, in which case the director shall condemn those weights and measures;

(13) shall weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amount represented and whether they are kept, offered, or exposed for sale in accordance with this chapter and department rules. In carrying out this section, the director must employ recognized sampling procedures, such as those contained in National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

(14) shall prescribe the appropriate term or unit of weight or measure to be used for a specific commodity when an existing term or declaration of quantity does not facilitate value comparisons by consumers, or creates an opportunity for consumer confusion;

(15) shall allow reasonable variations from the stated quantity of contents, including variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice, only after the commodity has entered commerce within the state;

(16) shall inspect and test petroleum products in accordance with this chapter and chapter 296A;

(17) shall distribute and post notices for used motor oil and used motor oil filters and lead acid battery recycling in accordance with sections 239.54, 325E.11, and 325E.115;

(18) shall collect inspection fees in accordance with sections 239.10 and 239.101; and

(19) shall provide metrological services and support to businesses and individuals in the United States who wish to market products and services in the member nations of the European Economic Community, and other nations outside of the United States by:

(i) meeting, to the extent practicable, the measurement quality assurance standards described in the International Standards Organization ISO 9000, Guide 25;

(ii) maintaining, to the extent practicable, certification of the metrology laboratory by a governing body appointed by the European Economic Community; and

(iii) providing calibration and consultation services to metrology laboratories in government and private industry in the United States.

Subd. 3. **Liquefied petroleum gas.** (a) The annual testing and inspection requirements for liquefied petroleum gas-measuring equipment, as set forth in section 239.10, subdivision 3, shall be deemed to have been met by an owner or seller who has testing and inspection performed annually in compliance with this subdivision. The testing and inspection must meet the following requirements:

(1) all equipment subject to inspection and testing requirements must be inspected and tested annually;

(2) inspection testing must only be done by persons who have demonstrated to the director that they are competent to inspect and test liquefied petroleum gas-measuring equipment. Competency may be established by passage of a competency examination, which the director must establish, or by other recognized credentialing processes approved by the director. Persons taking tests established by the director may be charged for the costs of the testing procedure;

(3) testing and inspection procedures must comply with inspection protocol, which must be established by the director. The director may use existing protocol or recognize any other scientifically established and recognized protocol;

(4) persons who inspect or test liquefied petroleum gas-measuring equipment must use testing equipment that meets any specifications issued by the director;

(5) equipment used for testing and inspection must be submitted to the director for calibration by the division whenever ordered by the director; and

(6) all inspectors, equipment, and inspection protocol must comply with all relevant requirements of Minnesota Statutes, department rules, and written procedures issued by the director.

(b) Owners or sellers of liquefied petroleum gas may perform their own tests and inspections or have employees do so as long as they meet the requirements of this subdivision. Persons performing inspection and testing may also perform repairs and maintenance on inspected equipment if authorized by the owner. However, they shall not be allowed to take equipment out of service.

(c) Inspectors shall tag meters that fail the testing process as "out of tolerance." For equipment that has passed inspection, the inspector shall provide to the owner or seller a seal indicating that the equipment has been inspected and the date of the inspection. Whenever an inspector issues a seal to an owner or seller, the inspector shall submit to the director written verification that the equipment was tested by procedures and testing equipment meeting the requirements of this subdivision. The director shall issue seals (stickers) to inspectors for the purposes of this subdivision. The issuance of a seal to an owner or seller establishes only that the equipment was inspected by a certified inspector using qualified equipment and procedures, and that the equipment was found to be within allowable tolerance on the date tested.

History: 1991 c 198 s 2; 1993 c 369 s 70; 1995 c 220 s 114; 1998 c 299 s 30; 2004 c 189 s 1

239.012 SYSTEMS OF WEIGHTS AND MEASURES; RULES.

Subdivision 1. **Recognized systems.** The system of weights and measures in customary use in the United States and the metric system of weights and measures are both recognized. One or both of these systems must be used for commercial purposes in the state.

Subd. 2. **Rules.** The department shall adopt by rule definitions of basic units of weights and measures, tables of weights and measures, and weights and measures equivalents to govern weighing and measuring equipment and transactions in the state.

History: 1991 c 198 s 3

239.02 DIRECTOR; DEPUTIES, EMPLOYEES.

The department shall appoint in accordance with chapter 43A, a director of weights and measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter.

History: (4634, 5271) *RL s 1959; 1911 c 140 s 3; 1911 c 156 s 2; 1921 c 382 s 1; 1971 c 25 s 43; 1977 c 364 s 12; 1981 c 210 s 54; 1991 c 198 s 4*

239.03 [Superseded by Minnesota Statutes, chapter 43.]

239.04 [Repealed, 1971 c 25 s 45; 1976 c 2 s 163]

239.05 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in this chapter have the meanings given them in this section.

Subd. 1a. **Airport.** "Airport" has the meaning given it in section 360.013, subdivision 39.

Subd. 2. [Repealed, 1974 c 347 s 17]

Subd. 2a. **ASTM.** "ASTM" means the American Society for Testing and Materials, a private organization that utilizes committees of industry representatives and regulators to develop product quality standards and test methods to be used by industries, regulatory agencies, and purchasing agents.

Subd. 2b. **ASTM specification.** "ASTM specification" means a standard quality specification developed and published by the American Society for Testing and Materials. Each specification includes references to standard test methods, also developed and published by ASTM.

Subd. 2c. [Repealed, 1993 c 369 s 146]

Subd. 3. [Repealed, 1974 c 347 s 17]

Subd. 4. [Repealed, 1974 c 347 s 17]

Subd. 5. [Repealed, 1974 c 347 s 17]

Subd. 6. [Repealed, 1974 c 347 s 17]

Subd. 6a. **Carbon monoxide control area.** "Carbon monoxide control area" means a geographic area designated as an oxygenated gasoline carbon monoxide control area by the United States Environmental Protection Agency.

Subd. 6b. **Carbon monoxide control period.** "Carbon monoxide control period" means a period of months designated as a carbon monoxide control period by the United States Environmental Protection Agency.

Subd. 6c. [Renumbered subd 6e]

Subd. 6d. **Collector vehicle.** "Collector vehicle" means a motor vehicle for which the commissioner of public safety has issued a pioneer license, classic car license, collector license, or street rod license under section 168.10, or a motor vehicle registered as a collector vehicle in another state.

Subd. 6e. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce.

Subd. 7. **Correct.** "Correct," when used in connection with weights and measures, means conformance with the applicable requirements of this chapter, and rules adopted under the authority granted by this chapter.

Subd. 7a. **Department.** "Department" means the Department of Commerce.

Subd. 8. **Director.** "Director" means the director of the Division of Weights and Measures of the Department of Commerce.

Subd. 8a. **Dispenser.** "Dispenser" means a device designed to measure and deliver liquid petroleum products used as fuel.

Subd. 8b. **Distributor.** "Distributor" means a person who is licensed by the Department of Revenue, under the requirements of section 296A.03, to manufacture, refine, receive, distribute, sell, or use petroleum products in Minnesota.

Subd. 8c. **Division.** "Division" means the Division of Weights and Measures of the Department of Commerce.

Subd. 8d. **EPA.** "EPA" means the United States Environmental Protection Agency.

Subd. 8e. **Gasoline.** "Gasoline" has the meaning given it in section 296A.01, subdivision 23.

Subd. 8f. **Marina.** "Marina" has the meaning given it in section 86A.20, subdivision 5.

Subd. 8g. [Renumbered subd 9b]

Subd. 9. **Metrology.** "Metrology" means the science and practice of precise measurement, including measurement of mass, length, volume, and temperature.

Subd. 9a. [Renumbered subd 9c]

Subd. 9b. **Mooring facility.** "Mooring facility" has the meaning given it in section 86A.20, subdivision 3.

Subd. 9c. **Motorcycle.** "Motorcycle" has the meaning given it in section 168.011, subdivision 26.

Subd. 10. **Net weight.** "Net weight" means the weight of a commodity excluding materials, substances, or items not considered to be part of the commodity. Materials, substances, or items not considered to be part of the commodity include, but are not limited to, containers, conveyances, bags, wrappers, packaging materials, labels, individual piece coverings, decorative accompaniments, and coupons.

Subd. 10a. **Oxygenate.** "Oxygenate" means agriculturally derived, denatured ethanol, ETBE, MTBE, or other alcohol or ether, approved as an oxygenate by the United States Environmental Protection Agency.

Subd. 10b. **Oxygenate blender.** "Oxygenate blender" means a person who has registered with the division to blend and distribute, transport, sell, or offer to sell gasoline containing a minimum of 2.0 percent, and an average of 2.7 percent oxygen by weight.

Subd. 10c. **Oxygenated gasoline.** "Oxygenated gasoline" means gasoline that has been blended with agriculturally derived denatured ethanol or with another oxygenate approved by the United States Environmental Protection Agency.

Subd. 11. **Package.** "Package" means a commodity put up or packaged in advance of sale in units suitable for either wholesale or retail sale.

Subd. 12. **Person.** "Person," means person or persons, corporation, partnership, stock company, society, association, or the agent or employee thereof.

Subd. 12a. **Person responsible for the product.** "Person responsible for the product" means a person or persons, corporation, partnership, stock company, society, association, or its agent or employee who processes, blends, holds, stores, imports, transfers, distributes, offers for sale or use, or sells petroleum products in Minnesota and who possesses petroleum products at the time they are sampled or inspected by the director.

Subd. 12b. **Petroleum product, product.** "Petroleum product" and "product" mean all of the products defined in section 296A.01, subdivisions 2, 7, 8, 10, 14, 16, 19, 20, 22 to 26, 28, 32, and 35.

Subd. 13. **Primary standards.** "Primary standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

Subd. 13a. **Refinery, terminal.** "Refinery" or "terminal" means a petroleum refinery, pipeline terminal, river terminal, storage facility, or other point of origin where petroleum products are manufactured, or imported by rail, truck, barge, or pipe; and held, stored, transferred, offered for distribution, distributed, offered for sale, or sold. For the purpose of restricting petroleum product blending, this definition includes all refineries and terminals within and outside of Minnesota, but does not include a licensed distributor's bulk storage facility that is used to store petroleum products for

which the petroleum inspection fee charged under this chapter is either not due or has been paid.

Subd. 13b. **Resort.** "Resort" has the meaning given it in section 157.15, subdivision 11.

Subd. 14. **Sale from bulk.** "Sale from bulk" means the sale of commodities when the quantity is determined at the time of the sale.

Subd. 14a. **Sample.** "Sample" means a sample of a petroleum product taken from a dispenser or storage tank by the division or a sample of a petroleum product provided to the division by a licensed distributor.

Subd. 15. **Secondary standards.** "Secondary standards" means the physical standards that are used in enforcing weights and measures laws. These standards must be traceable to the primary standards.

Subd. 15a. **Snowmobile.** "Snowmobile" has the meaning given it in section 84.81, subdivision 3.

Subd. 16. **Traceability; traceable.** "Traceability" and "traceable" mean:

(1) the ability to relate individual measurement results, through an unbroken chain of calibrations, to the United States national standards maintained by the United States Department of Commerce, National Institute of Standards and Technology; and

(2) the ability to produce evidence on a continuing basis to demonstrate that the measurement processes used by the division are producing results within the limits of uncertainty designated by the National Institute of Standards and Technology.

Subd. 17. **Weight.** "Weight" means net weight when it is used in connection with a commodity sold by weight.

Subd. 18. **Weights and measures.** "Weights and measures" mean weights and measures of every kind, instruments and devices for weighing and measuring, and appliances and accessories associated with these instruments and devices.

History: (5283, 5285-11) 1911 c 156 s 12; 1935 c 216 s 1; 1949 c 549 s 1,2; 1Sp1981 c 4 art 1 s 97; 1991 c 198 s 5; 1992 c 575 s 3-22,53; 1994 c 510 art 5 s 1; 1996 c 354 s 1-7; 1998 c 299 s 30; 1Sp2001 c 4 art 6 s 77

239.06 RULES.

The department shall prescribe and adopt such rules as it may deem necessary to carry out the provisions of this chapter, and it may change, modify, or amend any or all rules when deemed necessary and the rules so made shall have the force and effect of law.

History: (5275) 1911 c 156 s 3; 1971 c 25 s 67; 1985 c 248 s 70

239.07 [Repealed, 1991 c 198 s 12]

239.08 [Repealed, 1991 c 198 s 12]

239.081 INSPECTING TRACK SCALE.

The department shall supervise and inspect all track scales, and may direct any carrier to transport, move, and switch to any track scale free of charge any car used in the inspection and testing of scales. The department shall require the installation and maintenance of track scales at terminals, warehouses, and at other points in the state where scales are deemed necessary. The department shall prescribe reasonable rules for the weighing of railroad cars and of freight. Rules of the department promulgated under chapter 218 and in effect on January 1, 1976, which pertain to installation or inspection of track scales or the weighing of railroad cars and freight shall continue in effect until amended or repealed by the department.

History: 1980 c 460 s 31; 1985 c 248 s 70

239.09 SPECIAL POLICE POWERS.

When necessary to enforce this chapter or rules adopted under the authority granted by section 239.06, the director is:

(1) authorized and empowered to arrest, without formal warrant, any violator of sections 325E.11 and 325E.115 or of the statute in relation to weights and measures;

(2) empowered to seize for use as evidence and without formal warrant, any false weight, measure, weighing or measuring device, package, or commodity found to be used, retained, or offered or exposed for sale or sold in violation of law;

(3) during normal business hours, authorized to enter commercial premises;

(4) if the premises are not open to the public, authorized to enter commercial premises only after presenting credentials and obtaining consent or after obtaining a search warrant;

(5) empowered to issue stop-use, hold, and removal orders with respect to weights and measures commercially used, and packaged commodities or bulk commodities kept, offered, or exposed for sale, that do not comply with the weights and measures laws; and

(6) empowered, upon reasonable suspicion of a violation of the weights and measures laws, to stop a commercial vehicle and, after presentation of credentials, inspect the contents of the vehicle, require that the person in charge of the vehicle produce documents concerning the contents, and require the person to proceed with the vehicle to some specified place for inspection.

History: (5280) 1911 c 156 s 8; 1971 c 25 s 44; 1971 c 74 s 9; 1Sp1981 c 4 art 1 s 98; 1986 c 444; 1987 c 348 s 34; 1991 c 198 s 6

239.091 METHOD OF SALE.

The method of sale for a commodity must provide an accurate and adequate quantity of information that will allow the buyer to make price and quantity comparisons. The department may adopt rules to administer this section.

History: 1991 c 198 s 7

239.092 SALE FROM BULK.

(a) Bulk sales of commodities, when the buyer and seller are not both present to witness the measurement, must be accompanied by a delivery ticket containing the following information:

(1) the name and address of the person who weighed or measured the commodity;

(2) the date delivered;

(3) the quantity delivered;

(4) the count of individually wrapped packages delivered, if more than one is included in the quantity delivered;

(5) the quantity on which the price is based, if different than the quantity delivered; and

(6) the identity of the commodity in the most descriptive terms commercially practicable, including representations of quality made in connection with the sale.

(b) This section is not intended to conflict with the bulk sale requirements of the Department of Agriculture. If a conflict occurs, the law and rules of the Department of Agriculture govern.

History: 1991 c 198 s 8

239.093 INFORMATION REQUIRED WITH PACKAGE.

(a) A package offered, exposed, or held for sale must bear a clear and conspicuous declaration of:

(1) the identity of the commodity in the package, unless the commodity can be easily identified through the wrapper or container;

(2) the net quantity in terms of weight, measure, or count;

(3) the name and address of the manufacturer, packer, or distributor, if the packages were not produced on the premises where they are offered, exposed, or held for sale; and

(4) the unit price, if the packages are part of a lot containing random weight packages of the same commodity.

(b) This section is not intended to conflict with the packaging requirements of the Department of Agriculture. If a conflict occurs, the laws and rules of the Department of Agriculture govern.

History: 1991 c 198 s 9

239.094 PACKAGED COMMODITY; ADVERTISING FOR SALE.

When a packaged commodity is advertised with its retail price, the quantity declaration that appears on the package must also appear in the advertisement.

History: 1991 c 198 s 10

239.10 ANNUAL INSPECTION.

Subdivision 1. **Light capacity scales; retail establishments.** The director shall inspect light capacity scales in retail establishments such as grocery stores, other retail food establishments, or hardware stores, not more often than once every 36 months except when (1) the owner requests an inspection, (2) when the scale is inspected as part of an investigation, or (3) when the scale has been repaired.

Subd. 2. **Packaged food commodities.** The director shall inspect packaged food commodities in grocery stores and other retail food establishments not more often than once every 36 months except when (1) the owner requests an inspection or (2) when packages are inspected as part of an investigation.

Subd. 3. **Other weights and measures.** The director shall inspect all weights and measures, except those specified in subdivisions 1 and 2, annually, or as often as deemed possible within budget and staff limitations.

History: (5282) 1911 c 156 s 11; 1915 c 281 s 1; 1969 c 399 s 1; 1969 c 1031 s 11; 1971 c 25 s 44,67; 1971 c 74 s 10; 1977 c 364 s 15; 1981 c 357 s 76; 1983 c 301 s 175; 1984 c 654 art 3 s 79; 1987 c 268 art 14 s 1; 1993 c 369 s 71; 1Sp2001 c 4 art 6 s 71

239.101 INSPECTION FEES.

Subdivision 1. **Fee setting and cost recovery.** The department shall recover the amount appropriated to the weights and measures program through revenue from two separate fee systems under subdivisions 2 and 3, and according to the fee-setting and cost-recovery requirements in subdivisions 4, 5, and 6.

Subd. 2. **Weights and measures fees.** The director shall charge a fee to the owner for inspecting and testing weights and measures, providing metrology services and consultation, and providing petroleum quality assurance tests at the request of a licensed distributor. Money collected by the director must be paid into the state treasury and credited to the state general fund.

Subd. 3. **Petroleum inspection fee.** (a) An inspection fee is imposed (1) on petroleum products when received by the first licensed distributor, and (2) on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The petroleum inspection fee is \$1 for every 1,000 gallons received. The commissioner of revenue shall collect the fee. The revenue from the fee must first be applied to cover the amounts appropriated. Fifteen cents of the inspection fee must be deposited in an account in the special revenue fund and is appropriated to the commissioner of commerce for the cost of petroleum product quality inspection expenses and for the inspection and testing of petroleum product-measuring equipment. The remainder of the fee must be deposited in the general fund.

(b) The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report as prescribed by the commissioner of revenue.

(c) The commissioner of revenue may collect the inspection fee along with any taxes due under chapter 296A.

Subd. 4. **Reviewing weights and measures fees.** The department shall review its schedule of inspection fees at the end of each six months.

Subd. 5. **Setting petroleum inspection fee.** When the department estimates that inspection costs will exceed the revenue from the fee, the commissioner shall notify the commissioner of finance. The commissioner of finance shall then request a fee increase from the legislature.

Subd. 6. **Cost-recovery requirements.** The cost of inspection activities and services not specified in subdivisions 2 and 3, including related overhead costs, must be equitably apportioned and recovered by the fees.

Subd. 7. **Temporary petroleum inspection cost recovery.** Until July 1, 2004, the cost of inspecting petroleum measuring equipment must be considered one of the expenditures that may be recovered under section 115C.08, subdivision 4, notwithstanding any other provision of this section or section 115C.08.

History: 1993 c 369 s 72; 1996 c 305 art 3 s 29; 1998 c 299 s 30; 1999 c 250 art 3 s 25; 1Sp2001 c 5 art 13 s 4; 1Sp2003 c 19 art 1 s 8; 2004 c 189 s 2

239.11 [Obsolete]

239.12 [Repealed, 2004 c 189 s 5]

239.13 [Repealed, 1974 c 347 s 17]

239.14 [Repealed, 1974 c 347 s 17]

239.15 [Repealed, 1974 c 347 s 17]

239.16 [Repealed, 1974 c 347 s 17]

239.17 [Repealed, 1974 c 347 s 17]

239.18 [Repealed, 1974 c 347 s 17]

239.19 [Repealed, 1974 c 347 s 17]

239.20 [Repealed, 1977 c 364 s 20]

239.21 [Repealed, 1974 c 347 s 17]

239.22 [Repealed, 1949 c 549 s 7]

239.225 [Repealed, 1974 c 347 s 17]

VIOLATIONS, PENALTIES

239.23 OFFENSES; MISDEMEANOR.

Any person who shall offer or expose for sale, sell or use, or possess a false scale, weight or measure, or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed as provided by sections 239.01 to 239.10, or use the same in the buying or selling of any commodity or thing; or who shall dispose of any condemned weight, measure, or weighing or measuring device, or remove any tag placed thereon by any authorized employee of the division, or sell or offer or expose for sale less than the quantity represented; or sell or offer or expose for sale any such commodities in the manner contrary to law; or sell or offer for sale or possess for the purpose of selling, any device or instrument to be used to, or calculated

to, falsify any weight or measure, or refuse to pay any fee charged for testing and sealing or condemning any scale, weight, or measure, or weighing or measuring device, shall be guilty of a misdemeanor.

History: (5278) 1911 c 156 s 6; 1971 c 25 s 44; 1971 c 74 s 12; 1977 c 364 s 17; 1986 c 444

239.24 HINDERING OFFICIAL; MISDEMEANOR.

Any person hindering, impeding, or restricting in any way any employee of the division while in the performance of official duty shall be guilty of a misdemeanor.

History: (5279) 1911 c 156 s 7; 1971 c 25 s 44; 1971 c 74 s 13; 1977 c 364 s 18; 1986 c 444

239.25 [Repealed, 2004 c 189 s 5]

239.26 [Repealed, 1974 c 347 s 17]

239.27 [Repealed, 1980 c 509 s 94]

STANDARD MEASURES; CONTAINERS

239.28 DRY MEASURE.

The standard measure of capacity for commodities sold by dry measure shall be the bushel containing 2150.42 cubic inches. The half bushel, peck, half peck, quarter peck, quart, and pint shall be derived by successively dividing that measure by two.

History: (7021) RL s 2724; 1913 c 560 s 1

239.29 LIQUID MEASURE.

The standard measure of capacity for liquids shall be the wine gallon, containing 231 cubic inches; and 31.50 gallons shall constitute a barrel, except for fermented malt liquors which shall be a barrel of 31 gallons, and 63 gallons a hogshead.

History: (7022) RL s 2725; 1913 c 560 s 2

239.30 LINEAL MEASURE.

The standard measure of length, from which all other measures of extension, lineal, superficial, or solid, shall be derived, is the yard, of three feet, or 36 inches.

History: (7023) RL s 2726; 1913 c 560 s 2

239.31 HUNDREDWEIGHT.

In contracts for the sale of goods or commodities, the term "hundredweight" shall mean 100 pounds avoirdupois.

History: (7024) RL s 2727; 1913 c 560 s 3

239.32 STANDARD WEIGHT OF BUSHEL.

In contracts for the sale of any of the following articles, the term "bushel" shall mean the number of pounds avoirdupois herein stated: corn, in ear, 70; beans (except lima beans, scarlet runner pole beans, white runner pole beans and broad Windsor beans), smooth peas, wheat, clover seed, Irish potatoes and alfalfa, 60; broom corn seed and sorghum seed, 57; shelled corn (except sweet corn), rye, lima beans, flaxseed and wrinkled peas, 56; sweet potatoes and turnips, 55; onions and rutabagas, 52; buckwheat, hempseed, rapeseed, beets, green apples, walnuts, rhubarb, hickory nuts, chestnuts, tomatoes, scarlet runner pole beans and white runner pole beans, 50; barley, millet, Hungarian grass seed, sweet corn, cucumbers and peaches, 48; broad Windsor beans, 47; carrots, timothy seed and pears, 45; parsnips, 42; spelt or spilts, 40; cranberries, 36; oats and bottom onion-sets, 32; dried apples, dried peaches and top onion-sets, 28; peanuts, 22; blue grass, orchard grass and redtop seed, 14; plastering hair, unwashed, 8;

plastering hair, washed, 4; lime, 80; but if sold by the barrel the weight shall be 200 pounds. In contracts for the sale of green apples, the term "bushel" shall mean 2150.42 cubic inches.

History: (7025) *RL s 2728; 1913 c 560 s 4; 1935 c 270*

239.33 STANDARD MEASUREMENTS OF WOOD.

In all contracts for sale of wood the term "cord" shall mean 128 cubic feet of wood, in four-foot lengths; and if the sale is of "sawed wood," a cord shall mean 110 cubic feet when ranked, or 160 cubic feet when thrown irregularly or loosely into a conveyance for delivery to the purchaser; and if the sale is of "sawed and split wood," a cord shall mean 120 cubic feet, when ranked, and 175 cubic feet when thrown irregularly and loosely into a conveyance for delivery. If a measurement is made by weight, the term "cord" or any other term used to describe freshly cut green aspen in 100-inch or pole lengths containing 133-1/3 cubic feet of loosely or irregularly piled wood for transportation constitutes 4,300 pounds during the period of May 1 through October 31 and 4,500 pounds during the period of November 1 through April 30. Specified weights are based on 74 cubic feet of solid wood content per cord.

In all contracts for sale of wood, the term "board foot" means 144 cubic inches of wood measured in any combination of length, thickness, and width. If a measurement or scale is made of logs, Scribner's decimal C rule is the standard rule for determining board feet log scale. When measuring or scaling logs, each log must be scaled individually by the largest number of even feet in its length above eight and under 24 feet. All logs of 24 feet or more in length must be scaled as two or more logs. This section does not apply to finished lumber measured in nominal dimensions.

History: (7026) *1913 c 560 s 5; 1985 c 260 s 1; 2000 c 301 s 1*

239.34 STANDARD WEIGHT OF COAL AND CHARCOAL.

In all contracts for the sale of coal, charcoal; and ice, the term "ton" shall mean 2,000 pounds. A sale of coal and charcoal, except by weight, is hereby prohibited.

History: (7027) *1913 c 560 s 6; 1973 c 89 s 1*

239.35 STANDARD WEIGHT OF FLOUR.

In all contracts for the sale of flour, the term "barrel" shall mean 196 net pounds avoirdupois.

History: (7028) *1913 c 560 s 7*

239.36 FRACTIONAL PARTS.

All contracts for the sale of a fractional part of a bushel, barrel, ton, or cord of any article or commodity on which the legal weight or measurement per bushel, barrel, ton, or cord has been established, shall require and mean a like fractional part of the legal and established weight or measurement per bushel, barrel, ton, or cord.

History: (7029) *1913 c 560 s 8*

239.37 [Repealed, 1991 c 198 s 12]

239.38 SEALING; MISDEMEANOR.

Every person who shall buy, sell, or dispose of any goods or commodities by an unsealed weight, measure, or scale kept by the person, or shall knowingly use any such weight, measure, or scale which has been sealed, but is incorrect, shall be guilty of a misdemeanor; but no contract of sale shall thereby be rendered void.

History: (7032) *RL s 2729; 1975 c 313 s 23; 1986 c 444*

239.39 [Repealed, 1975 c 313 s 24]

239.40 [Repealed, 1975 c 313 s 24]

239.41 [Repealed, 1975 c 313 s 24]

239.42 [Repealed, 1975 c 313 s 24]

239.43 [Repealed, 1975 c 313 s 24]

239.44 MISDEMEANOR VIOLATION.

Whoever in buying shall take any greater number of pounds or cubic feet to the bushel, barrel, ton, or cord, as the case may be, than is allowed and provided in sections 239.28 to 239.36, or in selling, shall give any less number, shall be guilty of a misdemeanor.

History: (7030) 1913 c 560 s 9; 1977 c 364 s 19; 1991 c 198 s 11

239.45 [Repealed, 1976 c 239 s 75]

239.46 FINES CREDITED TO SCHOOL FUNDS.

All fines collected under the provisions of sections 239.28 to 239.38 shall be paid to the county treasurer for the benefit of the school fund of the county where the action is brought.

History: (7035) RL s 2732; 1976 c 239 s 76

239.51 STANDARD WEIGHTS OF CERTAIN CONTAINERS.

Subdivision 1. **Standard weights; exceptions.** (a) It shall be unlawful for any person, partnership, corporation, company, cooperative society, or organization to pack for sale, sell, offer or expose for sale in this state any of the following commodities except in containers of net avoirdupois weights of 3, 5, 10, 25, 50, and 100 pounds, and multiples of 100 pounds: wheat flour, self-rising wheat flour, phosphated wheat flour, bromated flour, enriched flour, enriched self-rising flour, enriched bromated flour; corn flour, corn meals, hominy, and hominy grits.

(b) The provisions of this section shall not apply to:

(1) the retailing of flours, meals, hominy, and hominy grits direct to the consumer from bulk stock;

(2) the sale of flours and meals to commercial bakers or blenders in containers of more than 100 pounds or for export;

(3) flours, meals, hominy, and hominy grits packed in containers the net contents of which are less than three pounds;

(4) the exchange of wheat for flour by mills grinding for toll.

Subd. 2. **Misdemeanor.** Any violation of this section constitutes a misdemeanor.

History: 1945 c 295

239.511 CONTAINERS FOR SMALL FRUITS.

Subdivision 1. **Legal size.** It shall be unlawful for any person to sell, offer for sale, or give away, any containers for the distribution of berries or small fruits in less quantities than one bushel, unless the containers are of the capacity of one quart, one pint, or one-half pint, or multiples of a quart standard dry measure, and all sales of raspberries, blackberries, blueberries, currants, gooseberries, strawberries, and similar berries, and all plums, cherries, and similar small fruit, in less quantities than one bushel shall be by dry measure, or in containers as above specified. The possession of containers for berries or small fruit shall be presumptive evidence that they were to be used for distribution. This subdivision shall not require containers as above specified when such berries and small fruits are picked by the consumer on the grower's property.

Subd. 2. **Refilling.** In no case shall such containers be refilled for use in the sale of berries or small fruits of any kind whatsoever.

Subd. 3. **Misdemeanor.** Any person violating the provisions of subdivisions 1 and 2 shall be guilty of a misdemeanor and punished by a penalty of not less than \$10 nor more than \$100 or by imprisonment in the county jail for not less than ten nor more than 90 days.

History: (10402, 10403, 10404) 1913 c 66 s 1-3; 1971 c 137 s 1

239.52 [Repealed, 1993 c 369 s 146]

239.521 [Repealed, 1981 c 357 s 115]

239.53 USING FALSE WEIGHT OR MEASURE.

Every person who shall injure or defraud another by using, with knowledge that the same is false, a false weight, measure, or other apparatus for determining the quantity of any commodity or article of merchandise, or by knowingly delivering less than the quantity represented; or who shall retain any weight or measure, knowing it to be false, unless it appears beyond a reasonable doubt that it was so retained without intent to use it, or permit it to be used in violation of the foregoing provisions of this section; or who shall knowingly mark or stamp false or short weights or false tare on any cask or package, or knowingly sell or offer for sale any cask or package so marked, shall be guilty of a misdemeanor.

History: (10401) RL s 5115; 1986 c 444

AMMONIA, MOTOR OIL, BATTERIES

239.531 ANHYDROUS AMMONIA.

Anhydrous ammonia may be sold at the retail level to any buyer using a temperature correctable liquid meter.

History: 1988 c 448 s 1; 1991 c 198 s 11

239.54 INSPECTION OF MOTOR OIL AND AUTOMOTIVE BATTERY RETAILERS.

The division shall produce, print, and distribute the notices required by sections 325E.11 and 325E.115 and shall inspect all places where motor oil and motor oil filters are offered for sale by persons subject to section 325E.11 and where lead acid batteries are offered for sale at retail subject to section 325E.115 at least once every two years to determine compliance with those sections. In performing its duties under this section the division may inspect any place, building, or premises governed by sections 325E.11 and 325E.115. Authorized employees of the division may issue warnings and citations to persons who fail to comply with the requirements of those sections.

History: 1987 c 348 s 36; 1995 c 220 s 115

PETROLEUM PRODUCTS

239.75 INSPECTION OF PETROLEUM PRODUCTS.

Subdivision 1. **Inspection to be made.** The director shall:

(1) take samples, free of charge, of petroleum products wherever processed, blended, held, stored, imported, transferred, offered for sale or use, or sold in Minnesota, limiting each sample to:

- (i) two-tenths of one gallon, except when an octane test is planned; or
- (ii) seven-tenths of one gallon for an octane test;

(2) inspect and test petroleum product samples according to the methods of ASTM or other valid test methods adopted by rule, to determine whether the products comply with the specifications in section 239.761;

(3) inspect petroleum product storage tanks to ensure that the products are free from water and impurities;

(4) inspect and test samples submitted to the department by a licensed distributor, making the test results available to the distributor;

(5) inspect the labeling, price posting, and price advertising of petroleum product dispensers and advertising signs at businesses or locations where petroleum products are sold, offered for sale or use, or dispensed into motor vehicles;

(6) maintain records of all inspections and tests according to the records retention policies of the Department of Administration;

(7) delegate to division personnel, at the director's discretion, any or all of the responsibilities, duties, and powers in sections 239.75 to 239.80;

(8) publish octane test data and information to assist persons who produce and sell gasoline and gasoline-oxygenate blends;

(9) register gasoline-oxygenate blenders according to the requirements of the EPA;

(10) audit the records of any person responsible for the product to determine compliance with sections 239.75 to 239.792;

(11) after consulting with the commissioner of the Pollution Control Agency, grant a temporary exemption from the oxygenated gasoline requirements in section 239.791 if the supply of oxygenate is insufficient to produce gasoline-oxygenate blends during an EPA-designated carbon monoxide control period; and

(12) adopt, as an enforcement policy for the division, reasonable margins of uncertainty for the tests used to determine compliance with the specifications in section 239.761, the oxygen percentages in section 239.791, and the octane requirements in section 239.792 and apply the margins of uncertainty to only tests performed by the division, not by adding the margins to uncertainties in tests performed by any person responsible for the product.

Subd. 2. Petroleum sample; when not meeting specifications. When a sample does not comply with the specifications in section 239.761, the director shall reject the noncomplying product from which the sample was taken and employ any or all of the following actions to prohibit sale of the noncomplying product:

(1) issue a stop sale order to a person responsible for the product;

(2) reject and mark as rejected the pumps, meters, or other dispensers from which the noncomplying product was obtained;

(3) seal and mark as sealed the storage tanks from which the noncomplying product was obtained;

(4) issue a citation;

(5) request that a city or county attorney draft a misdemeanor complaint;

(6) when a product fails to comply with the specifications and when use of the product does not endanger the public health or safety or adversely affect the emissions characteristics of the equipment in which it is used, advise the person responsible for the product that the product must be blended with another product to bring it into compliance.

Subd. 3. [Repealed, 1992 c 575 s 54]

Subd. 4. [Repealed, 1992 c 575 s 54]

Subd. 5. Product quality, responsibility. After a gasoline product is purchased, transferred, or otherwise removed from a refinery or terminal, the person responsible for the product shall:

(1) keep the product free from contamination with water and impurities;

(2) not blend the product with dissimilar petroleum products, for example, gasoline must not be blended with diesel fuel;

(3) not blend the product with any contaminant, dye, chemical, or additive, except:

(i) agriculturally derived, denatured ethanol that complies with the specifications in this chapter;

(ii) an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA; or

- (iii) a dye to distinguish heating fuel from low sulfur diesel fuel; and
- (4) maintain a record of the name or chemical composition of the additive, with the product shipping manifest or bill of lading for one year after the date of the manifest or bill.

Subd. 6. **Rejected product, responsibility.** When a product is rejected, the person responsible for the product shall blend or remove the product according to the director's instructions. If the rejected product is blended with another product to bring it into compliance, the person responsible for the product shall provide testing and documentation, in a manner approved by the director, to prove to the director that the blended product will comply with the specifications in section 239.761. If the rejected product is removed, the person responsible for the product shall provide documentation to prove to the director that the rejected product has been removed and replaced with a product that complies with the specifications in section 239.761.

History: 1987 c 268 art 14 s 2; 1992 c 575 s 23

239.751 PETROLEUM DISPENSER, PRICE, LABEL, AND SIGN.

Subdivision 1. **Dispenser requirements, automatic price computation.** A retail petroleum dispenser that automatically computes the total price of each sale must have a unit price indicator on the face of the computer mechanism that clearly displays the price per gallon or price per liter, including all taxes. The unit price indicator must not be covered or obscured in any manner.

Subd. 2. **Dispenser requirements, manual price computation.** A retail petroleum dispenser that does not automatically compute the total price of each sale must have a sign stating the price per gallon or price per liter, including all taxes. The sign must be white with black letters and figures. The letters and figures must be at least one inch high. The sign must be clearly and conspicuously posted on all dispenser faces, as close as possible to the total quantity indicator. Examples of acceptable unit price signs include: "\$1.20/gallon," or "\$0.32/liter."

Subd. 3. **Price advertising sign; gasoline, diesel fuel.** A sign or device designed to advertise the price of gasoline or diesel fuel, that is posted within view of any public highway, road, or street, or on or near premises where gasoline is sold at retail, must meet the following requirements:

(a) The price per gallon, or price per liter, including all taxes and fees to be collected in connection with the sale, must be clearly stated in figures of uniform size and prominence.

(b) If the advertised price per gallon, or price per liter, is subject to any conditions or restrictions, the conditions or restrictions must be clearly posted on the sign. For example, if a customer must pay cash to obtain the advertised price, the sign must clearly state "cash," "cash price," or "cash discount price."

Subd. 4. **Use of term "premium."** The term "premium" may be used only to advertise, or to identify a dispenser used to dispense, gasoline with an octane rating of 91 or greater.

Subd. 5. **Multiple price structure, signs.** A person shall post signs on the dispensers, on the dispenser island, or on the canopy over the dispensers, that clearly state the conditions for obtaining the price offered on the dispensers, if the person:

- (1) sells or offers to sell gasoline or diesel fuel at retail;
- (2) has more than one dispenser for a specific grade of product; and
- (3) sets different dispensers to compute a total sale at different prices for the same product.

For example, signs must be posted to direct customers to separate dispensers for full service or self-service prices.

Subd. 6. **Nonconforming dispenser, sign, display, or label.** When a dispenser, sign, display, or label does not comply with the requirements in this section, the director shall reject the noncomplying dispenser or other equipment and employ any or all of

the following actions to prohibit use of the noncomplying dispenser or other equipment:

(1) reject and mark as rejected the pumps, meters, or other dispensers that do not comply, or are used in conjunction with advertising signs or price displays that do not comply;

(2) issue a written warning to the owner, operator, manager, or attendant of the business or property where the dispenser or sign is located;

(3) issue a citation to the owner, operator, manager, or attendant of the business or property where a dispenser or sign is located;

(4) request that a city or county attorney draft a misdemeanor complaint.

Subd. 7. Dispenser and other equipment; responsibility. A person responsible for the product must meet all of the requirements in this section. When a dispenser or other equipment is rejected for failure to comply with this section, a person responsible for the product is required to correct the dispenser, price display violation, or price advertising violation.

History: 1992 c 575 s 24

239.752 STORAGE TANK MARKING; RETAIL LOCATION.

Subdivision 1. Identification tag required. A person responsible for the product shall securely affix a metal identification tag on the fill pipe of a petroleum product storage tank at a business where petroleum products are sold, offered for sale, or dispensed at retail into the storage tanks of motor vehicles. A bulk storage facility operator shall securely affix a metal identification tag on the fill pipe of each storage tank at the distributor's bulk storage facility. The identification tag must be constructed and printed according to subdivision 2 and installed according to subdivision 3. The identification tag must be printed with the appropriate product identification according to subdivision 4, 5, or 6. This section does not apply to storage tanks at petroleum refineries or terminals.

Subd. 2. Identification tag; construction, printing. The identification tag required in subdivision 1 must be constructed of one 3-1/2 inch by 3-1/2 inch piece of aluminum or stainless steel. All surfaces of the tag must be coated with a permanent enamel paint or powder coating. The coating must be light blue for gasoline and alcohol products and dark green for petroleum distillate products. Lettering must be at least three-eighths of one inch high, and printed on the tag with permanent enamel paint or powder coating. Lettering must be black for gasoline and alcohol products and white for petroleum distillate products.

Subd. 3. Identification tag; installation. The identification tag required in subdivision 1 must be securely affixed to a fill pipe by means of an adjustable steel band clamp. The display surface of the tag must be positioned so that the product information can be easily read by a person filling the storage tank.

Subd. 4. Product identification; gasoline, oxygenated gasoline. (a) An identification tag placed on a storage tank containing gasoline or oxygenated gasoline must be marked with the word "GASOLINE" and with the correct octane number and the appropriate product name of the fuel stored in the tank.

(b) The product name must be selected from the following:

(1) "REGULAR" for oxygenated gasoline of less than 88 octane;

(2) "MID-GRADE" for oxygenated gasoline of at least 88 octane, but less than 91 octane;

(3) "PREMIUM" for oxygenated gasoline of at least 91 octane;

(4) "NON-OXY PREM" for nonoxygenated gasoline of at least 91 octane;

(5) "AVIATION" for gasoline used solely as a fuel for aircraft;

(6) "RACING" for a special racing gasoline intended to be sold for use in off-road motor vehicles; or

(7) "SPECIAL" for gasoline blended with mineral oil or other additives and intended to be sold for use in boats, chainsaws, snowmobiles, or off-road equipment.

Subd. 5. **Product identification; alcohol, alcohol-based motor fuel.** (a) An identification tag placed on a storage tank containing unblended alcohol or a predominantly alcohol-based motor fuel must be marked with the word "ALCOHOL" and with the appropriate product name of the fuel stored in the tank.

(b) The product name must be selected from the following:

- (1) "ETHANOL" for denatured ethanol, as defined in section 296A.01;
- (2) "METHANOL" for methanol;
- (3) "E85" for an ethanol-gasoline blend, as defined in section 296A.01; or
- (4) "M85" for a methanol-gasoline blend, as defined in section 296A.01.

Subd. 6. **Product information; petroleum distillates.** Storage tanks containing diesel fuel, heating fuel, kerosene, or other petroleum distillate must be marked with the word "DISTILLATE" and with the correct product grade and appropriate tax status selected from the following:

(1) "#1 DIESEL" "UNDYED" for #1 diesel fuel for which the motor fuel excise tax has been paid;

(2) "#1" "DYED" for #1 heating fuel or #1 diesel fuel intended to be sold for use in off-road vehicles and equipment;

(3) "#2 DIESEL" "UNDYED" for #2 diesel fuel for which the motor fuel excise tax has been paid;

(4) "#2" "DYED" for #2 heating fuel or #2 diesel fuel intended to be sold for use in off-road vehicles and equipment;

(5) "DIESEL" "PREMIUM" "UNDYED" for premium diesel fuel for which the motor fuel excise tax has been paid;

(6) "DIESEL" "PREMIUM" "DYED" for premium diesel fuel intended to be sold off-road;

(7) "KEROSENE" "UNDYED" for kerosene for which the federal motor fuel excise tax has been paid;

(8) "KEROSENE" "DYED" for kerosene intended to be sold for use in off-road vehicles, heating equipment, and other off-road equipment; or

(9) "JET/TURBINE" for jet fuel or turbine fuel.

History: 1992 c 575 s 25; 1999 c 203 s 7

239.753 ENTRY UPON PREMISES AND ACCESS TO RECORDS.

(a) The director, or a delegated employee of the department, may enter the premises of a person who processes, holds, stores, imports, transfers, offers for sale or use, or sells petroleum products in Minnesota to:

(1) inspect the product in storage tanks and take samples from the storage tanks and dispensing equipment connected to the storage tanks;

(2) inspect petroleum product dispensers and related signs and equipment, advertising signs, price displays, oxygenate labels, and octane labels; and

(3) audit and make copies of petroleum product shipping, receiving, and invoice documents and records to determine compliance with sections 239.75 to 239.792.

(b) The director shall limit inspection to information and data relating to product quantity, quality, oxygen content, and octane. The director shall maintain the confidentiality of certain records as required by section 239.791.

History: 1992 c 575 s 26

239.76 [Repealed, 1992 c 575 s 54]

239.761 PETROLEUM PRODUCT SPECIFICATIONS.

Subdivision 1. **Applicability.** A person responsible for the product must meet the specifications in this section. The specifications apply to petroleum products processed, held, stored, imported, transferred, distributed, offered for distribution, offered for sale or use, or sold in Minnesota.

Subd. 2. **Coordination with Departments of Revenue and Agriculture.** The petroleum product specifications in this section are intended to match the definitions and specifications in sections 41A.09 and 296A.01. Petroleum products named in this section are defined in section 296A.01.

Subd. 3. **Gasoline.** (a) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with ASTM specification D4814-01. Gasoline that is not blended with ethanol must also comply with the volatility requirements in Code of Federal Regulations, title 40, part 80.

(b) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol as provided in subdivision 4;

(2) shall not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) shall not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) shall not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

Subd. 4. **Gasoline blended with ethanol.** (a) Gasoline may be blended with up to ten percent, by volume, agriculturally derived, denatured ethanol that complies with the requirements of subdivision 5.

(b) A gasoline-ethanol blend must:

(1) comply with the volatility requirements in Code of Federal Regulations, title 40, part 80;

(2) comply with ASTM specification D4814-01, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-01; and

(3) not be blended with casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal.

Subd. 5. **Denatured ethanol.** Denatured ethanol that is to be blended with gasoline must be agriculturally derived and must comply with ASTM specification D4806-01. This includes the requirement that ethanol may be denatured only as specified in Code of Federal Regulations, title 27, parts 20 and 21.

Subd. 6. **Gasoline blended with nonethanol oxygenate.** (a) A person responsible for the product shall comply with the following requirements:

(1) after July 1, 2000, gasoline containing in excess of one-third of one percent, in total, of nonethanol oxygenates listed in paragraph (b) must not be sold or offered for sale at any time in this state; and

(2) after July 1, 2005, gasoline containing any of the nonethanol oxygenates listed in paragraph (b) must not be sold or offered for sale in this state.

(b) The oxygenates prohibited under paragraph (a) are:

(1) methyl tertiary butyl ether, as defined in section 296A.01, subdivision 34;

(2) ethyl tertiary butyl ether, as defined in section 296A.01, subdivision 18; or

(3) tertiary amyl methyl ether.

(c) Gasoline that is blended with a nonethanol oxygenate must comply with ASTM specification D4814-01. Nonethanol oxygenates must not be blended into gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.

Subd. 7. **Heating fuel oil.** Heating fuel oil must comply with ASTM specification D396-01.

Subd. 8. **Diesel fuel oil.** Diesel fuel oil must comply with ASTM specification D975-01a.

Subd. 9. **Kerosene.** Kerosene must comply with ASTM specification D3699-01.

Subd. 10. **Aviation gasoline.** Aviation gasoline must comply with ASTM specification D910-00.

Subd. 11. **Aviation turbine fuel, jet fuel.** Aviation turbine fuel and jet fuel must comply with ASTM specification D1655-01.

Subd. 12. **Gas turbine fuel oil.** Fuel oil for use in nonaviation gas turbine engines must comply with ASTM specification D2880-00.

Subd. 13. **E85.** A blend of ethanol and gasoline, containing at least 60 percent ethanol and not more than 85 percent ethanol, produced for use as a motor fuel in alternative fuel vehicles as defined in section 296A.01, subdivision 5, must comply with ASTM specification D5798-99.

Subd. 14. **M85.** A blend of methanol and gasoline, containing at least 85 percent methanol, produced for use as a motor fuel in alternative fuel vehicles as defined in section 296A.01, subdivision 5, must comply with ASTM specification D5797-96.

History: 1992 c 575 s 27; 1994 c 510 art 5 s 2; 1996 c 471 art 5 s 2; 1998 c 278 s 1; 1998 c 299 s 30; 1999 c 86 art 1 s 52,53; 2000 c 434 s 1; 1Sp2003 c 14 art 7 s 55-65

239.77 BIODIESEL CONTENT MANDATE.

Subdivision 1. **Biodiesel fuel.** "Biodiesel fuel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats and that meets American Society For Testing and Materials Specification D6751-02 for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

Subd. 2. **Minimum content; effective date.** (a) Except as otherwise provided in this section, all diesel fuel sold or offered for sale in Minnesota for use in internal combustion engines must contain at least 2.0 percent biodiesel fuel oil by volume.

(b) The mandate in paragraph (a) is effective on and after the date that the conditions in clauses (1) and (2), or in clauses (1) and (3), have been met:

(1) thirty or more days have passed since the commissioner of agriculture publishes notice in the State Register that annual capacity in Minnesota for the production of biodiesel fuel oil exceeds 8,000,000 gallons;

(2) eighteen months have passed since the commissioner of agriculture publishes notice in the State Register that a federal action on taxes imposed, tax credits, or otherwise, creates a reduction in the price of two cents or more per gallon on taxable fuel that contains at least two percent biodiesel fuel oil and is sold in this state;

(3) the date June 30, 2005, has passed.

Subd. 3. **Exceptions.** (a) The minimum content requirement of subdivision 2 does not apply to fuel used in the following equipment:

(1) motors located at an electric generating plant regulated by the Nuclear Regulatory Commission;

(2) railroad locomotives; and

(3) off-road taconite and copper mining equipment and machinery.

(b) The exemption in paragraph (a), clause (1), expires 30 days after the Nuclear Regulatory Commission has approved the use of biodiesel fuel in motors at electric generating plants under its regulation.

History: 2002 c 244 s 1

239.771 DISTRIBUTOR EXPENSE REIMBURSEMENT.

Subdivision 1. **Eligibility.** A distributor that made capital expenditures necessary to adapt or add equipment to blend biodiesel fuel oil under the mandate in section 239.77 may be eligible for partial reimbursement for those expenditures if the mandate is repealed within eight years of the date the mandate is effective.

Subd. 2. **Application; eligibility.** (a) A distributor may apply to the commissioner of agriculture for a reimbursement from money appropriated for this purpose on the following schedule: If the mandate is repealed within two years of its effective date, the commissioner shall reimburse up to 80 percent of expenditures. The total amount eligible to be reimbursed must decline by ten percent each year after the mandate is effective and must end at 20 percent in the eighth year.

(b) The commissioner must require detailed proof of expenditures made solely to comply with the mandate.

History: 2002 c 244 s 2

239.78 [Repealed, 1993 c 369 s 146]

239.785 LIQUEFIED PETROLEUM GAS SALE; ACCOUNT; PENALTIES.

Subdivision 1. **Liability for payment.** (a) The operator of a terminal located in Minnesota from which liquefied petroleum gas is dispensed for use or sale in this state other than for delivery to another terminal shall pay a fee equal to one mill for each gallon of liquefied petroleum gas dispensed.

(b) Any person in Minnesota, other than the operator of a terminal, receiving liquefied petroleum gas from a source outside of Minnesota for use or sale in this state shall pay a fee equal to one mill for each gallon of liquefied petroleum gas received.

Subd. 2. **Due date for filing return and payment.** The fee must be remitted monthly on a form prescribed by the commissioner of revenue for deposit in the liquefied petroleum gas account established in subdivision 6. The fee must be paid and the return filed on or before the 23rd day of each month following the month in which the liquefied petroleum gas was delivered or received.

Subd. 3. **Penalties.** An operator or person who fails to pay the fee imposed under this section is subject to the penalties provided in sections 296A.22 and 296A.23.

Subd. 4. **Commissioner's authority.** The provisions of chapter 296A relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter apply to the fee imposed by this section.

Subd. 5. **Interest.** Fees and penalties are subject to interest at the rate provided in section 270.75.

Subd. 6. **Liquefied petroleum gas account.** A liquefied petroleum gas account in the special revenue fund is established in the state treasury. Fees and penalties collected under this section must be deposited in the state treasury and credited to the liquefied petroleum gas account. Money in that account, including interest earned, is appropriated to the commissioner of education for programs to improve the energy efficiency of residential liquefied petroleum gas heating equipment in low-income households, and, when necessary, to provide weatherization services to the homes.

History: 1992 c 597 s 12; 1993 c 375 art 9 s 14; 1994 c 483 s 1; 1994 c 632 art 4 s 60,61; 1998 c 273 s 12; 1998 c 299 s 30; 1998 c 350 s 5; 2003 c 130 s 12

239.79 PETROLEUM PRODUCTS; TRANSACTION REQUIREMENTS.

Subdivision 1. [Repealed, 1992 c 575 s 54]

Subd. 2. [Repealed, 1992 c 575 s 54]

Subd. 3. **Results of test supplied by shipper to distributor.** Upon request from a distributor, a shipper of petroleum products shall, at the time of shipment, supply a distributor with the results of typical tests of the petroleum product shipped to the distributor.

Subd. 4. **Sale of certain petroleum products on gross volume basis.** A person responsible for the products listed in this subdivision shall transfer, ship, distribute, offer for distribution, sell, or offer to sell the products by volume. Volumetric measurement of the product must not be temperature compensated, or adjusted by any other factor. This subdivision applies to gasoline, number one and number two diesel fuel oils, number one and number two heating fuel oils, kerosene, denatured ethanol that is to be blended into gasoline, and an oxygenate that is to be blended into gasoline. This subdivision does not apply to the measurement of petroleum products transferred, sold, or traded between refineries, between refineries and terminals, or between terminals.

History: 1987 c 268 art 14 s 5; 1989 c 350 art 18 s 1; 1992 c 575 s 28

239.791 OXYGENATED GASOLINE.

Subdivision 1. **Minimum ethanol content required.** (a) Except as provided in subdivisions 10 to 14, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least 10.0 percent denatured ethanol by volume.

(b) For purposes of enforcing the minimum ethanol requirement of paragraph (a), a gasoline/ethanol blend will be construed to be in compliance if the ethanol content, exclusive of denaturants and permitted contaminants, comprises not less than 9.2 percent by volume and not more than 10.0 percent by volume of the blend as determined by an appropriate United States Environmental Protection Agency or American Society of Testing Materials standard method of analysis of alcohol/ether content in motor fuels.

Subd. 2. [Repealed, 1993 c 250 s 3]

Subd. 3. **Blending restriction.** When gasoline contains an oxygenate, a person responsible for the product shall not blend the product with ethanol or with any other oxygenate after it is transferred or otherwise removed from a refinery or terminal.

Subd. 4. [Repealed, 1995 c 220 s 141]

Subd. 5. [Repealed, 1995 c 220 s 141]

Subd. 6. [Repealed, 1995 c 220 s 141]

Subd. 7. **Oxygenate records; state audit.** The director shall audit the records of registered oxygenate blenders to ensure that each blender has met all requirements in this chapter. Specific information or data relating to sales figures or to processes or methods of production unique to the blender or that would tend to adversely affect the competitive position of the blender must be only for the confidential use of the director, unless otherwise specifically authorized by the registered blender.

Subd. 8. **Disclosure.** A refinery or terminal, shall provide, at the time gasoline is sold or transferred from the refinery or terminal, a bill of lading or shipping manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading or shipping manifest must include the identity and the volume percentage or gallons of oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do not blend this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline sold or transferred before October 1, 1997, the bill or manifest must state: "This fuel must not be sold at retail in a carbon monoxide control area." For nonoxygenated gasoline sold or transferred after September 30, 1997, the bill or manifest must state: "This fuel is not oxygenated. It must not be sold at retail in Minnesota." This subdivision does not apply to sales or transfers of gasoline between refineries, between terminals, or between a refinery and a terminal.

Subd. 9. [Repealed, 1995 c 220 s 141]

Subd. 10. **Exemption for airport, marina, mooring facility, and resort.** A person responsible for the product may offer for sale, sell, or dispense at an airport, marina, mooring facility, or resort, for use in airplanes or for purposes listed under subdivision 12, paragraph (a), gasoline that is not oxygenated in accordance with subdivision 1 if the gasoline is unleaded premium grade as defined in section 239.751, subdivision 4.

Subd. 11. **Exemption for motor sports racing.** A person responsible for the product may offer for sale, sell, or dispense at a public or private racetrack, gasoline that is not oxygenated in accordance with subdivision 1 if the gasoline is intended to be used exclusively as a fuel for off-highway motor sports racing events.

Subd. 12. **Exemption for collector vehicle and off-road use.** (a) A person responsible for the product may offer for sale, sell, or dispense at a retail gasoline station for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, or small engines, gasoline that is not oxygenated in accordance with subdivision 1 if the person meets the conditions in paragraphs (b) to (e). If the nonoxygenated gasoline is for use in a small engine, it must be dispensed into a can with a capacity of six or fewer gallons.

(b) The nonoxygenated gasoline must be unleaded premium grade as defined in section 239.751, subdivision 4.

(c) No more than one storage tank on the premises of the retail gasoline station may be used for storage of the nonoxygenated gasoline offered for sale, sold, or dispensed by the station.

(d) The pump stands must be posted with a permanent notice stating: "NONOXYGENATED GASOLINE. FOR USE IN COLLECTOR VEHICLES OR VEHICLES ELIGIBLE TO BE LICENSED AS COLLECTOR VEHICLES, OFF-ROAD VEHICLES, MOTORCYCLES, BOATS, SNOWMOBILES, OR SMALL ENGINES ONLY."

This notice must be posted at least two feet above the ground. A retail gasoline station that sells nonoxygenated premium gasoline as defined in section 239.791, subdivision 15, must register every two years with the director, or an entity appointed by the director, on forms approved by the director, the total amount of nonoxygenated premium gasoline sold annually.

Subd. 13. **Exemption for certain riparian landowners.** (a) A person responsible for the product may offer for sale, sell, and deliver directly to a bulk fuel storage tank gasoline that is not oxygenated in accordance with subdivision 1 if the conditions in paragraphs (b) to (e) are met.

(b) The nonoxygenated gasoline must be unleaded premium grade as defined in section 239.751, subdivision 4.

(c) The bulk fuel storage tank must be stationary or permanent.

(d) The bulk fuel storage tank must be under the control of an owner of littoral or riparian property and located on that littoral or riparian property.

(e) The nonoxygenated gasoline must be purchased for use in vehicles that would qualify for an exemption under subdivision 12, paragraph (a).

Subd. 14. **Exemption for aircraft operator.** A person responsible for the product may offer for sale, sell, and deliver directly to a bulk fuel storage tank gasoline that is not oxygenated in accordance with subdivision 1 for use in aircraft if the nonoxygenated gasoline is unleaded premium grade as defined in section 239.751, subdivision 4.

Subd. 15. **Exemption for certain blend pumps.** A person responsible for the product, who offers for sale, sells, or dispenses nonoxygenated premium gasoline under one or more of the exemptions in subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated gasoline that contains less than the minimum amount of ethanol required under subdivision 1 if all of the following conditions are met:

(1) the blended gasoline has an octane rating of 88 or greater;

(2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision 1 with nonoxygenated premium gasoline;

(3) the blended gasoline contains not more than ten percent nonoxygenated premium gasoline;

(4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the gasoline dispenser; and

(5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is equipped to store gasoline in not more than two storage tanks.

This subdivision applies only to those persons who meet the conditions in clauses (1) through (5) on the effective date of this act and have registered with the director within three months of the effective date of this act.

History: 1992 c 575 s 29; 1993 c 250 s 1; 1993 c 369 s 73,74; 1995 c 220 s 116; 1996 c 354 s 8-11; 1999 c 231 s 174-177; 2000 c 434 s 2; 2003 c 107 s 30; 2004 c 189 s 3,4

239.792 GASOLINE OCTANE.

Subdivision 1. **Disclosure.** A manufacturer, hauler, blender, agent, jobber, consignment agent, importer, or distributor who sells, delivers, or distributes gasoline or gasoline-oxygenate blends, shall provide, at the time of delivery, a bill of lading or shipping manifest to the person who receives the gasoline. The bill or manifest must state the minimum octane of the gasoline delivered. The stated octane number must be the average of the "motor method" octane number and the "research method" octane number as determined by the test methods in ASTM specification D4814-01, or by a test method adopted by department rule.

Subd. 2. **Dispenser labeling.** A person responsible for the product shall clearly, conspicuously, and permanently label each gasoline dispenser that is used to sell gasoline or gasoline-oxygenate blends at retail or to dispense gasoline or gasoline-oxygenate blends into the fuel supply tanks of motor vehicles, with the minimum octane of the gasoline dispensed. The label must meet the following requirements:

(a) The octane number displayed on the label must represent the average of the "motor method" octane number and the "research method" octane number as determined by the test methods in ASTM specification D4814-01, or by a test method adopted by department rule.

(b) The label must be at least 2-1/2 inches high and three inches wide, with a yellow background, black border, and black figures and letters.

(c) The number representing the octane of the gasoline must be at least one inch high.

(d) The label must include the words "minimum octane" and the term "(R + M)/2" or "(RON + MON)/2."

History: 1992 c 575 s 30; 1998 c 278 s 2; 1Sp2003 c 14 art 7 s 66

239.80 VIOLATIONS; PENALTIES.

Subdivision 1. **Violations; actions of department.** The director, or any delegated employee shall use the methods in section 239.75 to enforce sections 239.10; 239.101, subdivision 3; 239.761; 239.79; 239.791; and 239.792.

Subd. 2. **Penalty.** A person who fails to comply with any provision of section 239.10; 239.101, subdivision 3; 239.761; 239.79; 239.791, subdivisions 1 to 11; or 239.792, is guilty of a misdemeanor.

Subd. 3. **Nonoxygenated gasoline penalty.** A person who fails to comply with section 239.791, subdivision 12, paragraph (b), (c), or (d), is guilty of a misdemeanor.

History: 1987 c 268 art 14 s 6; 1992 c 575 s 31; 1993 c 369 s 75,76; 1996 c 354 s 12,13

239.81 [Renumbered 239.531]