

## CHAPTER 239

## WEIGHTS, MEASURES

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**239.011 DIVISION RESPONSIBILITIES AND POWERS.**

*[For text of subd 1, see M.S.2004]*

**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 17025;

(ii) maintaining, to the extent practicable, certification of the metrology laboratory by an internationally accepted accrediting body such as the National Voluntary Laboratory Accreditation Program (NVLAP); and

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

*[For text of subd 3, see M.S.2004]*

**History:** *1Sp2005 c 1 art 4 s 59*

**239.05** Subdivision 1. [Renumbered 239.051, subdivision 1]

Subd. 1a. [Renumbered 239.051, subd 2]

Subd. 2a. [Renumbered 239.051, subd 3]

Subd. 2b. [Renumbered 239.051, subd 4]

Subd. 3a. [Renumbered 239.051, subd 5]

Subd. 6a. [Repealed, 1Sp2005 c 1 art 4 s 124]

Subd. 6b. [Repealed, 1Sp2005 c 1 art 4 s 124]

Subd. 6d. [Renumbered 239.051, subd 6]

Subd. 6e. [Renumbered 239.051, subd 7]

Subd. 7. [Renumbered 239.051, subd 8]

Subd. 7a. [Renumbered 239.051, subd 9]

Subd. 8. [Renumbered 239.051, subd 10]

Subd. 8a. [Renumbered 239.051, subd 11]

Subd. 8b. [Renumbered 239.051, subd 12]

Subd. 8c. [Renumbered 239.051, subd 13]

Subd. 8d. [Renumbered 239.051, subd 14]

Subd. 8e. [Renumbered 239.051, subd 16]

Subd. 8f. [Renumbered 239.051, subd 17]

- Subd. 9. [Renumbered 239.051, subd 18]
- Subd. 9b. [Renumbered 239.051, subd 19]
- Subd. 9c. [Renumbered 239.051, subd 20]
- Subd. 10. [Renumbered 239.051, subd 21]
- Subd. 10a. [Renumbered 239.051, subd 22]
- Subd. 10b. [Renumbered 239.051, subd 15]
- Subd. 10c. [Renumbered 239.051, subd 23]
- Subd. 11. [Renumbered 239.051, subd 24]
- Subd. 12. [Renumbered 239.051, subd 25]
- Subd. 12a. [Renumbered 239.051, subd 26]
- Subd. 12b. [Renumbered 239.051, subd 27]
- Subd. 13. [Renumbered 239.051, subd 28]
- Subd. 13a. [Renumbered 239.051, subd 29]
- Subd. 13b. [Renumbered 239.051, subd 30]
- Subd. 14. [Renumbered 239.051, subd 31]
- Subd. 14a. [Renumbered 239.051, subd 32]
- Subd. 15. [Renumbered 239.051, subd 33]
- Subd. 15a. [Renumbered 239.051, subd 34]
- Subd. 16. [Renumbered 239.051, subd 35]
- Subd. 17. [Renumbered 239.051, subd 36]
- Subd. 18. [Renumbered 239.051, subd 37]

### 239.051 DEFINITIONS.

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

Subd. 2. **Airport.** "Airport" has the meaning given it in section 360.013, subdivision 39.

Subd. 3. **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. 4. **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. 5. **Automotive fuel.** For the purpose of enforcing the gasoline octane requirements in section 239.792, "automotive fuel" has the meaning given it in Code of Federal Regulations, title 16, section 306.0.

Subd. 6. **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. 7. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce.

Subd. 8. **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. 9. **Department.** "Department" means the Department of Commerce.

Subd. 10. **Director.** "Director" means the director of the Division of Weights and Measures of the Department of Commerce.

Subd. 11. **Dispenser.** "Dispenser" means a device designed to measure and deliver liquid petroleum products used as fuel.

Subd. 12. **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. 13. **Division.** "Division" means the Division of Weights and Measures of the Department of Commerce.

Subd. 14. **EPA.** "EPA" means the United States Environmental Protection Agency.

Subd. 15. **Ethanol blender.** "Ethanol blender" means a person who blends and distributes, transports, sells, or offers to sell gasoline containing ten percent ethanol by volume.

Subd. 16. **Gasoline.** "Gasoline" has the meaning given it in section 296A.01, subdivision 23.

Subd. 17. **Marina.** "Marina" has the meaning given it in section 86A.20, subdivision 5.

Subd. 18. **Metrology.** "Metrology" means the science and practice of precise measurement, including measurement of mass, length, volume, and temperature.

Subd. 19. **Mooring facility.** "Mooring facility" has the meaning given it in section 86A.20, subdivision 3.

Subd. 20. **Motorcycle.** "Motorcycle" has the meaning given it in section 168.011, subdivision 26.

Subd. 21. **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. 22. **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. 23. **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. 24. **Package.** "Package" means a commodity put up or packaged in advance of sale in units suitable for either wholesale or retail sale.

Subd. 25. **Person.** "Person," means person or persons, corporation, partnership, stock company, society, association, or the agent or employee thereof.

Subd. 26. **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. 27. **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. 28. **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. 29. **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. 30. **Resort.** "Resort" has the meaning given it in section 157.15, subdivision 11.

Subd. 31. **Sale from bulk.** "Sale from bulk" means the sale of commodities when the quantity is determined at the time of the sale.

Subd. 32. **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. 33. **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. 34. **Snowmobile.** "Snowmobile" has the meaning given it in section 84.81, subdivision 3.

Subd. 35. **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. 36. **Weight.** "Weight" means net weight when it is used in connection with a commodity sold by weight.

Subd. 37. **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; 1Sp2005 c 1 art 4 s 60,61,123

### 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;

(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; and

(7) empowered, after written warning, to issue citations of not less than \$100 and not more than \$500 to a person who violates any provision of this chapter, any provision of the rules adopted under the authority contained in this chapter, or any provision of statutes enforced by the Division of Weights and Measures.

**History:** 1Sp2005 c 1 art 4 s 62

**239.101 INSPECTION FEES.**

*[For text of subds 1 and 2, see M.S.2004]*

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 81 cents of the fee is appropriated to the commissioner of commerce for the cost of operations of the Division of Weights and Measures, petroleum supply monitoring, and the oil burner retrofit program. 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.

*[For text of subds 4 to 7, see M.S.2004]*

**History:** *1Sp2005 c 1 art 4 s 63*

**239.33 STANDARD MEASUREMENTS OF WOOD.**

In all contracts for sale of wood the term "cord" shall mean 128 cubic feet of wood, bark, and air, if cut 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 wood shall be based on 79 cubic feet of solid wood content per cord. The weight per cord may vary by species or species group. In case of any dispute when the parties have not otherwise agreed in writing to the weight per cord by species or species group, the weight most recently established by the commissioner of natural resources prevails.

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:** *2005 c 141 s 12*

**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 one-half gallon;

(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 test data and information to assist persons who use, produce, distribute, or sell petroleum-based heating and engine fuels;

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

(10) after consulting with the commissioner, grant a temporary exemption from the gasoline-ethanol blending requirements in section 239.791 if the supply of ethanol is insufficient to produce gasoline-ethanol blends; and

(11) 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.

*[For text of subd 2, see M.S.2004]*

Subd. 5. **Product quality, responsibility.** After a petroleum-based engine fuel 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;

(iii) a dye to distinguish heating fuel from low sulfur diesel fuel; or

(iv) biodiesel fuel that complies with the specifications in this chapter; 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.

*[For text of subd 6, see M.S.2004]*

**History:** 1Sp2005 c 1 art 4 s 64,65

## 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

D4814-04a. 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 D4814-04a, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-04a; 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 D4806-04a. 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 D4814-04a. 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 D396-02a.

**Subd. 8. Diesel fuel oil.** Diesel fuel oil must comply with ASTM specification D975-04b, except that diesel fuel oil is not required to meet the diesel lubricity standard until the date that the biodiesel fuel requirement in section 239.77, subdivision 2, becomes effective or December 31, 2005, whichever comes first.

**Subd. 9. Kerosene.** Kerosene must comply with ASTM specification D3699-03.



Subd. 10. **Aviation gasoline.** Aviation gasoline must comply with ASTM specification D910-04.

Subd. 11. **Aviation turbine fuel, jet fuel.** Aviation turbine fuel and jet fuel must comply with ASTM specification D1655-04.

Subd. 12. **Gas turbine fuel oil.** Fuel oil for use in nonaviation gas turbine engines must comply with ASTM specification D2880-03.

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 (2004).

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:** *1Sp2005 c 1 art 4 s 66*

### 239.77 BIODIESEL CONTENT MANDATE.

*[For text of subs 1 to 3, see M.S.2004]*

Subd. 4. **Disclosure.** A refinery or terminal shall provide, at the time diesel fuel is sold or transferred from the refinery or terminal, a bill of lading or shipping manifest to the person who receives the fuel. For biodiesel-blended products, the bill of lading or shipping manifest must disclose biodiesel content, stating volume percentage, gallons of biodiesel per gallons of petroleum diesel base-stock, or an ASTM "Bxx" designation where "xx" denotes the volume percent biodiesel included in the blended product. This subdivision does not apply to sales or transfers of biodiesel blend stock between refineries, between terminals, or between a refinery and a terminal.

**History:** *1Sp2005 c 1 art 4 s 67*

### 239.785 LIQUEFIED PETROLEUM GAS SALE; ACCOUNT; PENALTIES.

*[For text of subs 1 to 3, see M.S.2004]*

Subd. 4. **Administration and enforcement.** The audit, assessment, appeal, collection, and administrative provisions of chapters 270C and 296A, that apply to the taxes imposed by chapter 296A, apply to the fee imposed by this section.

Subd. 5. **Interest.** Fees and penalties are subject to interest at the rate provided in section 270C.40.

*[For text of subd 6, see M.S.2004]*

**History:** *2005 c 151 art 2 s 3,17*

### 239.79 PETROLEUM PRODUCTS; TRANSACTION REQUIREMENTS.

*[For text of subd 3, see M.S.2004]*

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, and biodiesel. 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:** *1Sp2005 c 1 art 4 s 68*

**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 engine fuels.

(c) The provisions of this subdivision are suspended during any period of time that subdivision 1a, paragraph (a), is in effect.

Subd. 1a. **Minimum ethanol content required.** (a) Except as provided in subdivisions 10 to 14, on August 30, 2013, and thereafter, a person responsible for the product shall ensure that all gasoline sold or offered for sale in Minnesota must contain at least 20 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 18.4 percent by volume and not more than 20 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 content in motor fuels.

(c) No motor fuel shall be deemed to be a defective product by virtue of the fact that the motor fuel is formulated or blended pursuant to the requirements of paragraph (a) under any theory of liability except for simple or willful negligence or fraud. This paragraph does not preclude an action for negligent, fraudulent, or willful acts. This paragraph does not affect a person whose liability arises under chapter 115, water pollution control; 115A, waste management; 115B, environmental response and liability; 115C, leaking underground storage tanks; or 299J, pipeline safety; under public nuisance law for damage to the environment or the public health; under any other environmental or public health law; or under any environmental or public health ordinance or program of a municipality as defined in section 466.01.

(d) This subdivision expires on December 31, 2010, if by that date:

(1) the commissioner of agriculture certifies and publishes the certification in the State Register that at least 20 percent of the volume of gasoline sold in the state is denatured ethanol; or

(2) federal approval has not been granted for the use of E20 as gasoline. The United States Environmental Protection Agency's failure to act on an application shall not be deemed approval of the use of E20, or a waiver under section 211(f)(4) of the Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4).

*[For text of subd 3, see M.S.2004]*

Subd. 7. **Ethanol records; state audit.** The director shall audit the records of registered ethanol 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 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.

*[For text of subds 10 to 14, see M.S.2004]*

**Subd. 15. Exemption for certain blend pumps.** (a) 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.

(b) This subdivision applies only to those persons who met the conditions in paragraph (a), clauses (1) through (5), on August 1, 2004, and registered with the director by November 1, 2004.

**History:** 2005 c 10 art 1 s 39; 2005 c 52 s 1,2; 1Sp2005 c 1 art 4 s 69-72

### **239.7911 PETROLEUM REPLACEMENT PROMOTION.**

**Subdivision 1. Petroleum replacement goal.** The petroleum replacement goal of the state of Minnesota is that at least 20 percent of the liquid fuel sold in the state is derived from renewable sources by December 31, 2015.

**Subd. 2. Promotion of renewable liquid fuels.** (a) The commissioner of agriculture, in consultation with the commissioners of commerce and the Pollution Control Agency, shall identify and implement activities necessary for the widespread use of renewable liquid fuels in the state. Beginning November 1, 2005, and continuing through 2015, the commissioners, or their designees, shall work with representatives from the renewable fuels industry, petroleum retailers, refiners, automakers, small engine manufacturers, and other interested groups, to develop annual recommendations for administrative and legislative action.

(b) The activities of the commissioners under this subdivision shall include, but not be limited to:

- (1) developing recommendations for incentives for retailers to install equipment necessary for dispensing renewable liquid fuels to the public;
- (2) obtaining federal approval for the use of E20 as gasoline;
- (3) developing recommendations for ensuring that motor vehicles and small engine equipment have access to an adequate supply of fuel;
- (4) working with the owners and operators of large corporate automotive fleets in the state to increase their use of renewable fuels; and
- (5) working to maintain an affordable retail price for liquid fuels.

**History:** 2005 c 52 s 3

### **239.792 AUTOMOTIVE FUEL RATINGS, CERTIFICATION, AND POSTING.**

**Subdivision 1. Duties of refiners, importers, and producers.** A refiner, importer, or producer of automotive fuel must comply with the automotive fuel rating, certification,

and record-keeping requirements of Code of Federal Regulations, title 16, sections 306.5 to 306.7.

Subd. 2. **Duties of distributors.** A licensed distributor of automotive fuel must comply with the certification and record-keeping provisions of Code of Federal Regulations, title 16, sections 306.8 and 306.9.

Subd. 3. **Duties of retailers.** A person responsible for the product who sells or transfers automotive fuel to a consumer must comply with the automotive fuel rating posting and record-keeping requirements, and the label specifications of Code of Federal Regulations, title 16, sections 306.10 to 306.12.

Subd. 4. **Duties of director.** Upon request, the director shall provide any person with a copy of Code of Federal Regulations, title 16, part 306. Upon request, the director shall provide any distributor, retailer, or organization of distributors or retailers with the label specifications in Code of Federal Regulations, title 16, section 306.12.

**History:** *1Sp2005 c 1 art 4 s 73*