

CHAPTER 239

WEIGHTS, MEASURES

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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.

(c) Firewood sold or distributed across state boundaries or more than 100 miles from its origin must include delivery ticket information regarding the harvest locations of the wood by county and state.

History: 2007 c 36 s 3

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.

(c) Firewood sold or distributed across state boundaries or more than 100 miles from its origin must include information regarding the harvest locations of the wood by county and state on each label or wrapper.

History: 2007 c 36 s 4

239.101 INSPECTION FEES.

[For text of subs 1 and 2, see M.S.2006]

Subd. 3. **Petroleum inspection fee; appropriation, uses.** (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 to make grants to providers of low-income weatherization services to install renewable energy equipment in households that are eligible for weatherization assistance under Minnesota's weatherization assistance program state plan. 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 subs 4 to 6, see M.S.2006]

Subd. 7. [Repealed, 2007 c 62 s 16]

History: 2007 c 57 art 3 s 40

239.75 INSPECTION OF PETROLEUM PRODUCTS.

Subdivision 1. **Inspection requirements; blending exemptions.** 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;

(11) after consulting with the commissioner, grant a temporary exemption from the diesel-biodiesel blending requirements in section 239.77, if the supply of biodiesel is insufficient to produce diesel-biodiesel blends; 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.

[For text of subs 2 to 6, see M.S.2006]

History: 2007 c 28 s 1

239.751 PETROLEUM DISPENSER, PRICE, LABEL, AND SIGN.

[For text of subs 1 to 6, see M.S.2006]

Subd. 6a. **Person must be present when fueling; sign.** (a) A person must be in close attendance to the dispenser nozzle while fuel is being dispensed into a motor vehicle. No civil or criminal penalties apply to violations of this subdivision.

(b) A person who sells petroleum product at retail to the public for use in motor vehicles as defined in section 296A.01, subdivision 21:

(1) shall post signs in the locations described in subdivision 5 that state: "A person fueling a motor vehicle must be in close attendance to the dispenser nozzle during the fueling process."; and

(2) may discontinue fuel services to a person who violates paragraph (a).

[For text of subd 7, see M.S.2006]

History: 2007 c 62 s 1

239.754 NOTIFICATION OF PRODUCT UNAVAILABILITY; TERMINAL OPERATORS.

A person who operates a terminal where petroleum products are loaded into transport trucks for subsequent distribution, shall notify the director when regular grade gasoline, number 1 diesel, number 2 diesel, kerosene, heating oil, ethanol, and biodiesel are physically not available for sale to licensed distributors.

History: 2007 c 28 s 2

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 D4814-06. 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 D4814-06, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-06; 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 D4806-06c. 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 D4814-06. 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 D396-05a.

Subd. 8. Diesel fuel oil. Diesel fuel oil must comply with ASTM specification D975-06b.

Subd. 9. Kerosene. Kerosene must comply with ASTM specification D3699-06.

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

Subd. 11. Aviation turbine fuel, jet fuel. Aviation turbine fuel and jet fuel must comply with ASTM specification D1655-06a.

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.

Subd. 15. **Biodiesel blend definition.** “Biodiesel blend” means a blend of diesel fuel and biodiesel fuel at a ratio designated by “BXX” where “XX” represents the volume percent of biodiesel fuel in the blend.

Subd. 16. **Biodiesel fuel definition.** “Biodiesel fuel” means a renewable, biodegradable, mono alkyl ester combustible liquid that is derived from agricultural plant oils or animal fats and that meets American Society for Testing and Materials (ASTM) specification D6751–07 for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

History: 2007 c 62 s 2

239.77 BIODIESEL CONTENT MANDATE.

Subdivision 1. **Biodiesel fuel.** “Biodiesel fuel” means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural plant oils or animal fats and that meets American Society For Testing and Materials specification D6751–07 for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

Subd. 2. **Minimum content.** 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.

[For text of subs 3 and 4, see M.S.2006]

History: 2007 c 62 s 3,4

239.7911 PETROLEUM REPLACEMENT PROMOTION.

Subdivision 1. **Petroleum replacement goal.** The tiered petroleum replacement goal of the state of Minnesota is that:

- (1) at least 20 percent of the liquid fuel sold in the state is derived from renewable sources by December 31, 2015; and
- (2) at least 25 percent of the liquid fuel sold in the state is derived from renewable sources by December 31, 2025.

[For text of subd 2, see M.S.2006]

History: 2007 c 45 art 1 s 58

239.80 VIOLATIONS; PENALTIES.

Subdivision 1. **Violations; enforcement actions of department; waiver.** (a) 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; 239.77; 239.79; 239.791; and 239.792.

(b) The director or any delegated employee may waive a penalty for a violation under section 239.77 or 239.791 on a retailer when ethanol or biodiesel are not available at a pipeline or refinery to meet the blending requirements of this chapter, and the terminal has had ethanol or biodiesel blended products available to the licensed distributor for 20 of the previous 30 days. The director or delegated employee shall use the reports required in section 239.754 or other available information in making a determination under this paragraph. The commissioner shall work with the commissioner of agriculture, biodiesel producers, ethanol producers, pipeline operators, and terminal operators, to ensure that biodiesel and ethanol are available for blending at pipeline and refinery terminals where diesel fuel and gasoline are sold and destined for use in Minnesota.

Subd. 2. **Penalty.** A person who fails to comply with any provision of section 239.10; 239.101, subdivision 3; 239.761; 239.77; 239.79; 239.791, subdivisions 1 to 11; or 239.792, is guilty of a misdemeanor.

[For text of subd 3, see M.S.2006]

History: 2007 c 28 s 3,4