

The requirements of this chapter regarding the conduct of utilization review are in addition to any specific requirements contained in chapter 62A, 62C, 62D, or 72A.

Sec. 16. **[62M.16] RULEMAKING.**

If it is determined that rules are reasonable and necessary to accomplish the purpose of sections 1 to 16, the rules must be adopted through a joint rulemaking process by both the department of commerce and the department of health.

Sec. 17. **EFFECTIVE DATE.**

Sections 1 to 16 are effective January 1, 1993.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 10:23 a.m.

**CHAPTER 575—S.F.No. 2509**

*An act relating to motor fuels; weights and measures; regulating octane and oxygenated fuels; amending Minnesota Statutes 1990, sections 41A.09, subdivision 2, and by adding a subdivision; 239.75; 239.79; 239.80; 296.01, subdivisions 1, 2, 3, 4, 4a, 4b, 15, 24, and by adding subdivisions; 296.02, subdivisions 1, 2, and 7; Minnesota Statutes 1991 Supplement, section 239.05, subdivision 1, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 239; repealing Minnesota Statutes 1990, sections 239.75, subdivisions 3 and 4; 239.76, as amended; 239.79, subdivisions 1 and 2; 296.01, subdivision 2a; and 325E.09.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 41A.09, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For purposes of this section the terms defined in this subdivision have the meanings given them.

(a) "Ethanol" means agriculturally derived fermentation ethyl alcohol of a purity of at least 99 percent, determined without regard to any added denaturants, denatured in conformity with one of the approved methods set forth by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, and derived from the following agricultural products: potatoes, cereal, grains, cheese whey, or sugar beets, forest products, or other renewable resources, that:

(1) meets all of the specifications in ASTM specification D 4806-88; and

New language is indicated by underline, deletions by strikeout.

(2) is denatured with unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

(b) "Wet alcohol" means agriculturally derived fermentation ethyl alcohol having a purity of at least 50 percent but less than 99 percent.

Sec. 2. Minnesota Statutes 1990, section 41A.09, is amended by adding a subdivision to read:

**Subd. 7. COORDINATION WITH DEPARTMENTS OF REVENUE AND PUBLIC SERVICE.** The agriculturally derived ethanol definition and specifications in this section are intended to match the definition and specifications in sections 239.761 and 296.01.

Sec. 3. Minnesota Statutes 1991 Supplement, section 239.05, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** The terms used in sections 239.04 to 239.53 this chapter have the meanings given them in this section.

Sec. 4. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

**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.

Sec. 5. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

**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.

Sec. 6. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

**Subd. 2c. ATTESTATION ENGAGEMENT.** "Attestation engagement" means a standard auditing procedure prescribed by the Association of Independent Certified Public Accountants.

Sec. 7. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

**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.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 8. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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.

Sec. 9. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

Subd. 6c. COMMISSIONER. "Commissioner" means the commissioner of the department of public service.

Sec. 10. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

Subd. 7a. DEPARTMENT. "Department" means the department of public service.

Sec. 11. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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

Sec. 12. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

Subd. 8b. DISTRIBUTOR. "Distributor" means a person who is licensed by the department of revenue, under the requirements of section 296.06, to manufacture, refine, receive, distribute, sell, or use petroleum products in Minnesota.

Sec. 13. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

Subd. 8c. DIVISION. "Division" means the division of weights and measures of the department of public service.

Sec. 14. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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

Sec. 15. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

Subd. 8e. GASOLINE. "Gasoline" has the meaning given it in section 296.01, subdivision 3.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 16. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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

Sec. 17. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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.

Sec. 18. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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.

Sec. 19. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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.

Sec. 20. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

Subd. 12b. PETROLEUM PRODUCT, PRODUCT. "Petroleum product" and "product" mean all of the products defined in section 296.01, subdivisions 3 to 4d, 15, and 24.

Sec. 21. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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

New language is indicated by underline, deletions by ~~strikeout~~.

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.

Sec. 22. Minnesota Statutes 1991 Supplement, section 239.05, is amended by adding a subdivision to read:

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.

#### INSPECTION OF PETROLEUM PRODUCTS

Sec. 23. Minnesota Statutes 1990, section 239.75, is amended to read:

#### 239.75 INSPECTION OF PETROLEUM PRODUCTS.

Subdivision 1. **INSPECTION TO BE MADE.** The department of public service shall make inspection of petroleum products wherever processed, held, stored, or offered for sale or used, and shall secure samples periodically from importations in their original containers to determine their specifications when tested by the methods of the American Society for Testing Materials. Upon the request of the department of public service, a person holding, storing, offering for sale, or using petroleum products shall permit the department of public service to take for testing free samples, not to exceed 32 ounces each, of the products when necessary for the purposes of this chapter. The department of public service shall test samples of petroleum products received and submitted by any licensed distributor and shall inform the distributor of the results of the tests. 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;

New language is indicated by underline, deletions by ~~strikeout~~.

(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 SAMPLES; WHEN NOT MEETING SPECIFICATIONS.** A record of the inspection shall be made. Any material not meeting the specifications under section 239.76 shall be sealed in the container from which the sample was secured or placed in separate storage under seal until a method of its disposition has been approved by the department of public service. 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 non-complying 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;

New language is indicated by underline, deletions by ~~strikeout~~.

(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. CALIBRATION OR GAUGE CHARTS.** A person holding petroleum products in storage tanks for sale or for use as special fuel shall maintain a calibration or gauge chart for each tank.

**Subd. 4. ENTRY UPON PREMISES.** The department of public service may enter into or upon the premises of a distributor, bulk purchaser, or dealer of petroleum products to inspect the receptacles in which the products are stored. A distributor, bulk purchaser, or dealer shall keep the receptacles free from impurities. If the receptacles are found to contain impurities, they must be sealed until a method of disposition of the material has been approved by the department of public service.

**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 PRODUCTS, 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

New language is indicated by underline, deletions by strikethrough.

director that the rejected product has been removed and replaced with a product that complies with the specifications in section 239.761.

**Sec. 24. [239.751] PETROLEUM DISPENSERS, PRICES, LABELS, AND SIGNS.**

**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/gal." or "\$0.32/liter."

**Subd. 3. PRICE ADVERTISING SIGNS; 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.

New language is indicated by underline, deletions by ~~strikeout~~.



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

**Subd. 6. NONCONFORMING DISPENSERS, SIGNS, DISPLAYS, OR LABELS.** 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. DISPENSERS 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.

**Sec. 25. [239.752] STORAGE TANK MARKING; RETAIL LOCATIONS.**

A person responsible for the product shall securely mount a permanent engraved plastic or stamped 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. The identification tag must clearly display the grade or trade name of the product stored in the tank. The grade or trade name on the identification tag must be the same as the grade or trade name displayed on the dispensers through which the product is dispensed. The grade or trade name must not be displayed on an access cover over a fill pipe.

**Sec. 26. [239.753] ENTRY UPON PREMISES AND ACCESS TO RECORDS.**

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

New language is indicated by underline, deletions by ~~strikeout~~.

(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.

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.

**Sec. 27. [239.761] PETROLEUM PRODUCT SPECIFICATIONS.**

Subdivision 1. APPLICATION. A person responsible for the product must meet the specifications in subdivisions 3 to 12. 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 296.01. Petroleum products named in subdivisions 3 to 12 are defined in section 296.01.

Subd. 3. GASOLINE. Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with ASTM specification D 439-89. Gasoline that is not blended with ethanol must also comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. 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. Gasoline may be blended with up to ten percent, by volume, agriculturally derived, denatured ethanol that complies with the requirements of subdivision 5. A gasoline-ethanol blend must:

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

New language is indicated by underline, deletions by ~~strikeout~~.

(2) comply with ASTM specification D 4814-90a, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D 4814-90a; 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 D 4806-88. This includes the requirement that ethanol may be denatured only with specified concentrations of unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Subd. 6. GASOLINE BLENDED WITH AN OXYGENATE. Gasoline that is blended with an oxygenate, other than denatured ethanol, must comply with ASTM specification D 4814-90a. Oxygenates, other than denatured ethanol, 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 D 396-90a.

Subd. 8. DIESEL FUEL OIL. Diesel fuel oil must comply with ASTM specification D 975-90.

Subd. 9. KEROSENE. Kerosene must comply with ASTM specification D 3699-90.

Subd. 10. AVIATION GASOLINE. Aviation gasoline must comply with ASTM specification D 910-90.

Subd. 11. AVIATION TURBINE FUEL, JET FUEL. Aviation turbine fuel and jet fuel must comply with ASTM specification D 1655-90.

Subd. 12. GAS TURBINE FUEL OIL. Fuel oil for use in nonaviation gas turbine engines must comply with ASTM specification D 2880-90a.

Sec. 28. Minnesota Statutes 1990, section 239.79, is amended to read:

**239.79 PETROLEUM PRODUCTS; TRANSACTION REQUIREMENTS.**

~~Subdivision 1. PRICES POSTED. A gasoline pump in this state shall have the total sales price per gallon posted on the pump in a conspicuous manner.~~

~~Subd. 2. PRODUCT INFORMATION. When gasoline blended with alcohol is sold, offered for sale, or dispensed for use in motor vehicles, the dispenser shall be clearly marked in compliance with requirements of Code of Federal Regulations, title 40, part 80.27(d).~~

New language is indicated by underline, deletions by ~~strikeout~~.

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. SALES 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.

**Sec. 29. [239.791] OXYGENATED GASOLINE.**

Subdivision 1. MINIMUM OXYGEN CONTENT REQUIRED. A person responsible for the product shall comply with the following requirements:

(a) After October 31, 1992, gasoline sold or offered for sale in a carbon monoxide control area, and during a carbon monoxide control period, must contain at least two percent oxygen by weight.

(b) After October 31, 1995, gasoline sold or offered for sale at any time in a carbon monoxide control area must contain at least two percent by oxygen weight.

(c) After October 31, 1997, all gasoline sold or offered for sale in Minnesota must contain at least two percent oxygen by weight.

Subd. 2. AVERAGE OXYGEN CONTENT REQUIRED. After October 31, 1992, the total amount of gasoline distributed, transported, delivered, sold, or offered for sale by a registered oxygenate blender, during each annual carbon monoxide control period, in each carbon monoxide control area, must contain an average of 2.7 percent oxygen by weight.

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. BLENDER REGISTRATION. A person shall register with the director, as prescribed by the director, at least 30 days before the beginning of a control period, if the person:

(1) is either a licensed distributor or owns products stored at a refinery or terminal;

New language is indicated by underline, deletions by ~~strikeout~~.

(2) blends gasoline with an oxygenate; and

(3) distributes, transports, delivers, sells, or offers to sell the gasoline-oxygenate blend in a carbon monoxide control area, during a carbon monoxide control period.

**Subd. 5. OXYGENATE BLENDING RECORDS.** A registered oxygenate blender shall maintain records of gasoline-oxygenate blends for one year after the end of each carbon monoxide control period. The records must be audited according to subdivision 6. The records must include:

(1) a record of the gallons of gasoline, gallons of oxygenate, and calculated weight percent of oxygen in each gasoline-oxygenate blend produced, distributed, transported, delivered, sold, or offered for sale in a carbon monoxide control area; and

(2) a cumulative record of the gallons of gasoline, gallons of oxygenate, and calculated weight percent of oxygen in all gasoline-oxygenate blends produced, distributed, transported, delivered, sold, or offered for sale in a carbon monoxide control area, and during a carbon monoxide control period.

**Subd. 6. OXYGENATE RECORDS; SELF AUDITS.** A registered oxygenate blender shall commission an attestation engagement performed by a certified public accountant to investigate compliance with this section and with EPA oxygenated fuel requirements. The audit report, including the cumulative record of gasoline oxygenate blends, must be submitted to the director, as prescribed by the director, within 120 days after the end of each carbon monoxide control period.

**Subd. 7. OXYGENATE RECORDS; STATE AUDITS.** 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 person responsible for the product who delivers, distributes, sells, or offers to sell gasoline in a carbon monoxide control area, during a carbon monoxide control period, shall provide, at the time of delivery, a bill of lading or shipping manifest to the person who receives the gasoline. For oxygenated gasoline, the bill or manifest must state: "This fuel contains an oxygenate. Do not blend this fuel with ethanol or with any other oxygenate." For nonoxygenated gasoline, the bill or manifest must state: "This fuel must not be sold at retail or used in a carbon monoxide control area." This subdivision does not apply to sales or transfers of gasoline when the gasoline is dispensed into the supply tanks of motor vehicles.

**Subd. 9. DISPENSER LABELING.** During a carbon monoxide control period, and in a carbon monoxide control area, a person responsible for the

New language is indicated by underline, deletions by ~~strikeout~~.

product must clearly label each gasoline dispenser controlled by the person. The label must state:

(1) "The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."; or

(2) "From October 1 through January 31, the gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

Sec. 30. [239.792] GASOLINE OCTANE.

Subdivision 1. GASOLINE OCTANE; 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 D 439-89 or D 4814-90a, or by a test method adopted by department rule.

Subd. 2. GASOLINE OCTANE; 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 D 439-89 or D 4814-90a, 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".

Sec. 31. Minnesota Statutes 1990, section 239.80, is amended to read:

239.80 VIOLATIONS; PENALTIES.

Subdivision 1. VIOLATIONS; ACTIONS OF DEPARTMENT. The department director, or any of its employees, delegated employee shall condemn, seize, or destroy any petroleum products processed, held, stored, offered for sale, or used in violation of section use the methods in section 239.75 to

New language is indicated by underline, deletions by ~~strikeout~~.

enforce sections 239.10, ~~239.76~~ 239.761, 239.78, or 239.79, 239.791, and 239.792. Storage tanks containing the petroleum products, and pumps attached to the storage tanks, shall be marked in a manner to be prescribed by the department indicating a violation of this chapter. This marking shall remain on the tank or pump and prevent sale or use of product contained in it until the petroleum product conforms with sections ~~239.10, 239.76, 239.78, and 239.79.~~

Subd. 2. PENALTY. Any A person who fails to comply with any provision of section 239.10, ~~239.76~~ 239.761, 239.78, or 239.79 shall be, 239.791, or 239.792 is guilty of a misdemeanor.

Sec. 32. Minnesota Statutes 1990, section 296.01, subdivision 1, is amended to read:

Subdivision 1. TERMS. Unless the language or context clearly indicates that a different meaning is intended, the ~~following terms, for the purposes of sections 296.01 to 296.421~~ shall be given used in this chapter and sections 239.75 to 239.80 have the meanings ~~subjoined to given them in this section.~~ The petroleum product definitions and specifications in this section are intended to match the definitions and specifications in sections 41A.09 and 239.761.

Sec. 33. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 1a. 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.

Sec. 34. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 1b. PETROLEUM DISTILLATE. "Petroleum distillate" means a hydrocarbon or group of hydrocarbon compounds that have been extracted from petroleum crude oil by a distillation process involving evaporation by heating, and subsequent condensation by cooling.

Sec. 35. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 1c. PETROLEUM RESIDUAL. "Petroleum residual" means a heavy hydrocarbon or group of heavy hydrocarbon compounds that do not evaporate during a distillation process.

Sec. 36. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 1d. REFINERY, TERMINAL. "Refinery" or "terminal" means any petroleum refinery, pipeline terminal, river terminal, storage facility, or other point of origin where petroleum products are manufactured, or imported by rail,

New language is indicated by underline, deletions by ~~strikeout~~.

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. For the purpose of assessing fees, this definition 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 chapter 239 is either not due or has been paid.

Sec. 37. Minnesota Statutes 1990, section 296.01, subdivision 2, is amended to read:

Subd. 2. **PETROLEUM PRODUCTS.** "Petroleum products" means ~~gasoline and fuel oil~~ all of the products defined in subdivisions 3 to 4d, 15, and 24.

Sec. 38. Minnesota Statutes 1990, section 296.01, subdivision 3, is amended to read:

Subd. 3. **GASOLINE.** "Gasoline" means:

(a) all products commonly or commercially known or sold as gasoline (~~including casinghead and absorption or natural gasoline~~) regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(b) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, ~~which and that~~ when tested by the weights and measures division of the department of public service meets the sulfur, distillation range, Reid vapor pressure, and copper corrosion requirements contained in American Society for Testing and Materials (ASTM) specification number D-439, "Standard Specification for Automotive Gasoline."

For gasoline that is blended with more than one volume percent of denatured ethanol, the gasoline portion of the blend or the finished gasoline-ethanol blend must meet the sulfur, distillation range, Reid vapor pressure, and copper corrosion requirements contained in ASTM D-439.

For gasoline that is blended with more than one volume percent of methanol, the finished gasoline-methanol blend must meet the sulfur, distillation range, Reid vapor pressure, and copper corrosion requirements contained in ASTM D-439, and must have a currently valid fuel/fuel additive waiver by the United States Environmental Protection Agency as provided by United States Code, title 42, section 7545 the specifications in ASTM specification D 439-89.

Sec. 39. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 3a. GASOLINE BLENDED WITH ETHANOL. "Gasoline blended

New language is indicated by underline, deletions by ~~strikeout~~.



with ethanol" means gasoline blended with up to ten percent, by volume, agriculturally derived, denatured ethanol. The blend must comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. The blend must also comply with ASTM specification D 4814-90a, except when subjected to a standard distillation test. For a distillation test, a gasoline-ethanol blend is not required to comply with the temperature specification at the 50 percent liquid recovery point, if the gasoline from which the gasoline-ethanol blend was produced complies with all of the distillation specifications.

Sec. 40. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 3b. DENATURED ETHANOL. "Denatured ethanol" means ethanol that is to be blended with gasoline, has been agriculturally derived, and complies with ASTM specification D 4806-88. This includes the requirement that ethanol may be denatured only with specified concentrations of unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Sec. 41. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 3c. GASOLINE BLENDED WITH AN OXYGENATE. "Gasoline blended with an oxygenate" means gasoline blended with an alcohol or ether, other than denatured ethanol, that is approved as an oxygenate by the United States Environmental Protection Agency.

Sec. 42. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 3d. CASINGHEAD, ABSORPTION, CONDENSATION, DRIP, OR NATURAL GASOLINE. "Casinghead gasoline," "absorption gasoline," "condensation gasoline," "drip gasoline," and "natural gasoline" mean a low-octane, high-volatility, liquid hydrocarbon by-product of crude oil extraction and pumping, coal gasification, or shipping of natural gas through a pipeline.

Sec. 43. Minnesota Statutes 1990, section 296.01, subdivision 4, is amended to read:

Subd. 4. HEATING FUEL OIL. "Heating fuel oil" means a petroleum distillate, blend of petroleum distillates and residuals, or petroleum residual heating fuel which that meets the flash point, pour point, water and sediment content, distillation, specific gravity, copper corrosion, and sulfur content requirements contained in American Society for Testing and Materials standard specification number D-396 as amended through August 1, 1985 the specifications in ASTM specification D 396-90a.

Sec. 44. Minnesota Statutes 1990, section 296.01, subdivision 4a, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4a. **DIESEL FUEL OIL.** "Diesel fuel oil" means a petroleum distillate or blend of petroleum distillate and residual fuels, intended for use as a motor fuel in internal combustion diesel engines, that meets the specifications in ASTM specification D 975-90. ~~Diesel fuel must meet the flash point, water and sediment content, distillation, sulfur content, and copper corrosion requirements contained in American Society for Testing and Materials standard specification number D-975 as amended through August 1, 1985.~~

Sec. 45. Minnesota Statutes 1990, section 296.01, subdivision 4b, is amended to read:

Subd. 4b. **KEROSENE.** "Kerosene" means a refined petroleum distillate consisting of a homogeneous mixture of hydrocarbons essentially free of water, inorganic acidic and basic compounds, and excessive amounts of particulate contaminants and that meets the specifications in ASTM specification D 3699-90. ~~Kerosene must meet the color, sulfur content, distillation, flash point, and copper corrosion requirements contained in American Society for Testing and Materials standard specification number D-3699 as amended through August 1, 1985.~~

Sec. 46. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 4c. **AVIATION TURBINE FUEL, JET FUEL.** "Aviation turbine fuel" and "jet fuel" mean blends of hydrocarbons derived from crude petroleum, natural gasoline, and synthetic hydrocarbons, intended for use in aviation turbine engines, and that meet the specifications in ASTM specification D 1655-90.

Sec. 47. Minnesota Statutes 1990, section 296.01, is amended by adding a subdivision to read:

Subd. 4d. **GAS TURBINE FUEL OIL.** "Gas turbine fuel oil" means fuel that contains mixtures of hydrocarbon oils free of inorganic acid and excessive amounts of solid or fibrous foreign matter, that is intended for use in nonaviation gas turbine engines, and that meets the specifications in ASTM specification D 2880-90a.

Sec. 48. Minnesota Statutes 1990, section 296.01, subdivision 15, is amended to read:

Subd. 15. **AVIATION GASOLINE.** "Aviation gasoline" means any gasoline ~~which~~ that is capable of use for the purpose of producing or generating power for propelling internal combustion engine aircraft, ~~which that~~ that meets the specifications in ASTM specification D 910-90, and that either:

(1) is invoiced and billed by a producer, manufacturer, refiner, or blender to a distributor or dealer, by a distributor to a dealer or consumer, or by a dealer to a consumer, as "aviation gasoline,"; or

(2); whether or not invoiced and billed as provided in clause (1), is received,

New language is indicated by underline, deletions by ~~strikeout~~.

sold, stored, or withdrawn from storage by any person, to be used for the purpose of producing or generating power for propelling internal combustion engine aircraft.

Sec. 49. Minnesota Statutes 1990, section 296.01, subdivision 24, is amended to read:

Subd. 24. **AGRICULTURAL ALCOHOL GASOLINE.** "Agricultural alcohol gasoline" means a ~~gasoline~~ gasoline-ethanol blend of up to ten percent of which is agriculturally derived fermentation ethanol of a purity of at least 99 percent, determined without regard to any added denaturants, denatured in conformity with one of the approved methods set forth by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms, and derived from agricultural products, such as potatoes, cereal, grains, cheese whey, sugar beets, or forest products or other renewable resources, that:

(1) meets the specifications in ASTM specification D 4806-88; and

(2) is denatured with unleaded gasoline or rubber hydrocarbon solvent as defined in Code of Federal Regulations, title 27, parts 211 and 212, as adopted by the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury Department.

Sec. 50. Minnesota Statutes 1990, section 296.02, subdivision 1, is amended to read:

#### 296.02 GASOLINE, EXCISE TAX.

Subdivision 1. **TAX IMPOSED FOR MOTOR VEHICLE USE.** There is imposed an excise tax on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state. For purposes of this section, gasoline is defined in section 296.01, subdivisions 3, 3a, 3c, and 3d. This tax is payable at the times, in the manner, and by persons specified in this chapter. The tax is payable at the rate specified in subdivision 1b, subject to the exceptions and reductions specified in this section.

(a) Notwithstanding any other provision of law to the contrary, the tax imposed on special fuel sold by a qualified service station may not exceed, or the tax on gasoline delivered to a qualified service station must be reduced to, a rate not more than three cents per gallon above the state tax rate imposed on such products sold by a service station in a contiguous state located within the distance indicated in clause (b).

(b) A "qualifying service station" means a service station located within 7.5 miles, measured by the shortest route by public road, from a service station selling like product in the contiguous state.

(c) A qualified service station shall be allowed a credit by the supplier or distributor, or both, for the amount of reduction computed in accordance with clause (a).

New language is indicated by underline, deletions by ~~strikeout~~.

A qualified service station, before receiving the credit, shall be registered with the commissioner of revenue.

Sec. 51. Minnesota Statutes 1990, section 296.02, subdivision 2, is amended to read:

Subd. 2. **GASOLINE TAX IMPOSED FOR AVIATION USE.** Subject to the provisions of section 296.18, subdivision 4, there is imposed an excise tax, at the rate of five cents per gallon on all aviation gasoline received, sold, stored, or withdrawn from storage in this state. Aviation gasoline is defined in section 296.01, subdivision 15. This tax is payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

Sec. 52. Minnesota Statutes 1990, section 296.02, subdivision 7, is amended to read:

Subd. 7. **TAX REDUCTION FOR AGRICULTURAL ALCOHOL GASOLINE.** A distributor shall be allowed a credit on each gallon of ~~fuel grade alcohol~~ denatured ethanol commercially blended with gasoline or blended in a tank truck with gasoline on which the tax imposed by subdivision 1 is due and payable. Denatured ethanol is defined in section 296.01, subdivision 3b. After June 30, 1987, the amount of the credit for every gallon of ~~fuel grade alcohol~~ denatured ethanol blended with gasoline to produce agricultural alcohol gasoline is as follows:

(a) For the fiscal year ending June 30, 1987, 25 cents.

(b) On and after July 1, 1987, 20 cents.

The credit allowed a distributor must not exceed the total tax liability under subdivision 1. The tax credit received by a distributor on ~~alcohol~~ denatured ethanol blended with motor fuels shall be passed on to the retailer.

Sec. 53. **INSTRUCTION TO REVISOR.**

For the next edition of Minnesota Statutes, the revisor of statutes shall renumber the definitions, including the definitions amended and added by this act, in Minnesota Statutes, section 296.01, in alphabetical order and correct any references to those subdivisions in Minnesota Statutes to conform to the renumbering.

Sec. 54. **REPEALER.**

Minnesota Statutes 1990, sections 239.75, subdivisions 3 and 4; 239.76, as amended by Laws 1991, chapter 302, section 2; 239.79, subdivisions 1 and 2; 296.01, subdivision 2a; and 325E.09, are repealed.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:21 a.m.

New language is indicated by underline, deletions by ~~strikeout~~.