

CHAPTER 239

WEIGHTS, MEASURES

239.011	Division responsibilities and powers.	239.78	Repealed.
239.05	Definitions.	239.785	Liquefied petroleum gas sales.
239.10	Annual inspection.	239.791	Oxygenated gasoline.
239.101	Inspection fees.	239.80	Violations; penalties.
239.52	Repealed.		

239.011 DIVISION RESPONSIBILITIES AND POWERS.

[For text of subd 1, see M.S.1992]

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 accor-

dance 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 296;

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

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

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

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

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

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

History: 1993 c 369 s 70

239.05 DEFINITIONS.

[For text of subds 1 to 2b, see M.S.1992]

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 [Repealed, 1993 c 369 s 146]

[For text of subds 6a to 18, see M.S.1992]

239.10 ANNUAL INSPECTION.

The director shall inspect all weights and measures annually, or as often as deemed possible within budget and staff limitations.

History: 1993 c 369 s 71

239.101 INSPECTION FEES.

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

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

Subd. 3. Petroleum inspection fee. A person who owns petroleum products held in storage at a pipeline terminal, river terminal, or refinery shall pay a petroleum inspec-

tion fee of 85 cents for every 1,000 gallons sold or withdrawn from the terminal or refinery storage. The commissioner of revenue shall collect the fee. The revenue from the fee must first be applied to cover the amounts appropriated for petroleum product quality inspection expenses, for the inspection and testing of petroleum product measuring equipment, and for petroleum supply monitoring under chapter 216C.

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

Subd. 4. Setting weights and measures fees. The department shall review its schedule of inspection fees at the end of each six months. When a review indicates that the schedule of inspection fees should be adjusted, the commissioner shall fix the fees by rule, in accordance with section 16A.128, to ensure that the fees charged are sufficient to recover all costs connected with the inspections.

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

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

History: 1993 c 369 s 72

239.52 [Repealed, 1993 c 369 s 146]

239.78 [Repealed, 1993 c 369 s 146]

239.785 LIQUEFIED PETROLEUM GAS SALES.

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

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

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

Subd. 3. Penalties. An operator or person who fails to pay the fee imposed under this section is subject to the penalties provided in sections 296.15 and 296.25.

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

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

History: 1993 c 375 art 9 s 14

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 1, 1993, gasoline sold or offered for sale in a carbon monoxide control area, and during a carbon monoxide control period, must contain at least 2.7 percent oxygen by weight.

(b) After October 1, 1995, gasoline sold or offered for sale at any time in a carbon monoxide control area must contain at least 2.7 percent oxygen by weight.

(c) After October 1, 1997, all gasoline sold or offered for sale in Minnesota must contain at least 2.7 percent oxygen by weight.

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

[For text of subds 3 to 5, see M.S.1992]

Subd. 6. **Oxygenate records; self audits.** A registered oxygenate blender shall audit records to demonstrate 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.

[For text of subd 7, see M.S.1992]

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 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 non-oxygenated 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.

[For text of subd 9, see M.S.1992]

History: 1993 c 250 s 1; 1993 c 369 s 73,74

239.80 VIOLATIONS; PENALTIES.

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

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

History: 1993 c 369 s 75,76