CHAPTER 239

WEIGHTS, MEASURES

WEIGHTS AND MEASURES DIVISION

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239.001 MS 2014 [Repealed, 2015 c 21 art 1 s 110]

239.002 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.003 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.004 [Repealed, 1Sp2003 c 9 art 10 s 14]

WEIGHTS AND MEASURES DIVISION

239.01 WEIGHTS AND MEASURES DIVISION; JURISDICTION.

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

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

239.011 DIVISION RESPONSIBILITIES AND POWERS.

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

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

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

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

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

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

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

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

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

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

(4) shall enforce this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(18) 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.

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

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

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

credentialing processes approved by the director. Persons taking tests established by the director may be charged for the costs of the testing procedure;

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

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

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

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

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

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

History: *1991 c 198 s 2; 1993 c 369 s 70; 1995 c 220 s 114; 1998 c 299 s 30; 2004 c 189 s 1; 1Sp2005 c 1 art 4 s 59; 2014 c 222 art 1 s 45; art 2 s 13*

239.012 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.02 DIRECTOR; DEPUTIES, EMPLOYEES.

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

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

239.03 [Superseded by Minnesota Statutes, chapter 43]

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

239.05 Subdivision 1. [Renumbered 239.051, subdivision 1]

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 6c. [Renumbered subd 6e]

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. 8g. [Renumbered subd 9b]

Subd. 9. [Renumbered 239.051, subd 18]

Subd. 9a. [Renumbered subd 9c]

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. 1a. **Advanced biofuel.** "Advanced biofuel" has the meaning given in Public Law 110-140, title 2, subtitle A, section 201.

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. 5a. **Biofuel.** "Biofuel" means a renewable fuel with an approved pathway under authority of the federal Energy Policy Act of 2005, Public Law 109-58, as amended by the federal Energy Independence and Security Act of 2007, Public Law 110-140, and approved for sale by the United States Environmental Protection Agency. The term "biofuel" includes both advanced and conventional biofuels.

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. 7a. **Conventional biofuel.** "Conventional biofuel" means ethanol derived from cornstarch, as defined in Public Law 110-140, title 2, subtitle A, section 201.

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 ethanol.

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 168.002, subdivision 19.

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 liquefied petroleum gas or 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; 2008 c 297 art 1 s 47; 2013 c 114 art 2 s 56-58; 2014 c 254 s 20*

239.06 RULES.

The department shall prescribe and adopt such rules as it may deem necessary to carry out the provisions of this chapter, including but not limited to the adoption of definitions of basic units of weights and measures, tables of weights and measures, and weights and measures equivalents to govern weighing and measuring equipment and transactions in Minnesota. The division may change, modify, or amend any or all rules when deemed necessary and the rules shall have the force and effect of law.

History: *(5275) 1911 c 156 s 3; 1971 c 25 s 67; 1985 c 248 s 70; 2014 c 222 art 1 s 46*

239.07 [Repealed, 1991 c 198 s 12]

239.08 [Repealed, 1991 c 198 s 12]

239.081 INSPECTING TRACK SCALE.

The division shall supervise and inspect all track scales, and may direct any carrier to transport, move, and switch to any track scale free of charge any car used in the inspection and testing of scales. The division shall require the installation and maintenance of track scales at terminals, warehouses, and at other points in the state where scales are deemed necessary. The division shall prescribe reasonable rules for the weighing of railroad cars and of freight.

History: *1980 c 460 s 31; 1985 c 248 s 70; 2014 c 222 art 1 s 47*

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) 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;

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

(3) 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;

(4) 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;

(5) 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

(6) 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: *(5280) 1911 c 156 s 8; 1971 c 25 s 44; 1971 c 74 s 9; 1Sp1981 c 4 art 1 s 98; 1986 c 444; 1987 c 348 s 34; 1991 c 198 s 6; 1Sp2005 c 1 art 4 s 62; 2014 c 222 art 1 s 48*

239.091 METHOD OF SALE.

The method of sale for a commodity must provide an accurate and adequate quantity of information that will allow the buyer to make price and quantity comparisons.

History: *1991 c 198 s 7; 2014 c 222 art 1 s 49*

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 in this state must include delivery ticket information regarding the harvest locations of the wood by county or counties and state.

(d) Paragraph (c) may be enforced using the authority granted in this chapter or section 18J.05 or 84D.13.

History: *1991 c 198 s 8; 2007 c 36 s 3; 2010 c 333 art 1 s 15; 2012 c 244 art 1 s 68*

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 in this state must include information regarding the harvest locations of the wood by county or counties and state on each label or wrapper.

(d) Paragraph (c) may be enforced using the authority granted in this chapter or section 18J.05 or 84D.13.

History: *1991 c 198 s 9; 2007 c 36 s 4; 2010 c 333 art 1 s 16; 2012 c 244 art 1 s 69*

239.094 PACKAGED COMMODITY; ADVERTISING FOR SALE.

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

History: *1991 c 198 s 10*

239.10 ANNUAL INSPECTION.

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

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

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

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

239.101 INSPECTION FEES.

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

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

Subd. 3. **Petroleum inspection fee; 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 89 cents of the fee is appropriated to the commissioner of commerce for the cost of operations of the Division of Weights and Measures and petroleum supply monitoring. The remainder of the fee must be deposited in the general fund.

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

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

Subd. 4. MS 2012 [Repealed, 2014 c 222 art 1 s 58]

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 management and budget. The commissioner of management and budget shall then request a fee increase from the legislature.

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

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

History: *1993 c 369 s 72; 1996 c 305 art 3 s 29; 1998 c 299 s 30; 1999 c 250 art 3 s 25; 1Sp2001 c 5 art 13 s 4; 1Sp2003 c 19 art 1 s 8; 2004 c 189 s 2; 1Sp2005 c 1 art 4 s 63; 2007 c 57 art 3 s 40; 2009 c 101 art 2 s 109; 2013 c 85 art 6 s 5; 2014 c 222 art 1 s 50*

239.11 [Obsolete]

239.12 [Repealed, 2004 c 189 s 5]

239.13 [Repealed, 1974 c 347 s 17]

239.14 [Repealed, 1974 c 347 s 17]

239.15 [Repealed, 1974 c 347 s 17]

239.16 [Repealed, 1974 c 347 s 17]

239.17 [Repealed, 1974 c 347 s 17]

239.18 [Repealed, 1974 c 347 s 17]

239.19 [Repealed, 1974 c 347 s 17]

239.20 [Repealed, 1977 c 364 s 20]

239.21 [Repealed, 1974 c 347 s 17]

239.22 [Repealed, 1949 c 549 s 7]

239.225 [Repealed, 1974 c 347 s 17]

VIOLATIONS, PENALTIES

239.23 OFFENSES; MISDEMEANOR.

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

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

239.24 HINDERING OFFICIAL; MISDEMEANOR.

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

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

239.25 [Repealed, 2004 c 189 s 5]

239.26 [Repealed, 1974 c 347 s 17]

239.27 [Repealed, 1980 c 509 s 94]

STANDARD MEASURES, CONTAINERS

239.28 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.29 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.30 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.31 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.32 STANDARD WEIGHT OF BUSHEL.

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

grass and redtop seed, 14; plastering hair, unwashed, 8; plastering hair, washed, 4; lime, 80; but if sold by the barrel the weight shall be 200 pounds. In contracts for the sale of green apples, the term "bushel" shall mean 2150.42 cubic inches.

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

239.33 STANDARD MEASUREMENTS OF WOOD.

In all contracts for sale of wood the term "cord" shall mean 128 cubic feet of wood, 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: *(7026) 1913 c 560 s 5; 1985 c 260 s 1; 2000 c 301 s 1; 2005 c 141 s 12*

239.34 STANDARD WEIGHT OF COAL AND CHARCOAL.

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

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

239.35 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.36 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.37 [Repealed, 1991 c 198 s 12]

239.38 SEALING; MISDEMEANOR.

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

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

239.39 [Repealed, 1975 c 313 s 24]

239.40 [Repealed, 1975 c 313 s 24]

239.41 [Repealed, 1975 c 313 s 24]

239.42 [Repealed, 1975 c 313 s 24]

239.43 [Repealed, 1975 c 313 s 24]

239.44 MISDEMEANOR VIOLATION.

Whoever in selling gives a lower number or, in buying, takes a greater number of pounds or cubic feet to the bushel, barrel, ton, or cord, as the case may be, than is allowed and provided in sections 239.32 and 239.33, or in selling, gives a lower number, is guilty of a misdemeanor.

History: *(7030) 1913 c 560 s 9; 1977 c 364 s 19; 1991 c 198 s 11; 2014 c 222 art 1 s 51*

239.45 [Repealed, 1976 c 239 s 75]

239.46 FINES CREDITED TO SCHOOL FUNDS.

All fines collected under sections 239.32, 239.33, and 239.38 shall be paid to the county treasurer for the benefit of the school fund of the county where the action is brought.

History: *(7035) RL s 2732; 1976 c 239 s 76; 2014 c 222 art 1 s 52; art 2 s 14*

239.51 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.511 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

239.52 [Repealed, 1993 c 369 s 146]

239.521 [Repealed, 1981 c 357 s 115]

239.53 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

AMMONIA

239.531 ANHYDROUS AMMONIA.

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

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

239.54 MS 2012 [Repealed, 2014 c 222 art 1 s 58]

PETROLEUM PRODUCTS

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.

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

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

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

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

(4) issue a citation;

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

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

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

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

Subd. 5. **Product quality, responsibility.** After a 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.

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

History: *1987 c 268 art 14 s 2; 1992 c 575 s 23; 1Sp2005 c 1 art 4 s 64,65; 2007 c 28 s 1*

239.751 PETROLEUM DISPENSER, PRICE, LABEL, AND SIGN.

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

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

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

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

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

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

Subd. 4a. **Use of term "diesel fuel."** For the purposes of this section, the term "diesel fuel" may be used to advertise or identify a dispenser used to dispense any fuel approved by the United States Environmental Protection Agency for use in a compression-ignition engine.

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

(1) sells or offers to sell gasoline or diesel fuel at retail;

(2) has more than one dispenser for a specific grade of product; and

(3) sets different dispensers to compute a total sale at different prices for the same product.

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

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

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

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

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

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

Subd. 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).

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

Subd. 8. **Use of number to advertise grade of gasoline.** If a number is used to advertise or identify a grade of gasoline, that number can only be less than or equal to the octane of the gasoline being advertised or identified.

Subd. 9. **Identical pricing product requirement.** (a) Petroleum product dispensed from a single storage tank or from multiple storage tanks that are joined in such a manner that the product is commingled while still in the tanks must have an identical base price at each retail dispenser from which it is offered for sale. This requirement does not preclude the application of discounts for cash, self-service, customer loyalty programs, or other discount programs on any basis except octane to the base price at each dispenser.

(b) For the purpose of this subdivision, "base price" means the highest unit price of a petroleum product dispensed from a single storage tank or from multiple storage tanks that are joined in such a manner that the product is commingled while still in the tanks, including taxes and fees, and before the application of discounts, including, but not limited to, discounts for cash, self-service, customer loyalty programs, and coupons.

History: *1992 c 575 s 24; 2007 c 62 s 1; 2008 c 281 s 1; 2013 c 68 s 1; 2015 c 44 s 31*

239.7511 GAS TAX SIGN ON PETROLEUM DISPENSER.

(a) The director must ensure that signs having 12-point font or greater are affixed on retail petroleum dispensers as follows:

(1) for regular or premium gasoline, a sign that reads: "The price for each gallon of gasoline includes the current state gasoline tax of 28.5 cents per gallon and federal gasoline tax of 18.4 cents per gallon. Revenue from the state fuel tax may be used only for roads and bridges, according to the Minnesota Constitution."; and

(2) for diesel fuel, a sign that reads: "The price for each gallon of diesel fuel includes the current state gasoline tax of 28.5 cents per gallon and federal gasoline tax of 24.4 cents per gallon. Revenue from the state fuel tax may be used only for roads and bridges, according to the Minnesota Constitution."

(b) The director must distribute the signs under this section to the owner or operator of retail petroleum dispensers. To the extent possible, the director must coordinate the distribution of signs with other duties the director may have involving retail petroleum dispensers.

(c) If the amount of the gasoline tax described in paragraph (a), clauses (1) and (2), changes, the director must distribute revised signs to reflect the updated gasoline tax amounts within 12 calendar months of the change.

(d) The director is prohibited from assessing any penalty, fine, or fee on the owner or operator of a retail petroleum dispenser that has a missing, destroyed, defaced, or otherwise damaged gas tax sign.

History: *2017 c 94 art 8 s 9*

239.752 STORAGE TANK MARKING AND CAPACITY; RETAIL LOCATION.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) "ETHANOL" for denatured ethanol, as defined in section 296A.01;

(2) "METHANOL" for methanol;

(3) "E85" for an ethanol-gasoline blend, as defined in section 296A.01; or

(4) "M85" for a methanol-gasoline blend, as defined in section 296A.01.

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

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

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

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

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

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

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

(7) "DIESEL" B-xx for diesel fuel containing more than the amount mandated in Minnesota;

(8) "BIODIESEL" for fuel containing more than 99 percent biodiesel;

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

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

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

History: *1992 c 575 s 25; 1999 c 203 s 7; 2010 c 228 s 1*

239.753 ENTRY UPON PREMISES AND ACCESS TO RECORDS.

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

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

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

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

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

History: *1992 c 575 s 26; 2014 c 222 art 1 s 53*

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*

239.76 [Repealed, 1992 c 575 s 54]

239.761 PETROLEUM PRODUCT SPECIFICATIONS.

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

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

Subd. 3. **Gasoline.** (a) Gasoline that is not blended with biofuel must not be contaminated with water or other impurities and must comply with ASTM specification D4814-24a. Gasoline that is not blended with biofuel must also comply with the volatility requirements in Code of Federal Regulations, title 40, part 1090.

(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 biofuel;

(3) shall not blend the gasoline with other petroleum products that are not gasoline or biofuel;

(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; general.** (a) Gasoline may be blended with 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 1090;

(2) comply with ASTM specification D4814-24a, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-24a; 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. 4a. **Gasoline blended with ethanol; standard combustion engines.** Gasoline combined with ethanol for use in standard combustion engines may be blended with up to ten percent agriculturally derived, denatured ethanol, by volume, or any percentage specifically authorized in a waiver granted by the United States Environmental Protection Agency under section 211(f)(4) of the Clean Air Act, United States Code, title 42, section 7545, subsection (f), paragraph (4). The gasoline-ethanol blend must comply with the general provisions in subdivision 4.

Subd. 4b. **Gasoline blended with ethanol; alternative fuel vehicles.** (a) Gasoline blended for use in an alternative fuel vehicle, as defined in section 296A.01, subdivision 5, may contain any percentage of agriculturally derived, denatured ethanol, by volume, not to exceed 85 percent. The gasoline-ethanol blend must comply with the general provisions in subdivision 4. The gasoline and ethanol may be blended by an ethanol blender or at the point of retail sale in an ethanol-blending fuel dispenser clearly labeled "FLEX-FUEL VEHICLES ONLY." If blended by an ethanol blender, the percentage of ethanol in the resulting gasoline-ethanol blend must be clearly identified.

(b) If a person responsible for the product utilizes an ethanol-blending fuel dispenser to dispense both gasoline blended with ethanol for use in alternative fuel vehicles and gasoline blended with ethanol for use in standard combustion engines, the person must ensure that the gasoline blended with ethanol for use in standard combustion engines is dispensed from a fuel-dispensing hose and nozzle or other conveyance dedicated solely to gasoline blended with ethanol for use in standard combustion engines and clearly labeled as such.

(c) A person responsible for the product who complies with the provisions in paragraph (b) is not responsible for a self-service fueling action taken by that person's retail fuel customer.

Subd. 5. **Denatured ethanol.** Denatured ethanol that is to be blended with gasoline must be agriculturally derived and must comply with ASTM specification D4806-21a. 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 D4814-24a. 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 D396-12.

Subd. 8. **Diesel fuel oil.** (a) When diesel fuel oil is not blended with biodiesel, it must comply with ASTM specification D975-12a.

(b) When diesel fuel oil is a blend of up to five volume percent biodiesel, the diesel component must comply with ASTM specification D975-12a and the biodiesel component must comply with ASTM specification D6751-11b.

Subd. 9. **Kerosene.** Kerosene must comply with ASTM specification D3699-08.

Subd. 10. **Aviation gasoline.** Aviation gasoline must comply with ASTM specification D910-11.

Subd. 10a. **Sustainable aviation fuel.** Sustainable aviation fuel, as defined in section 41A.30, subdivision 1, paragraph (g), must comply with either:

(1) ASTM International Standard Specification D7566; or

(2) the Fischer-Tropsch provisions of ASTM International Standard Specification D1655, Annex A1.

Subd. 11. **Aviation turbine fuel, jet fuel.** Aviation turbine fuel and jet fuel must comply with ASTM specification D1655-12.

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 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 D5798-11.

Subd. 14. **M85.** A blend of methanol and gasoline, containing at least 70 percent methanol and not more than 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 D5797-07.

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 D6751-11b for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

Subd. 17. **Grade 82 unleaded aviation gasoline.** Grade 82 unleaded aviation gasoline must comply with ASTM specification D6227-12.

Subd. 18. **Minimum octane rating.** The minimum (R+M)/2 octane rating grades for petroleum products under subdivision 3, 4, 4a, 4b, or 6 sold to an end user shall be no less than 87.

History: *1992 c 575 s 27; 1994 c 510 art 5 s 2; 1996 c 471 art 5 s 2; 1998 c 278 s 1; 1998 c 299 s 30; 1999 c 86 art 1 s 52,53; 2000 c 434 s 1; 1Sp2003 c 14 art 7 s 55-65; 1Sp2005 c 1 art 4 s 66; 2007 c 62 s 2; 2008 c 281 s 2; 2008 c 297 art 1 s 48-50; 2009 c 17 s 1-8; 2013 c 68 s 2-13; 2013 c 114 art 2 s 59; 2014 c 198 art 3 s 1; 2022 c 93 art 2 s 38,39; 2023 c 68 art 3 s 18; 1Sp2025 c 4 art 7 s 18-21*

239.77 BIODIESEL CONTENT MANDATE.

Subdivision 1. **Biodiesel blend and fuel.** (a) "Biodiesel blend" is a blend of diesel fuel and biodiesel fuel between six percent and 20 percent for on-road and off-road diesel-fueled vehicle use. Biodiesel blend must comply with ASTM specification D7467-10.

(b) "Biodiesel fuel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel that is derived from agricultural and other plant oils or animal fats and that meets American Society for Testing and Materials specification D6751-11b for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels.

(c) Biodiesel produced from palm oil is not biodiesel fuel for the purposes of this section, unless the palm oil is contained within waste oil and grease collected within the United States or Canada.

Subd. 2. **Minimum content.** (a) Except as otherwise provided in this section, all diesel fuel sold or offered for sale in Minnesota for use in internal combustion engines must contain at least the stated percentage of biodiesel fuel oil by volume on and after the following dates:

(1)	September 29, 2005	2 percent
(2)	May 1, 2009	5 percent
(3)	May 1, 2012	10 percent
(4)	May 1, 2018	20 percent

Except as provided in this paragraph, the minimum content levels in clauses (3) and (4) are effective during the months of April, May, June, July, August, and September only and the minimum content for the remainder of the year is five percent. However, if the commissioners of agriculture, commerce, and pollution control determine, after consultation with the biodiesel task force and other technical experts, that an American Society for Testing and Materials specification or equivalent federal standard exists for the specified biodiesel blend level in those clauses that adequately addresses technical issues associated with Minnesota's cold weather and publish a notice in the State Register to that effect, the commissioners may allow the specified biodiesel blend level in those clauses to be effective year-round. In each year that the seasonal reduction to five percent is in effect, the minimum content level of diesel fuel sold or offered for sale in Minnesota from April 1 to April 14 may be less than the level required under clause (4), but not less than ten percent.

(b) The minimum content levels in paragraph (a), clauses (3) and (4), become effective on the date specified only if the commissioners of agriculture, commerce, and pollution control publish notice in the State Register and provide written notice to the chairs of the house of representatives and senate committees with jurisdiction over agriculture, commerce, and transportation policy and finance, at least 270 days prior to the date of each scheduled increase, that all of the following conditions have been met and the state is prepared to move to the next scheduled minimum content level:

(1) an American Society for Testing and Materials specification or equivalent federal standard exists for the next minimum diesel-biodiesel blend;

(2) a sufficient supply of biodiesel is available and the amount of biodiesel produced in this state from feedstock with at least 75 percent that is produced in the United States and Canada is equal to at least 50 percent of anticipated demand at the next minimum content level;

(3) adequate blending infrastructure and regulatory protocol are in place in order to promote biodiesel quality and avoid any potential economic disruption; and

(4) at least five percent of the amount of biodiesel necessary for that minimum content level will be produced from a biological resource other than an agricultural resource traditionally grown or raised in the state, including, but not limited to, algae cultivated for biofuels production, waste oils, and tallow.

The condition in clause (2) may be waived if the commissioner finds that, due to weather-related conditions, the necessary feed stock is unavailable.

The condition in clause (4) may be waived if the commissioners find that the use of these nontraditional feedstocks would be uneconomic under market conditions existing at the time notice is given under this paragraph.

(c) The commissioners of agriculture, commerce, and pollution control must consult with the biodiesel task force when assessing and certifying conditions in paragraph (b), and in general must seek the guidance of the biodiesel task force regarding biodiesel labeling, enforcement, and other related issues.

(d) During a period of biodiesel fuel shortage or a problem with biodiesel quality that negatively affects the availability of biodiesel fuel, the commissioner of commerce may temporarily suspend the minimum content requirement in subdivision 2 until there is sufficient biodiesel fuel, as defined in subdivision 1, available to fulfill the minimum content requirement.

(e) By February 1, 2012, and periodically thereafter, the commissioner of commerce shall determine the wholesale diesel price at various pipeline and refinery terminals in the region, and the biodiesel price determined after credits and incentives are subtracted at biodiesel plants in the region. The commissioner shall report wholesale price differences to the governor who, after consultation with the commissioners of commerce and agriculture, may by executive order adjust the biodiesel mandate if a price disparity reported by the commissioner will cause economic hardship to retailers of diesel fuel in this state. Any adjustment must be for a specified period of time, after which the percentage of biodiesel fuel to be blended into diesel fuel returns to the amount required in subdivision 2. The biodiesel mandate must not be adjusted to less than five percent.

Subd. 3. **Exempt equipment.** (a) The minimum content requirements of subdivision 2 do not apply to fuel used in the following equipment:

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

(2) railroad locomotives;

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

(4) off-road logging equipment and machinery;

(5) vessels of the United States Coast Guard and vessels subject to inspection under United States Code, title 46, section 3301, subsection (1), (9), (10), (13), or (15); and

(6) generators tested and validated by an entity that designs and manufactures the generators for use in jurisdictions where biodiesel use is not required.

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

Subd. 3a. **Number 1 diesel fuel exempt.** The minimum content requirements of subdivision 2 do not apply to Number 1 diesel fuel.

Subd. 4. **Disclosure.** (a) 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.

(b) A delivery ticket required under section 239.092 for a biodiesel blend must state the volume percentage of biodiesel blended into the diesel fuel delivered through a meter into a storage tank used for dispensing into motor vehicles powered by an internal combustion engine and not exempt under subdivision 3.

Subd. 5. MS 2024 [Repealed, 2025 c 34 art 3 s 39]

History: *2002 c 244 s 1; 1Sp2005 c 1 art 4 s 67; 2007 c 62 s 3,4; 2008 c 281 s 3; 2008 c 297 art 1 s 51; 2009 c 17 s 9; 2012 c 244 art 1 s 70,71; 2013 c 68 s 14,15; 2014 c 181 s 9-11; 2018 c 133 s 1,2*

239.771 DISTRIBUTOR EXPENSE REIMBURSEMENT.

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

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

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

History: *2002 c 244 s 2*

239.78 [Repealed, 1993 c 369 s 146]

239.785 LIQUEFIED PETROLEUM GAS SALE; ACCOUNT; PENALTIES.

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

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

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

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

Subd. 4. **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.

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

Subd. 7. **Notification of product unavailability; terminal operators.** A person who operates a terminal where liquefied petroleum gas is loaded into transport trucks for subsequent distribution shall notify the commissioner within 24 hours when liquefied petroleum gas is physically not available for sale to licensed distributors.

History: *1992 c 597 s 12; 1993 c 375 art 9 s 14; 1994 c 483 s 1; 1994 c 632 art 4 s 60,61; 1998 c 273 s 12; 1998 c 299 s 30; 1998 c 350 s 5; 2003 c 130 s 12; 2005 c 151 art 2 s 3,17; 2014 c 198 art 3 s 2; 2014 c 254 s 21*

239.79 PETROLEUM PRODUCTS; TRANSACTION REQUIREMENTS.

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

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

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

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

Subd. 5. **Sale of biodiesel on net volume basis.** When biodiesel is transferred, sold, or traded between refineries, between refineries and terminals, or between terminals on a temperature-compensated basis, the director shall use the method outlined in Code of Federal Regulations, title 40, subpart M, Renewable Fuel Standard 80.1426 (f)(8)(ii)(A), for determining the net quantity of biodiesel transferred in cases of dispute.

History: *1987 c 268 art 14 s 5; 1989 c 350 art 18 s 1; 1992 c 575 s 28; 1Sp2005 c 1 art 4 s 68; 2010 c 228 s 2,3*

239.791 OXYGENATED GASOLINE.

Subdivision 1. **Minimum biofuel 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 the quantity of biofuel required by clause (1) or (2), at the option of the person responsible for the product:

(1) the greater of:

(i) 10.0 percent conventional biofuel by volume; or

(ii) the maximum percent of conventional biofuel by volume authorized in a waiver granted by the United States Environmental Protection Agency; or

(2) 10.0 percent of a biofuel, other than a conventional biofuel, by volume authorized in a waiver granted by the United States Environmental Protection Agency or a biofuel formulation registered by the United States Environmental Protection Agency under United States Code, title 42, section 7545.

(b) For purposes of enforcing the requirement of paragraph (a), clause (1), item (i), a gasoline/biofuel blend will be construed to be in compliance if the biofuel content, exclusive of denaturants and other permitted components, 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.

(c) The aggregate amount of biofuel blended pursuant to this subdivision may be any biofuel; however, conventional biofuel must comprise no less than the portion specified on and after the specified dates:

(1)	July 1, 2013	90 percent
(2)	January 1, 2015	80 percent
(3)	January 1, 2017	70 percent
(4)	January 1, 2020	60 percent
(5)	January 1, 2025	no minimum

Subd. 1a. [Repealed, 2013 c 114 art 2 s 69]

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

Subd. 2a. **Federal Clean Air Act waivers; conditions.** (a) Before a waiver granted by the United States Environmental Protection Agency under United States Code, title 42, section 7545, may alter the minimum content level required by subdivision 1, paragraph (a), clause (1), item (ii), the waiver must:

(1) apply to all gasoline-powered motor vehicles irrespective of model year; and

(2) allow for special regulatory treatment of Reid vapor pressure under Code of Federal Regulations, title 40, part 1090.215, paragraph (b), for blends of gasoline and ethanol up to the maximum percent of denatured ethanol by volume authorized under the waiver.

(b) The minimum biofuel requirement in subdivision 1, paragraph (a), clause (1), item (ii), shall, upon the grant of the federal waiver, be effective the day after the commissioner of commerce publishes notice in the State Register. In making this determination, the commissioner shall consider the amount of time

required by refiners, retailers, pipeline and distribution terminal companies, and other fuel suppliers, acting expeditiously, to make the operational and logistical changes required to supply fuel in compliance with the minimum biofuel requirement.

Subd. 2b. **Limited liability waiver.** 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 subdivision 1, paragraph (a), clause (1), item (ii), under any theory of liability except for simple or willful negligence or fraud. This subdivision does not preclude an action for negligent, fraudulent, or willful acts. This subdivision 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.

Subd. 2c. **Fuel dispensing equipment; blends over ten percent ethanol.** Notwithstanding any other law or rule, fuel dispensing equipment authorized to dispense fuel under subdivision 1, paragraph (a), clause (1), is authorized to dispense fuel under subdivision 1, paragraph (a), clause (2), or subdivision 1a.

Subd. 3. MS 2022 [Repealed, 2024 c 114 art 3 s 104]

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

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

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

Subd. 7. **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; reporting.** (a) 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. For nonoxygenated gasoline not exempt under subdivisions 10 to 14, 16, and 17, 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.

(b) A delivery ticket required under section 239.092 for biofuel blended with gasoline must state the volume percentage of biofuel blended into gasoline delivered through a meter into a storage tank used for dispensing by persons not exempt under subdivisions 10 to 14, 16, and 17.

(c) On or before the 23rd day of each month, a person responsible for the product must report to the department, in the form prescribed by the commissioner, the gross number of gallons of intermediate blends sold at retail by the person during the preceding calendar month. The report must identify the number of gallons by blend type. For purposes of this subdivision, "intermediate blends" means blends of gasoline and biofuel in which the biofuel content, exclusive of denaturants and other permitted components, is greater than ten percent and no more than 50 percent by volume. This paragraph only applies to a person who is responsible for selling intermediate blends at retail at more than ten locations. A person responsible for the

product at fewer than ten locations is not precluded from reporting the gross number of intermediate blends if a report is available.

(d) All reports provided pursuant to paragraph (c) are nonpublic data, as defined in section 13.02, subdivision 9.

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

Subd. 10. **Exemption for airport.** A person responsible for the product may offer for sale, sell, or dispense at an airport, for use in airplanes, gasoline that is not oxygenated in accordance with subdivision 1 if the gasoline is unleaded premium grade as defined in section 239.751, subdivision 4.

Subd. 10a. **Exemption for resorts, marinas, and houseboat rental companies.** A person responsible for the product may offer for sale, sell, or dispense at a resort, marina, or houseboat rental company gasoline that is not oxygenated in accordance with subdivision 1 if the gasoline has an octane rating of 87 or higher; is delivered into onsite bulk storage; and is not used for a licensed motor vehicle as defined in section 168.002, subdivision 18.

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

(b) No more than one storage tank on the premises of a retail gasoline station may be used to store nonoxygenated motor sports racing gasoline that is offered for sale, sold, or dispensed at the station. The pump stand at the station must be posted with a permanent, conspicuously placed notice in full view of consumers stating: "FOR USE IN OFF-HIGHWAY MOTOR SPORTS ENGINES ONLY."

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

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

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

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

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

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

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

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

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

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

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

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

Subd. 16. **Exemption for recreational vehicle manufacturer.** A person responsible for the product may offer for sale, sell, or dispense gasoline that is not oxygenated according to subdivision 1 if the gasoline is intended to be used exclusively for research and development by a manufacturer of snowmobiles, all-terrain vehicles, motorcycles, or recreational vehicles.

Subd. 17. **Bulk delivery of premium grade gasoline; exemption.** (a) A person responsible for the product may offer for sale, sell, or deliver a bulk delivery of unleaded premium grade gasoline, as defined in section 239.751, subdivision 4, that is not oxygenated in accordance with subdivision 1 if the conditions in paragraphs (b) to (d) are met.

(b) Nonoxygenated gas is only for use in vehicles that qualify for an exemption under subdivision 12, paragraph (a).

(c) No more than one bulk fuel storage tank on the premises may be used for storage of the nonoxygenated gasoline.

(d) The bulk fuel delivery is 500 gallons or less.

History: *1992 c 575 s 29; 1993 c 250 s 1; 1993 c 369 s 73,74; 1995 c 220 s 116; 1996 c 354 s 8-11; 1999 c 231 s 174-177; 2000 c 434 s 2; 2003 c 107 s 30; 2004 c 189 s 3,4; 2005 c 10 art 1 s 39; 2005 c 52 s 1,2; 1Sp2005 c 1 art 4 s 69-72; 2008 c 350 art 1 s 79,80; 2009 c 94 art 1 s 90,91; 2010 c 333 art 1 s 17-21; 2011 c 107 s 96; 2012 c 244 art 1 s 72; 2013 c 68 s 16; 2013 c 114 art 2 s 60-62; 2018 c 182 art 1 s 41; 2022 c 93 art 2 s 40; 2023 c 57 art 5 s 3; 2024 c 114 art 3 s 31,32; 1Sp2025 c 4 art 7 s 22*

239.7911 PETROLEUM REPLACEMENT PROMOTION.

Subdivision 1. **Petroleum replacement goal.** The tiered petroleum replacement goal of the state of Minnesota is that biofuel comprises at least the specified portion of total gasoline sold or offered for sale in this state by each specified year:

(1)	2015	14 percent
(2)	2017	18 percent
(3)	2020	25 percent
(4)	2025	30 percent

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 to achieve the goals in subdivision 1. Beginning November 1, 2005, and continuing through 2015, the commissioners, or their designees, shall convene a task force pursuant to section 15.014 that includes representatives from the renewable fuels industry, petroleum retailers, refiners, automakers, small engine manufacturers, and other interested groups. The task force shall assist the commissioners in carrying out the activities in paragraph (b) and eliminating barriers to the use of greater biofuel blends in this state. The task force must coordinate efforts with the biodiesel task force and the Renewable Energy Roundtable and 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 specific, cost-effective incentives necessary to expedite the use of greater biofuel blends in this state including, but not limited to, incentives for retailers to install equipment necessary to dispense renewable liquid fuels to the public;

(2) expanding the renewable-fuel options available to Minnesota consumers by obtaining federal approval for the use of additional blends that contain a greater percentage of biofuel;

(3) developing recommendations to ensure 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;

(5) working to maintain an affordable retail price for liquid fuels;

(6) facilitating the production and use of advanced biofuels in this state; and

(7) developing procedures for reporting the amount and type of biofuel under subdivision 1 and section 239.791, subdivision 1, paragraph (c).

(c) Notwithstanding section 15.014, the task force required under paragraph (a) expires on December 31, 2015.

History: *2005 c 52 s 3; 2007 c 45 art 1 s 58; 2008 c 297 art 1 s 52; 2013 c 114 art 2 s 63; 2016 c 158 art 1 s 81*

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: *1992 c 575 s 30; 1998 c 278 s 2; 1Sp2003 c 14 art 7 s 66; 1Sp2005 c 1 art 4 s 73*

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.

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

History: *1987 c 268 art 14 s 6; 1992 c 575 s 31; 1993 c 369 s 75,76; 1996 c 354 s 12,13; 2007 c 28 s 3,4*

239.81 [Renumbered 239.531]

239.90 RETAIL ELECTRIC VEHICLE SUPPLY EQUIPMENT.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Electric vehicle supply equipment" or "EVSE" means a conductor, including an ungrounded, grounded, and equipment grounding conductor, electric vehicle connector, attachment plug, and other fitting, device, power outlet, or apparatus installed specifically to measure, deliver, and compute the price of electrical energy delivered to an electric vehicle.

(c) "Electricity sold as vehicle fuel" means electrical energy transferred to or stored onboard an electric vehicle primarily to propel the electric vehicle.

(d) "Fixed service" means a service that continuously provides the nominal power that is possible with the equipment as installed.

(e) "Nominal power" means the intended, named, or stated, as opposed to the actual, rate of electrical energy transfer.

(f) "Variable service" means a service that may be controlled, resulting in periods of reduced or interrupted transfer of electrical energy.

Subd. 2. **Inspection; fees.** The director must inspect a retail EVSE annually or as often as is possible given budgetary and staffing limitations. The director must charge a retail EVSE owner a $100 fee to inspect and test each retail EVSE charging port.

Subd. 3. **Retail EVSE program account; appropriation.** A retail EVSE program account is created in the special revenue fund of the state treasury. The commissioner must credit to the account fees collected from inspections under this section and appropriations and transfers made to the account. Earnings, including interest, dividends, and any other earnings arising from assets of the account, must be credited to the account. Money in the account is appropriated to the commissioner to pay for operations of the retail EVSE program.

Subd. 4. **Method of sale.** (a) Electrical energy kept, offered, or exposed for sale and sold at retail as a vehicle fuel must be expressed in kilowatt-hour units.

(b) In addition to the price per kilowatt-hour for the quantity of electrical energy sold, a fee may be assessed for other services. A fee assessed for another service may be a fixed fee or may be based on time measurement.

Subd. 5. **Labeling.** (a) A computing retail EVSE must display the unit price in whole cents or tenths of one cent, based on the price per kilowatt-hour. If the electrical energy is unlimited or free of charge, the computing retail EVSE must clearly indicate that the electrical energy is unlimited or free of charge in lieu of the unit price.

(b) For a fixed service application, the following information must be conspicuously displayed or posted on the face of the device:

(1) the level of electric vehicle service, expressed as the nominal power transfer; and

(2) the type of electrical energy transfer.

(c) If a fee is assessed for other services in direct connection with fueling the vehicle, including but not limited to a fee based on time measurement or a fixed fee, the additional fee must be displayed.

(d) A retail EVSE must be labeled in a manner that complies with Federal Trade Commissioner labeling requirements for alternative fuels and alternative fueled vehicles, Code of Federal Regulations, title 16, part 309.

(e) A retail EVSE must be listed and labeled in a manner that complies with the National Electric Code NFPA 70, Article 625, Electric Vehicle Charging Systems.

Subd. 6. **Advertising; sign prices.** (a) When a sign or device is used to advertise the price of electricity to fuel a vehicle, the price for electrical energy must be expressed in price per kilowatt-hour, in whole cents or tenths of one cent. If the electrical energy is unlimited or free of charge, the advertising or sign must clearly indicate that the electrical energy is unlimited or free of charge in lieu of the unit price.

(b) If more than one electrical energy unit price may apply over the duration of a single transaction or sale to the general public, the terms and conditions that determine each unit price and the times each unit price apply must be clearly displayed.

(c) For a fixed service application, the following information must be conspicuously displayed or posted:

(1) the level of electric vehicle service, expressed as the nominal power transfer; and

(2) the type of electrical energy transfer.

(d) For a variable service application, the following information must be conspicuously displayed or posted:

(1) the type of delivery;

(2) the minimum and maximum power transfer that may occur during a transaction, including whether service may be reduced to zero;

(3) the conditions under which a variation in electrical energy transfer occurs; and

(4) the type of electrical energy transfer.

(e) If a fee is assessed for other services in direct connection with the fueling of the vehicle, including but not limited to a fee based on time measurement or a fixed fee, the additional fee must be included on all street signs or other advertising.

Subd. 7. **Administrative rulemaking.** For purposes of this section, the commissioner may use the expedited rulemaking process under section 14.389 to adopt administrative rules that incorporate the 2025 version of NIST Handbook 44 into Minnesota Rules, chapter 7601.

History: *1Sp2025 c 4 art 7 s 23*