

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
PETROLEUM DIVISION

IN THE MATTER OF THE PROPOSED
ADOPTION OF AN AMENDMENT TO AN
EXISTING RULE OF THE DEPARTMENT
OF REVENUE RELATING TO SPECIAL
FUEL REQUIREMENTS
(13 MCAR & 1.4006B.)

STATEMENT OF NEED
AND REASONABLENESS

This document has been prepared as a verbatim presentation of the facts necessary to establish the statutory authority, need for, and reasonableness of the proposed new rule. It is submitted pursuant to 9 MCAR § 2.104 requiring a Statement of Need and Reasonableness.

Authority to Adopt the Rule

Minn. Stat. § 296.27 grants to the Commissioner of Revenue statutory authority to establish rules concerning special fuel taxes.

Statement of Need

Minn. Stat. § 296.12, subd. 5, prior to being amended in 1981, read as follows:

Subd. 5. Sales tickets. A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser or into the supply tank of an aircraft or a licensed motor vehicle. The person who delivers the special fuel shall issue and sign the sales ticket and such person shall show thereon the name and address of the purchaser, motor vehicle license number if delivered into the supply tank of a licensed motor vehicle, date of sale, number of gallons, price per gallon, and total amount of sale. On deliveries of special fuel into the supply tank of an aircraft or a licensed motor vehicle the sale ticket shall show the per gallon rate of special fuel excise tax. The words "Special Fuel" shall be written on each sales ticket at the time of sale or delivery. A separate sales ticket book shall be maintained for special fuel sales by a special fuel dealer.

The adoption of 13 MCAR § 1.4006 B was based on that language and, therefore, included requirements for sales by distributors to both bulk purchasers and for delivery into the supply tank of an aircraft or licensed motor vehicle.

In 1981, Minn. Stat. § 296.12, subd. 5, was amended by Laws of Minnesota 1981, Chapter 164, Section 5. to provide:

Subd. 5. Sales tickets. A sales ticket shall be issued for each delivery of special fuel to a bulk purchaser. A sales ticket shall also be issued for each delivery into the supply tank of an aircraft or a licensed motor vehicle, if so requested by the purchaser. The person who delivers the special fuel shall issue the sales ticket and shall show thereon the name and address of the purchaser, date of sale, number of gallons, price per gallon, and total amount of sale.

This language removed the supply tanks of individual aircraft or licensed motor vehicles from the requirements for issuance of sales tickets. This section now only applies to bulk purchasers. The proposed amendment to 13 MCAR § 1.4006B is necessary to conform the language of the rule to the statutory language which is now in effect following the 1981 amendment. The rule previously applied to all sales as did the statute and now must be amended to only apply to bulk sales.

Statement of Reasonableness

The proposed rule reflects the statutory change in requirements regarding the preparation of a sales invoice each time there is a sale of special fuel. The statutory language prior to being amended required preparation of a sales invoice for all sales of special fuel regardless of whether the fuel was placed into the supply tank of a licensed motor vehicle or into a bulk storage tank.

The 1981 amendment to Minn. Stat § 296.12, subd. 12, made issuance of a sales ticket mandatory only for bulk sales. A sales ticket is required only upon the request of the purchaser when the fuel is placed into the supply tank of a licensed motor vehicle.

Special fuel as defined in Minn. Stat. § 296.01, subd. 6, includes diesel fuel which is the primary type of special fuel. Diesel fuel was previously used predominantly in motor carriers.

The change in Minn. Stat. § 296.12, subd. 5, was based upon a significant increase in use of diesel fuel by individuals in their personal vehicles. The requirement for issuance of a sales invoice was initially adopted to accommodate interstate carriers who must have the invoice for use tax purposes pursuant to Minn. Stat. § 296.17. The change in the character of diesel fuel users was, therefore, the basis for the change in the law as individuals, who are growing in numbers as diesel fuel purchasers, do not generally need the invoices; and in many situations, refused to provide the information necessary for completion of the invoice.

Any person who wishes to have an invoice, for whatever purpose, may request that an invoice be prepared and the dealer must then prepare and issue the invoice to an individual purchasing special fuel for their personal use.

The change to the language of Minn. Stat. § 296.12, subd. 5, in addition to removing the requirement for issuance of a sales ticket for other than bulk purchases of special fuel, also deleted requirements for certain information previously included on the sales ticket. The requirements deleted in this section of the statute include:

1. signature of the dealer on the ticket.
2. motor vehicle license number on the ticket.
3. per gallon rate of special fuel excise tax for deliveries into aircraft or licensed motor vehicle supply tanks on the ticket.
4. identification of the sales ticket with the words "special fuel."
5. maintenance of a separate sales ticket book for special fuel sales.

Items 2 and 3 above relate directly to sale for delivery into the supply tank of an aircraft or licensed motor vehicle. These have, therefore, been deleted from the rule language.

Item 1 has also been deleted from the rule based on its elimination from the statutory language.

Item 5 although deleted from Minn. Stat. § 296.12, subd. 5, was at the same time placed in Minn. Stat. § 296.12, subd. 3 and, therefore, has been retained in the rule.

Item 4 while deleted from the statute is being retained in the rule and is consistent with the requirement for maintaining a separate sales ticket book for special fuel.

Finally, the requirement for the purchaser's signature has been deleted from the rule. The reasons for the deletion are as follows:

1. for purposes of administering the tax, there is no need for the signature of the purchaser.
2. the statute does not require the purchaser's signature.
3. practically the requirement is seldom complied with in the case of bulk purchasers since deliveries are often made at the discretion of the suppliers and at a time when there may or may not be anyone available to sign the sales ticket.
4. Minn. Stat. § 296.12, subd. 4, does make reference to the purchaser's signature but not as a general requirement but rather at the dealer's option. The dealer's reporting system may require the purchaser's signature but the burden of obtaining that signature lies with the dealer.