

**State of Minnesota
Department of Commerce**

**Enforcement Guidance regarding Minnesota Statutes §239.751
Effective July 1, 2014**

Starting July 1, 2014, all number 2 diesel fuels sold in Minnesota from April through September for use in combustion engines must contain a minimum of 10 percent biodiesel fuel by volume. See Minn. Stat. § 239.77, subd. 2. Under Minnesota law, the term “diesel” refers to fuel oil containing up to 5 percent biodiesel. See Minn. Stat. § 239.761, subd. 8. The term “biodiesel blend” refers to fuel oil containing between 6 percent and 20 percent biodiesel. See Minn. Stat. § 239.77, subd. 1. When posting signs announcing the price of fuel, station owners must clearly state on the sign the conditions (including what the product offered for sale is as defined by Minnesota law) for obtaining the price offered on the dispensers. See Minn. Stat. § 239.751. Station owners must also comply with the automotive fuel rating posting and record-keeping requirements and the label specifications of Code of Federal Regulations, title 16, sections 306.10-12. See Minn. Stat. § 239.792, subd. 3. The change effective July 1, 2014 may result in the need for a station owner to change all signs to correctly refer to diesel or biodiesel blend on a seasonal basis to meet the sign labeling requirements under Minn. Stat. § 239.751, subd. 5.

The Minnesota Department of Commerce, Weights and Measures Division (“Commerce”) is charged with enforcing the signage requirements under Minn. Stat. § 239.751, subd. 6. Commerce has received questions from affected industries regarding the need to change signs on a seasonal basis when such changes could impose significant costs on station owners and whether a FTC-compliant sticker available on the automotive fuel rating posted next to the price indicator on the dispenser would be sufficient disclosure to consumers under Minnesota law.

Following communications with a variety of stakeholders, including members of the Biodiesel Task Force, Commerce has determined it is in the best interest of Minnesota businesses and citizens to issue this Temporary Stay of Enforcement Action. Commerce provides this Temporary Stay of Enforcement Action for the period beginning July 1, 2014 through July 1, 2015 to allow the Minnesota Legislature an opportunity to clarify this situation.

Temporary Stay of Enforcement Action

This Temporary Stay of Enforcement Action is valid for the period beginning July 1, 2014 through July 1, 2015. Further, this Temporary Stay of Enforcement Action is specifically

limited to a stay in enforcement of Minn. Stat. § 239.751, subds. 5 and 6 in the following limited situations:

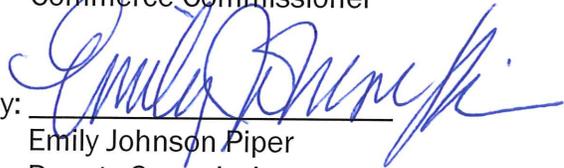
Sign posting. A sign or device designed to advertise the price of fuel intended for use in compression-ignition engines (diesel engines), that is posted within view of any public highway, road, or street, or on or near premises where such fuel is sold at retail; as well as any sign on the dispensers, on the dispenser island, or on the canopy over the dispensers may advertise the following fuels as “diesel”:

- Diesel fuel meeting ASTM specification D975-12a which contains zero to five percent biodiesel
- Biodiesel blend meeting ASTM specification D7467-10 which contains six to twenty percent biodiesel
- Blends of biodiesel meeting ASTM specification D6751-11b and diesel meeting ASTM specification D975-12a which contain more than twenty percent biodiesel.

Nothing in this Stay of Enforcement Action may be interpreted to relieve any entity selling fuel in Minnesota from compliance with all other provisions of Minnesota Statutes chapter 239, including Minn. Stat. §239.751, Minn. Stat. §239.792, or any other applicable state or federal law.

Date: 6/13/14

Mike Rothman
Commerce Commissioner

By: 
Emily Johnson Piper
Deputy Commissioner