SUBPART 04-BUREAU OF REGULATORY SERVICES
CHAPTER 08-Petroleum Products Inspection Law

Specifications Tolerances, and Other Technical Requirements For Liquid Measuring Devices

100.01 The Commissioner or his agent or employee shall have the authority to test with instruments, devices, standards or provers with calibration traceable to the National Institute of Standards and Technology all devices used in the delivery and sale of petroleum products volume or weight.

100.02 The tolerances for devices used for retail sales of petroleum, products regulated shall be as follows:

1. The maintenance tolerance shall be one cubic inch plus one cubic inch per indicated gallon.
2. The acceptance tolerance shall be one half (1/2) of the maintenance tolerances.
3. The maintenance tolerance for test drafts over 10 gallons shall be 0.3%.
4. The acceptance tolerance for test drafts over 10 gallons shall be 0.2%
5. Applicable testing and technical requirements shall be in accordance with the latest edition of the National Institute of Standards and Technology Handbook 44, except when in conflict with existing or modified rules and regulations or when rejected by the same.
6. Retail devices for motor fuels shall be condemned for repair when the test shows the device to exceed a tolerance of plus or minus 25 cubic inches on a measure of five 5 gallons. Owners or owner's agents of devices and/or petroleum products dispensed having a tolerance exceeding plus 25 cubic inches may request a waiver of condemnation of such device from the Commissioner of Agriculture and Commerce, or from a duly appointed agent.
7. All such pumps found to be giving accurate measure within the tolerance established by regulations of the Commissioner and the State Chemist shall have the adjusting device sealed with an official wire seal applied by an inspector duly authorized by the Commissioner in such a manner that the adjustment cannot be altered without breaking the seal.
8. If any pump shall be found to be giving inaccurate measure in excess of the maintenance tolerance established herein, the inspector shall then and there notify the operator of the pump, whether owner or lessee, to make the necessary adjustments. After the adjustments have been made, the adjusting devices shall be sealed in the manner provided for those pumps found originally accurate. If, after adjustments, the pump is giving short measure in excess of the acceptance tolerance established herein a stop sale order will be issued. Corrections must be made and the Commissioner must be notified of corrections prior to resumption of sales.
9. It shall be unlawful to install or operate any self-measuring pump which can be secretly manipulated in such manner as to give short measure. Such inaccurate self-measuring pump shall be condemned as provided in this , and thereafter it shall be unlawful for any person to sell kerosene, diesel fuel,

gasoline or alcohol blended fuel from such pump until it has been made or altered to comply with this part by a licensed petroleum equipment repairman. The pump shall be inspected and tested for accuracy by an MDAC inspector within thirty 30 days of its repair.

(Amended 2001.)

Notice of Violations; Illegal Withold from Sale; Condemned for Repair; Definitions; Compliance

101 The definitions and compliance requirements of petroleum products regulated under terms of the Petroleum Products Inspection Law and Regulations:

1. Notice of Violations shall be issued for defects in equipment having minor impact on quality, quantity, nature, price, display of products sold. Corrective action must be performed within time specified. A Stop Sale Order may result when corrections are not made and/or deficiencies still occur. The Commissioner and State Chemist, upon notification of correction, may permit the resale of said petroleum product prior to subsequent inspection, testing and/or analysis.
2. Stop sale Order is normally issued for violations of product quality. Corrections must be made prior to resumption of sales. The Commissioner and State Chemist, upon notification of correction, may permit the resale of material prior to subsequent inspection, testing and/or analysis.
3. A Stop Sale Order is issued for equipment or devices that cannot be used in conjunction with the commercial sale of petroleum product due to failure to meet requirements of the Petroleum Testing Law and/or Regulations. The equipment or device must be repaired prior to resale of petroleum product material. The equipment or device should be inspected again and resealed as quickly as possible. It shall be unlawful for anyone other than a licensed petroleum equipment repairman or an official petroleum products inspector to remove an official seal from a retail petroleum pump, meter or delivery device. Official seals may be installed on petroleum products pumps, meters or delivery devices only by a licensed petroleum equipment repairman or an official petroleum products inspector and it shall be unlawful to dispense fuel from a retail pump, meter or other delivery device without an official seal properly attached.
4. A Stop Sale Order issued for failure to comply with the above notifications may result in the condemnation of product or devices and other action as provided by the Petroleum Products Inspection Law and Regulations.

(Amended February 12, 2001.)

Test Measures: Fill Pipe

102.01 In testing measuring devices, the Inspector shall have authority to draw from each pump sufficient product to determine the accuracy of the dispensing device.

102.02 For this purpose, official and approved test measuring cans or provers shall be used. In order that the Inspector may dispose of the product in the test measure it is hereby made an obligation of the owner or operator of the station to provide containers of sufficient quantity into which the Inspector may empty the product from his test measure in the event that ground level storage tank fill pipes are not present.

102.03 If the design, construction, or location of any device is such as to require a testing procedure involving special equipment, or accessories or an abnormal amount of labor, such equipment, accessories and labor shall be supplied by the owner or operator of the device as required by the Department of Agriculture and Commerce Inspector.

Water in Retail Tanks

103.01 Water in Gasoline, Diesel, Gasoline-Ether, and Other Fuels. Water shall not exceed 1 ~~2~~ inch~~es~~ in depth when measured with water indicating paste in any tank utilized in the storage of biodiesel, diesel, gasoline, gasoline-ether blends and kerosene sold at retail except as required in Section 103.02. A stop sale order issued on any product in violation of this regulation will not be lifted until the water is removed from the tank containing said product.
(Amended February 12, 2001; 2008.)

103.02 Water in Gasoline-Alcohol Blends, Aviation Blends, Biodiesel Blends, E85 Fuel Ethanol, Aviation Gasoline, and Aviation Turbine Fuel. No water phase greater than ¼ inch as determined by an appropriate detection paste or other acceptable means, is allowed to accumulate in any tank utilized in the storage of gasoline-alcohol blend, biodiesel, biodiesel blends, E85 fuel ethanol, aviation gasoline, and aviation turbine fuel. A stop sale order issued on any product in violation of this regulation will not be lifted until the water is removed from the tank containing said product.

(Adopted 2008.)

Samples for Laboratory Testing

104 Samples of products regulated under terms of the Petroleum Products Inspection Law shall be drawn by the Commissioner, his agent or employee for testing by the State Chemist or his agent or employee. Each such sample shall not exceed one gallon.

Registration of Gasoline and/or Alcohol Blended Fuel Dealers.

105 1. Every dealer in gasoline or alcohol blended fuel, before selling or exposing or offering for sale any gasoline or alcohol blended fuel, and annually thereafter shall be required to register and shall make known to the Commissioner and

State Chemist his desire to sell gasoline or alcohol blended fuel giving the name and manner and kind of pump or pumps he will use at the location of same, and shall keep the certificate or certificates of registration issued by the Commissioner of Agriculture and Commerce posted in a prominent and accessible place in his business where such product is sold. The form of such certificate shall be designated by the Commissioner.

2. Each gasoline or alcohol blended fuel product and each location where gasoline or alcohol blended fuel is sold must meet the requirements of the Petroleum Products Inspection Law and the rules and regulations adopted herein in support of the Law before that product will be registered by the Department.

3. Registration to sell gasoline or alcohol blended fuel should be made at least 30 days before the dealer desires to sell the product in order to give the Department and the State Chemist adequate time to certify that the product and the location meet the requirements of the Petroleum Products Inspection Law and the rules and regulations adopted herein in support of the law.

(Amended April 15, 2008.)

Labeling requirements – Gasoline Alcohol Blends

106.01 All gasoline, leaded or unleaded kept, offered, or exposed for sale, or sold, at retail containing one percent 1% or more by volume of ethanol, methanol, or an ethanol/methanol mixture shall be identified as "with" or "containing" or similar wording "ethanol", "methanol" or "ethanol/methanol" on the upper fifty percent of the dispenser front panel on a position clear and conspicuous from the driver's position, in a type at least 1/2 inch in height, 1/16 inch stroke width of type. All letters in black with a contrasting background.

106.02 All distributors, processors, refiners and other persons receiving, storing, selling, distributing or transporting gasoline that contains one percent 1% by volume or more of methanol, ethanol, ethanol/methanol or other alcohol must identify the type and percentage of such alcohol on any invoice, bill of lading, shipping paper or other type of documentation used in normal and customary business practice.

Petroleum Products Not Meeting Specifications

107.01 Gasoline, alcohol blended fuel, diesel fuel, kerosene, fuel oil or other products regulated under terms of the Petroleum Products Inspection Law found below the prescribed standard shall be placed under an order of "Stop Sale" and disposed of as directed by the Commissioner and State Chemist. Where such product can be reconditioned or successfully blended with or used as another product, the same may be disposed of upon the order of the Commissioner and State Chemist.

107.02 If the product is at a retail service station or bulk plant, it shall be returned to the terminal or refinery or be shipped out of this State. At the terminal, the product may be pumped into storage with sufficient quantities of like product so that the combination meets the required specifications. If returned to the refinery, the product may be blended or reprocessed so that it meets the required specifications.

107.03 When a product under stop sale order is to be shipped out of state, such product shall be loaded under the supervision of the Commissioner or his agent and a report of transport prepared. The report shall be signed by the state scale operator at the time the truck leaves the State.

107.04 The receipt and unloading into storage of a product under stop sale order at a bulk plant, terminal, or refinery shall be done under the supervision of the Commissioner or his agent.

107.05 The report of transport, prepared by the Commissioner or his agent must be filed with any claim for credit on taxes paid on a product which was withdrawn under order of stop sale.

107.06 In no event, will the mixture of a product which does not meet specifications and a like product meeting specifications, which was combined in order to bring the combination up to the required specifications, be sold or dispensed until such combination has been sampled by the Commissioner or his agent at the point of blending, tested by the State Chemist and found to meet the required legal specifications.

107.07 Refiners, terminals, bulk plants shall furnish the Commissioner with the names of all persons who received the product prior to the effective dates of the stop sale order and the quantity received.

107.08 The Commissioner and State Chemist may revoke the permits of any person who sells a product after being notified by a stop sale order or otherwise that the sale of such products was prohibited.

Standard Specifications

108.01 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" as standard specification for gasoline with the following modifications:

1. Applications for temporary exceptions to vapor pressure and vapor/liquid ratio specifications as provided in this Subparagraph may be made to the Commissioner and State Chemist. Said applications shall contain evidence that outlets marketing gasoline in Mississippi cannot be supplied from bulk

terminals furnishing specified volatility level gasoline or that customary sources of supply have been temporarily interrupted by product shortage and alternate sources furnishing specified volatility level gasoline are not available. Such temporary exceptions granted shall apply only until the next meeting of the Commissioner and State Chemist at which time the Commissioner and State Chemist shall establish the duration of the exception;

2. Vapor pressure and vapor/liquid ratio seasonal specifications as listed in this Subparagraph may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification shall not be offered for retail sale prior to the effective date of the higher volatility classification.

(Amended February 12, 2001, June 4, 2008.)

108.02 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel" as standard specification for alcohol blends with the following modifications:

1. A vapor pressure tolerance not exceeding one pound per square inch for ethanol blends of up to 10 percent;
2. Vapor pressure seasonal specifications as listed in this Subparagraph may be extended for a maximum period of 15 days to allow for the disbursement of old stocks. However, new stocks of a higher volatility classification shall not be offered for retail sale prior to the effective date of the higher volatility classification;
3. Applications for temporary exceptions to vapor pressure specifications as provided in this Subparagraph may be made to the Commissioner and State Chemist. Said applications shall contain evidence satisfactory to the Commissioner and State Chemist that outlets marketing gasoline in Mississippi cannot feasibly be supplied from bulk terminals furnishing specified volatility level gasoline or that customary sources of supply have been temporarily interrupted by product shortage and alternate sources furnishing specified volatility level gasoline are not available. Such temporary exceptions granted shall apply only until the next meeting of the Commissioner and State Chemist at which time the Commissioner and State Chemist shall establish the duration of the exception;
4. The minimum temperature at 50 percent evaporated shall be 150 degrees F (66 degrees C) as determined by ASTM Test Method D 86 for ethanol blends of up to 10 percent;
5. The vapor/liquid ratio specification shall be waived for ethanol blends of up to 10 percent;
6. All blends shall be blended according to the EPA "Substantially Similar" rule or an EPA waiver for unleaded fuel;
7. Water tolerance shall be such that no phase separation occurs when subjected to a temperature equal to the temperatures specified in the table for "Maximum Temperature for Phase Separation, ^{o}C," ASTM D 4814.

(Adopted June 4, 2008.)

108.03 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, ASTM D 5798, "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines" as standard specification for E85 fuel ethanol.
(Adopted June 4, 2008.)

108.04 The Commissioner and State Chemist hereby adopt by reference, including subsequent amendments and editions, NIST Handbook 130, "Uniform Engine Fuels, Petroleum Products and Automotive Lubricants Regulation," section 2.2.1 "Premium Diesel Fuel" as the standard specification of premium diesel fuels in addition to ASTM D 975. Copies of this document may be obtained at no cost from the NIST Web site - http://ts.nist.gov/WeightsandMeasures/.
(Adopted June 4, 2008.)

108.05 ASTM documents adopted by reference herein may be obtained from ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428-2959 or their Web site - www.astm.org.
(Adopted June 4, 2008.)

Gasoline/Alcohol Blends

109 (Repealed June 4, 2008.)

Blending or Compounding Gasoline.

110 The blending of different grades of gasoline, alcohol blended fuel, octane enhancing additives, straight run, casinghead or natural gasoline, naphthous, and other compounds to produce gasoline and alcohol blended fuel is prohibited at retail outlets. Provided, however, a blending pump designed, manufactured and sold for the purpose of blending two or more grades of gasoline, alcohol blended fuel octane enhancing additives, straight run, casinghead or natural gasoline, naphthous and other compounds shall be permitted. The finished product produced by the blending pump or unit shall meet all standards and specifications set forth in *MISS. CODE ANN.* §75-55-5, or any rule or regulation promulgated thereunder.
(Amended 2002.)

Severability of provision

111 Should any paragraph, sentence, clause o~~f~~r phrase of these regulations be adjudged invalid or unconstitutional, such adjudication shall affect only that paragraph, sentence, clause, or phrase specifically covered thereby and shall not affect any other provisions or parts of these regulations.

General Rules of Procedure.

112.01 Purpose. The following rules are adopted in accordance with Senate Bill 2859 of the 1993 Session of the Mississippi Legislature and shall control hearings conducted by the Mississippi Department of Agriculture and Commerce, Bureau of Regulatory Services, hereinafter referred to as the "Bureau", resulting from violations *MISS. CODE ANN. §69-55-37 et seq.* or any rules or regulations promulgated thereunder.

112.02 Designated reviewing officer. The Chief of the Bureau of Regulatory Services or his designated employee shall act as a reviewing officer.

112.03 Complaint. When a complaint is received, either from an individual or from Department personnel pursuant to an investigation, the reviewing officer shall:

1. Cause the complaint to be in writing and signed by the inspector making the charge;
2. Insure that the complaint is filed in the office of the Bureau of Regulatory Services; and
3. Send a copy of the complaint and any supporting documents to the person accused along with a request for the accused to respond to the allegations within thirty 30 days from receipt of such notice. Failure to file an answer to or plead specifically to any allegation of fact in the complaint may constitute an admission of such allegation. Said complaint and supporting documentation shall be served on the accused by registered mail, return receipt requested, or by any method allowed by Rule 4 of the Mississippi Rules of Civil Procedure.

112.04 Reviewing officer's recommendation. Upon receipt of the response and any supporting documents from the accused, the Reviewing Officer shall screen all information on file to determine the merit of the complaint or lack thereof. Based on the evidence, the Reviewing Officer may:

1. Meet with the accused to discuss the alleged violation; or
2. Recommend to the Commissioner of Agriculture and Commerce hereinafter referred to as "Commissioner", that the complaint be dismissed; or
3. Recommend to the Commissioner that an appropriate penalty, be levied in accordance with the attached Penalty Assessment Guidelines.

112.05 Request for hearing. The accused shall have thirty days 30 from receipt of the Reviewing Officer's decision within which to file, with the Reviewing Officer, a written request for a hearing.

112.06 Representation. All parties may represent themselves or be represented by counsel.

112.07 Failure to appear. The failure of any party to appear at any administrative proceeding created under this regulation shall be deemed to be a waiver of such right.

112.08 Hearing. The Reviewing Officer shall within thirty 30 days of receipt of a written request from the accused, schedule a hearing. The hearing shall be before an Appeals Committee comprised of the Commissioner of Agriculture and Commerce, or his designee, the President of the Petroleum Marketer's Association, or his designee and a representative of the Attorney General. The Reviewing Officer shall have the authority to grant continuances, in his discretion, for good cause. Written notice of the date, time and place of such hearing shall be mailed to the accused by registered mail, return receipt requested, not less than fifteen 15 days prior to the commencing of the hearing. The hearing shall be closed unless the accused shall request a public hearing. The Reviewing Officer shall impose necessary restrictions to ensure an orderly and impartial proceeding.

112.09 Evidence:

1. The testimony of witnesses at a hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, in the discretion of the Appeals Committee, be examined separately and apart from all other witnesses except those who may be parties to the proceeding.
2. All relevant evidence that is not unduly repetitious shall be admitted. Hearsay, as defined by the Mississippi Rules of Evidence, shall be admissible only to the extent that it corroborates other evidence.
3. If a party objects to the admission or rejection of any evidence or to the limitation of the scope or any examination or cross-examination, such party shall state briefly the grounds for such objection, whereupon an automatic exception will follow if the objection is overruled by the Appeals Committee.
4. A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of official duties and relevant to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.
5. Except where the Appeals Committee finds that the furnishing of copies is impracticable, copies of each exhibit, in addition to the original, shall be filed with the Appeals Committee, for the use of the other parties to the proceeding. Provided that a true copy of an exhibit may be substituted for an original.
6. Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof shall consist of a brief statement describing the evidence to be offered. If the evidence consists of a brief oral statement or an exhibit, it shall be inserted into the transcript in its entirety.
7. At the request of the Appeals Committee, each party may file proposed findings of facts and conclusions of law, and a brief in support thereof, within such time as the Appeals Committee may proscribe. The Appeals Committee may request that such proposed findings of facts and conclusions of law be filed before, during or after the hearing.

112.10 Filing. All documents or papers required or authorized to be filed shall be filed with the Reviewing Officer and copies served on all parties with a certificate of service which states the date of service and who was served.

112.11 Computation of time. Computation of time shall be the same as required in the Mississippi Rules of Civil Procedure.

112.12 Extensions of time. The time for filing any document or paper required or authorized by these rules can only be extended by the Reviewing Officer, if the request for extensions is made prior to the expiration of the final date allowed for such filing, and if in the judgement of the Appeals Committee there is good reason for the extension and the opposing party will not be prejudiced.

112.13 Findings of fact and conclusions of law. At the conclusion of the hearing, the Appeals Committee shall prepare a written final opinion incorporating its findings of facts and conclusions of law.

112.14 Powers of the appeals committee:

1. The Appeals Committee is delegated authority and empowered by the Commissioner of Agriculture and Commerce to:
   a. Rule upon motions and requests;
   b. Set the time and place of the hearing or conference, adjourn the hearing from time to time, and change the time and place of the hearing;
   c. Examine witnesses;
   d. Admit or exclude evidence;
   e. Hear oral argument of facts and law;
   f. Do all acts and take all measures necessary for the maintenance of order at the hearing and for the efficient, fair and impartial conduct of the proceeding; and
   g. Issue the final decision of the Department.

112.15 Notice and Waiver. Failure of the accused to request a hearing or respond to the complaint within thirty 30 days shall constitute a waiver of the right to a hearing.

112.16 Penalties. The Appeals Committee shall notify the accused of his final decision. Any penalties assessed by the Appeals Committee shall be due and payable within forty five 45 days of the notification of the decision. The Appeals Committee, in their discretion, may grant additional time within which penalties may be paid.

112.17 Reconsideration. Within twenty 20 days after receiving the final decision the accused may allege in writing a request for reconsideration based upon a clear error of fact or law. The Appeals Committee may upon reviewing same, modify or review its previously issued final decision. The accused should view a request for reconsideration as an exceptional process, not merely as another progressive step in the proceeding.

(Section 112 adopted August 1993, amended February 12, 2001, amended October 21, 2002.)