CHAPTER 23.1-13
PETROLEUM PRODUCTS

23.1-13-01. Definitions.

In this chapter, unless the context or subject matter otherwise requires:

1. "Adulterated", when used to describe any petroleum or alternative fuel product, means a petroleum or alternative fuel product that fails to meet the specifications prescribed by this chapter.
2. "Alternative fuel" means a fuel for an engine or vehicle, or used as heating oil, other than a petroleum-based fuel. The term includes biodiesel and green diesel as defined in section 57-43.2-01.
3. "Department" means the department of environmental quality.
4. "Diesel fuel" means any petroleum product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.
5. "Gasoline" means a refined petroleum naphtha which by its composition is suitable for use as a carburant in internal combustion engines.
6. "Heating oil" means any product intended for use or offered for sale as a furnace oil, range oil, or fuel oil for heating and cooking purposes to be used in burners other than wick burners regardless of whether the product is designated as furnace oil, range oil, fuel oil, gas oil, or is given any other name or designation.
7. "Kerosene" means a petroleum fraction which is free from water, additives, foreign or suspended matter, and is suitable for use as an illuminating oil.
8. "Lubricating oil" means any petroleum, or other product, used for the purpose of reducing friction, heat, or wear in automobiles, tractors, gasoline engines, diesel engines, and other machines.
9. "Misbranded", when used in connection with any petroleum or alternative fuel product, means a petroleum or alternative fuel product that is not labeled as required under the provisions of this chapter.
10. "Sell" and "sale" include the keeping, offering, or exposing for sale, transportation, or exchange of the restricted or prohibited article.
11. "Tractor fuel" means any product, other than gasoline or kerosene, intended for use or offered for sale as a fuel for tractors, regardless of whether the product is designated as distillate, gas oil, fuel oil, or is given any other name or designation.

23.1-13-02. Department to enforce law - Regulation of petroleum products.

This chapter must be enforced by the department. The department may adopt rules under chapter 28-32 for the interpretation of this chapter.

23.1-13-03. Sale of adulterated and misbranded gasoline, kerosene, tractor fuel, heating oil, diesel fuel, or lubricating oil prohibited.

A person may not sell or offer or expose for sale any kerosene, gasoline, or other petroleum product intended to be used as kerosene, gasoline, any tractor fuel, heating oil, diesel fuel, or lubricating oil that is adulterated or misbranded.

23.1-13-04. Retail sale of alcohol-blended gasoline - Label requirements.

A dealer may not sell at retail alcohol-blended gasoline unless the dispensing unit and any price advertising bear the name of the alcohol blended with the gasoline if the alcohol-blended gasoline consists of one percent or more by volume of any alcohol. The disclosure must be in letters at least the same size as those used for the label of the basic grade of gasoline and must be next to the gasoline grade label. A producer of alcohol-blended gasoline may provide a retailer with a label promoting the benefits of alcohol-blended gasoline, if the label at least meets the requirements of this section.

23.1-13-05. Retail sale of gasoline containing methyl tertiary butyl ether - Restriction.

A person may not sell, offer for sale, supply, or offer for supply gasoline that contains methyl tertiary butyl ether in quantities greater than five-tenths of one percent by volume. However, a person may ship gasoline containing methyl tertiary butyl ether within the state for disposition outside the state, including storage coincident to shipment.

23.1-13-06. Retail sale of alternative fuels - Notice required.

A dealer may not sell at retail alternative fuel unless the dispensing unit and price advertising contains the name and main components of the alternative fuel or alternative fuel blend. The disclosure must follow the same labeling specifications that apply for petroleum-based fuels. The department shall adopt rules under chapter 28-32 for labeling of petroleum products and alternative fuels. A producer of alternative fuels or alternative fuel blends may provide a retailer with a label promoting the benefits of the alternative fuel if the label meets the requirements of this section.

23.1-13-07. Labeling gasoline containers - Gasoline pipeline.

Every package, barrel, filling station pump, and every tank wagon, truck, or car containing gasoline for sale or consignment or held with intent to sell or consign the same within this state or to transport it into this state must be clearly and distinctly stamped, labeled, or tagged with the word "gasoline". Every oil station pipeline for gasoline must be painted red. The fittings upon such lines; however, may be painted other colors to designate grades. Pipelines for gasoline must be entirely separate from lines for kerosene or for any other high flash product. Every can, bucket, barrel, or other container of less than sixty gallons [227.12 liters] capacity used for storage or delivery of gasoline, benzine, or benzine products, unless the same is made of glass, must be painted bright red, and such containers may not be used for the storage or delivery of kerosene. In the case of glass containers, the contents must be designated by a red label securely pasted on or attached to the containers bearing the name of the product.

23.1-13-08. Labeling kerosene - Containers - Pipeline.

Every package, barrel, filling station pump, and every tank wagon, truck, or car containing kerosene for sale or consignment when held within this state or transported into this state must be clearly and distinctly stamped, labeled, or tagged with the word "kerosene". Every oil station pipeline for kerosene must be painted aluminum and must be entirely separate from lines for gasoline or other low flash products.

23.1-13-09. Labeling tractor fuel.

Every package, barrel, pump, and every truck, tank wagon, or car containing tractor fuel oil, other than gasoline or kerosene, for sale or consignment, when held within this state or when being transported into this state must be clearly and distinctly tagged, marked, and labeled with the legend "Tractor fuel oil, not for illuminating purposes nor wick burners". Every oil station pipeline for tractor fuel must be painted yellow and must be entirely separate from lines for kerosene or other high flash product.

23.1-13-10. Labeling heating oil.

Every package, barrel, pump, and every tank wagon, truck, or car containing heating oil for sale or consignment, when held within this state or when being transported into this state, must be clearly and distinctly tagged, marked, or labeled with the designation of grade established by the department. Every oil station pipeline for heating oil must be painted green.

23.1-13-11. Labeling diesel fuel.

Every package, barrel, pump, and every tank wagon, truck, or car containing diesel fuel for sale or consignment, when held within this state or transported into this state, must be clearly and distinctly tagged, marked, or labeled with the designation "diesel fuel" together with its cetane number and the grade established by the department. Every oil station pipeline for diesel fuel must be painted green.

23.1-13-12. Specifications for petroleum products - Tests used.

Specifications for gasoline, kerosene, tractor fuel, diesel oil, heating oil, lubricating oil, alternative fuels, and liquefied petroleum gases, including propane, propylene, normal butane or isobutane, and butylene, must be determined by the department and must be based upon nationally recognized standards. When so determined by the department and adopted and promulgated as regulations and orders of the department in accordance with chapter 28-32, such specifications must be the specifications for such petroleum products sold in this state and official tests of such petroleum products must be based upon test specifications so determined adopted and promulgated.

23.1-13-13. How volume of heating oil determined.

In case of a dispute, heating oil must be sold on the basis of the United States gallon containing two hundred thirty-one cubic inches [3785.41 milliliters] at sixty degrees Fahrenheit [15.56 degrees Celsius]. The volume of the delivered oil; however, may be calculated from its weight and gravity degrees API in accordance with the national standard petroleum oil tables prepared by the national bureau of standards.

23.1-13-14. Department may prohibit sale of certain gasolines or motor fuels.

The department may prohibit the sale of any "gasoline improver" or motor fuel dope, oil additive, and of any gasoline mixed or compounded with any other chemical, substance, or solution which may be detrimental to the public health, injurious to internal combustion engines, or concerning which unsubstantiated claims are made. However, it may not prohibit the sale of any material, substance, or solution that has been favorably reported on by the United States bureau of standards or by the surgeon general or bureau of public health of the United States.

23.1-13-15. Sale of prohibited gasolines - Penalty.

Any person violating any of the provisions of section 23.1-13-14 is guilty of a class B misdemeanor.

23.1-13-16. Inspection fees.

Every person licensed by the tax commissioner as a motor vehicle fuel or special fuels dealer shall pay to the tax commissioner an inspection fee of one-fortieth of one cent per gallon [3.79 liters] for every gallon [3.79 liters] of gasoline, kerosene, tractor fuel, heating oil, or diesel fuel sold or used during a calendar month except those gallons sold out of state or those gallons sold as original package sales as defined in chapters 57-43.1 and 57-43.2. The fee must accompany the monthly report required in the following section and is due no later than the twenty-fifth day of each calendar month for the preceding month. The tax commissioner shall forward all money collected under this section to the state treasurer monthly, and the state treasurer shall deposit the funds in the department of environmental quality operating fund. The funds must be used, subject to legislative appropriations, for the state fuel inspection program. The tax commissioner shall make available annually a report by licensed dealer listing the number of gallons [liters] of motor vehicle fuel and special fuels upon which the inspection fee has been paid. The provisions of chapters 57-43.1 and 57-43.2 pertaining to the administration of motor vehicle fuel and special fuels taxes not in conflict with the provisions of this chapter govern the administration of the inspection fee levied by this chapter.

23.1-13-17. Report to tax commissioner of petroleum products - Contents.

No later than the twenty-fifth day of each calendar month, every person licensed by the tax commissioner as a motor vehicle fuel, special fuels, or liquefied petroleum wholesale dealer shall send to the tax commissioner a correct report of all purchases and sales of gasoline, kerosene, tractor fuel, heating oil, or diesel fuel during the preceding month. The report must include the same information as required in chapters 57-43.1 and 57-43.2 for motor vehicle fuel and special fuels tax collection purposes. Failure to send the report and inspection fee required by the preceding section to the tax commissioner constitutes a violation of the provisions of this chapter.

23.1-13-18. Bond may be required of dealer in petroleum products.

The tax commissioner may require any person licensed by the tax commissioner as a motor vehicle fuel, special fuels, or liquefied petroleum wholesale dealer to furnish a surety bond payable to the state in the sum of five hundred dollars, or twice the amount of inspection fees due for any calendar month, whichever amount is the greater, guaranteeing to the state true reports of purchases and sales of gasoline, kerosene, tractor fuel, heating oil, and diesel fuel and the payment of all inspection fees provided for in this chapter. The tax commissioner shall determine the sufficiency of the bond. A single bond may cover dealing in one or all of the petroleum products mentioned in this chapter. When any inspection fee is not paid within twenty days after it has become delinquent, the person bonding the delinquent may be called upon to make good upon the bond for such delinquent fees.

23.1-13-19. Department may designate ports of entry and hold cars for inspection - Penalty.

The department may designate ports of entry of all transportation companies carrying petroleum products into this state for sale or consignment and may hold or delay any car or other vehicle of transportation entering this state carrying such products for sale or consignment until samples thereof have been obtained for inspection and analysis and until any other required information regarding the products contained in the shipment has been secured. The department may not hold or delay any shipment or consignment of petroleum products at the port of entry if the transportation company carrying such products will permit proper inspection and sampling of shipments or consignments at convenient designated points without the state, and will permit the inspection of transportation records and provide adequate information regarding the records of cars or other vehicles carrying such products at division points or at other places within or without the state where such cars or other vehicles, in normal practice, are stopped and held for switching and rearrangement or where ample opportunity is provided for proper inspection and sampling. The failure on the part of a transportation company or any of its officers or employees to hold any car or other vehicle of transportation for inspection is a class B misdemeanor.

23.1-13-20. Penalties.

A person violating or failing to comply with any of the provisions of this chapter, or with any rule issued under this chapter, is, unless another penalty is specifically provided, guilty of a class B misdemeanor.