

Rules and Regulations

I. AUTHORITY:

The Director of the Arkansas State Highway and Transportation Department, pursuant to the authority vested in him by Act 977 of 1987 and the Arkansas Highway Commission Minute Order No. 87-269, hereby promulgates the following rules and regulations for the orderly administration of said Act.

II. EFFECTIVE DATE:

These rules and regulations are effective on and after August 1, 1987.

III. PURPOSE:

These regulations are promulgated to implement and clarify Act 977 of 1987. All persons should read these regulations in their entirety because the meaning of the provisions of one regulation may depend upon the provisions contained in another regulation.

IV. DEFINITIONS:

- A. “*Commissioner*” shall mean the Commissioner of Revenues, also known as the Director for the Revenue Division, Department of Finance and Administration.
- B. “*Director*” shall mean the Director of Highways and Transportation of the Arkansas State Highway and Transportation Department.
- C. “*Fuel(s)*” shall mean motor fuel and distillate special fuels as defined in the “Motor Fuel Tax Law, as amended, and the “Special Motor Fuels Tax Law, as amended, and shall include gasoline and diesel used to propel an automotive vehicle.
- D. “*Person*” shall include any operator, individual, owner, company, partnership, joint venture, joint agreement, association (mutual or otherwise), corporation, estate, trust, business trust, receiver, trustee, leasing company, common carrier, private carrier, or transporter.
- E. “*River Ports*” shall mean those ports where fuel(s) transported by barge are unloaded.
- F. “*Permit Section*” shall mean the Permit Section of the Arkansas State Highway and Transportation Department.
- G. “*Enforcement Officer*” shall mean the officers of the Arkansas Highway Police Division of the Arkansas State Highway and Transportation Department and Investigators of the Internal Audit Section of the Arkansas State Highway and Transportation Department.
- H. “*Permit*” shall mean the Import/Export Load Permit provided by Act 977 of 1987, issued by the Arkansas State Highway and Transportation Department.
- I. “*Bill of Lading*” shall mean the documentation detailed in Section 3(A) of Act 977 and shall include that documentation provided by loading terminals, or manifests prepared by the Distributor/Supplier who loads at his own facilities.
- J. “*Distributor*” shall mean any person licensed by the Commissioner under the laws of the State of Arkansas to deliver or sell diesel fuel for resale or use.
- K. “*Supplier*” shall mean any person licensed by the Commissioner under the laws of the State of Arkansas to deliver or sell diesel fuel for resale or use.
- L. “*Export*” means to take fuel(s) originating within the State to destinations outside the State.
- M. “*Import*” means to take fuel(s) into the State that originated outside the State.

- N. “*Transporter*” shall be synonymous with Carrier and shall include anyone hauling motor fuel or distillate special fuels.

V. POINTS OF LAW:

- A. Under the provisions of Act 977 of 1987 every person who imports and/or exports fuel(s) into or out of the State of Arkansas respectively must be licensed by the Department of Finance and Administration’s Motor Fuel Tax Section as a “Distributor” and/or “Supplier” to operate within the State of Arkansas.
- B. Every person who imports or exports fuel(s) into or out of the State respectively, must acquire and have in the physical presence of every load an Import/Export Load Permit issued by the Director or his designee.
- C. Under the provisions of the Code of Federal Regulations, Title 49, Parts 100-177, every person who transports fuel(s) within the State must have in the physical presence of each load a Bill-of-Lading (Manifest), which includes the following information:
- Shipper, receiver, type of fuel being transported, date of shipment, origin, destination, and quantity.
 - This documentation may be considered appropriate for the determination that the provisions of Act 977 of 1987 are not applicable to that particular load.
- D. Interstate shipments of fuel(s) which originate outside of Arkansas and are destined outside of Arkansas are exempt from this Act. Exemption may be determined by the Bill-of-Lading (Manifest) information required by the Code of Federal Regulations, Title 49, Parts 100-177 which shows a non-Arkansas origin and destination.
- E. The enforcement officer shall have the authority to stop any vehicle handling or transporting fuel(s) for the purpose of examining the documents required by this Act or to insure the operator’s compliance with its provisions. The enforcement officer may affix a seal, stamp, signature, or other written notation on the permit and/or Bill-of-Lading.
- F. The enforcement officer may cause the offending vehicle and it’s operator to be removed to a location designated by that officer. The enforcement officer may retain a copy of the Bill-of-Lading, Import/Export Load Permit, and other documents that reflect the nature of the violation. The officer will then contact the Department of Finance and Administration’s Motor Fuel Tax Office or designated representative for their initiation of assessment and penalty procedures.
- G. Immediate written notice of assessment of taxes and penalties will be presented to the operator of the vehicle at such time by the Commissioner of Revenues or his designated agent. Further travel shall not be authorized until the criminal fines and/or bonds have been posted and taxes and penalties have been paid in full.
- H. All fines and penalties imposed pursuant to this Act shall be in addition to any and all penalties imposed pursuant to the “Arkansas Tax Procedure Act”.
- I. Any person transporting fuel(s) into the State of Arkansas without the appropriate Bill-of-Lading and Import/Export Load Permit shall be guilty of a misdemeanor and shall be fined not more than \$2500.00.
- J. Any person taking possession of fuel(s) within the State for delivery outside the State who is not licensed as a “Distributor” and/or “Supplier” is in violation of Act 977 and shall be subject to the penalties set forth in this Act.

- K. Every common carrier pipeline company, every railroad company and every water transportation company transporting fuel(s) to a point within the State from any point outside the State shall provide a copy of the monthly reports to the Commissioner of Revenues, as required by Ark. Statutes 75-1117, and Act 985 of 1987, Section 14, to the Director of Highways and Transportation. These reports shall contain the information required by Section 75-1117, Subsection (B), and by Act 985 of 1987, Section 14, Subsection (B), such as: "...the name and address to whom the deliveries...have been made, the name and address of the originally named consignee...the point of origin, the point of delivery, the date of delivery...the number of gallons..." and other information as required.
- L. In any audits conducted by the Arkansas State Highway and Transportation Department relating to the "Motor Fuel Tax Law", as amended, and/or the "Special Motor Fuels Tax Law", as amended, and/or this Act and/or other pertinent laws may call upon the Commissioner of Revenues for assistance.

VI. ADMINISTRATIVE PROCEDURES:

- A. Upon demand, licensed "Distributors" and/or "Suppliers" may obtain a supply of pre-numbered triplicate copy Permits for use as required under this Act at no cost to said "Distributor" and/or "Supplier".
- B. "Transporters" registered with the Interstate Commerce Commission (I.C.C.) may, upon proof of certification to the Arkansas State Highway and Transportation Department Permit Section, obtain a supply of pre-numbered triplicate copy Permits for use as required under this Act at no cost to said "Transporter".
- C. The Permits are to be completed according to the instructions on the reverse side of each Permit and must be submitted daily along with a copy of the Bill-of-Lading (Manifest) to:
 - Arkansas State Highway and Transportation Department
 - Import Export Permits – Attn. RECORDS
 - P.O. Box 2779
 - Little Rock, Arkansas 72203-2779
- D. The "Distributor" and/or "Supplier" and "Transporter" receiving the pre-numbered Permit books shall be subject to audit by the Arkansas State Highway and Transportation Department.
- E. The "Distributor" and/or "Supplier" and "Transporter" receiving the Permit books will be responsible for accounting for all Permits issued. The original copy of a Permit voided for any reason must be submitted along with Permits used.
 - Failure to account for all Permits issued will result in immediate recovery of remaining Permits by the Director and no further Permits will be issued except by the Permit Section.
 - Failure to report complete and correct information on each Permit will result in an invalid Permit and will be considered a violation of this Act. Any violation of this Act is subject to the penalties herein detailed.
- F. Newly licensed "Distributors" and/or "Suppliers" and those not obtaining the Permits in advance, may call toll free for acquisition of the required Permit after loading fuel(s) on the vehicle. [Fuel(s) must be loaded before calling for the Permit, as the Bill-of-Lading, fuel(s) type, and quantity will be required before the Permit can be processed.]
- G. The Permit Section will determine if the person requesting the Permit is a licensed "Distributor" and/or "Supplier" before issuing the Permit.
- H. The "Distributor" and/or "Supplier" named on the Permit is authorized to transport fuel(s) in Arkansas in accordance with the provisions of Act 977.
- I. The "Distributor" and/or "Supplier" named on the Permit is responsible for getting the Permit to the "Transporter" if such "Transporter" is different from themselves and is not registered with the Arkansas State Highway and Transportation Department's Permit Section to receive pre-numbered books.
- J. The "Distributor" and/or "Supplier" named on the Permit is responsible for reporting as a Receipt and/or export, on his Motor Fuel/Special Motor Fuel Tax Reports(s), each load Permitted.