

Title 26. Taxation

Chapter VII. State Highway Commission

Subchapter A. Generally

Part 240. Import/Export Rules for Acts 1987, No. 977

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "The following Rules are hereby adopted as the Import/Export Rules for Act 977 of 1987. Because of the imminent peril to the public health, safety and welfare these Rules shall be effective on August 1, 1987. These Rules were to take effect on July 1, 1987, but had to be extended to August 1, 1987 because Act 977 did not have an emergency clause. The Rules were approved by the Legislative Council in July with less than 20 days before August 1, 1987. Dated this y of July, 1987."

"Effective Date: These rules are effective on and after August 1, 1987."

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

Subpart 1. Generally

26 CAR § 240-101. Purpose.

(a) This part is promulgated to implement and clarify Acts 1987, No. 977.

(b) All persons should read this part in its entirety because the meaning of the provisions of one section may depend upon the provisions contained in another section.

Authority. Arkansas Code § 26-55-604.

26 CAR § 240-102. Definitions.

As used in this part:

- (1) "Bill of lading" means the documentation detailed in Section 3(A) of Acts 1987, No. 977, and shall include that documentation provided by loading terminals, or manifests prepared by the distributor/supplier who loads at his or her own facilities;
- (2) "Commissioner" means the Commissioner of Revenues, also known as the Director for the Revenue Division, Department of Finance and Administration;
- (3) "Director" means the Director of State Highways and Transportation of the Arkansas Department of Transportation;
- (4) "Distributor" means any person licensed by the Commissioner of Revenues under the laws of the State of Arkansas to deliver or sell diesel fuel for resale or use;
- (5) "Enforcement officer" means the:
 - (A) Officers of the Arkansas Highway Police Division of the Arkansas Department of Transportation; and
 - (B) Investigators of the Internal Audit Section of the Arkansas Department of Transportation;
- (6) "Export" means to take fuel or fuels originating within the state to destinations outside the state;
- (7) "Fuel" or "fuels" means motor fuel and distillate special fuels as defined in the Motor Fuel Tax Law, Arkansas Code § 26-55-201 et seq., as amended, and the Special Motor Fuels Tax Law, Arkansas Code § 26-56-101 et seq., as amended, and shall include gasoline and diesel used to propel an automotive vehicle;
- (8) "Import" means to bring fuel or fuels into the state that originated outside the state;
- (9) "Permit" means the import/export load permit provided by Acts 1987, No. 977, issued by the Arkansas Department of Transportation;
- (10) "Permit Section" means the Permit Section of the Arkansas Department of Transportation;
- (11) "Person" shall include any:
 - (A) Operator;

- (B) Individual;
- (C) Owner;
- (D) Company;
- (E) Partnership;
- (F) Joint venture;
- (G) Joint agreement;
- (H) Association (mutual or otherwise);
- (I) Corporation;
- (J) Estate;
- (K) Trust;
- (L) Business trust;
- (M) Receiver;
- (N) Trustee;
- (O) Leasing company;
- (P) Common carrier;
- (Q) Private carrier; or
- (R) Transporter;

(12) "River ports" means those ports where fuel or fuels transported by barge are unloaded;

(13) "Supplier" means any person licensed by the Commissioner under the laws of the State of Arkansas to deliver or sell diesel fuel for resale or use; and

(14) "Transporter" shall be synonymous with carrier and shall include anyone hauling motor fuel or distillate special fuels.

Authority. Arkansas Code § 26-55-604.

26 CAR § 240-103. Points of law.

(a) Under the provisions of Acts 1987, No. 977, every person who imports and/or exports fuel or fuels 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.

(b) Every person who imports or exports fuel or fuels 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 of State Highways and Transportation or his or her designee.

(c)(1) Under the provisions of 49 C.F.R. pts. 100-177, every person who transports fuel or fuels within the state must have in the physical presence of each load a bill of lading (manifest), which includes the following information:

- (A) Shipper;
- (B) Receiver;
- (C) Type of fuel being transported;
- (D) Date of shipment;
- (E) Origin;
- (F) Destination; and
- (G) Quantity.

(2) This documentation may be considered appropriate for the determination that the provisions of Acts 1987, No. 977, are not applicable to that particular load.

(d)(1) Interstate shipments of fuel or fuels which originate outside of Arkansas and are destined outside of Arkansas are exempt from Acts 1987, No. 977.

(2) Exemption may be determined by the bill of lading (manifest) information required by 49 C.F.R. pts. 100-177, which shows a non-Arkansas origin and destination.

(e)(1) The enforcement officer shall have the authority to stop any vehicle handling or transporting fuel or fuels:

(A) For the purpose of examining the documents required by Acts 1987, No. 977; or

(B) To ensure the operator's compliance with its provisions.

(2) The enforcement officer may affix a seal, stamp, signature, or other written notation on the permit and/or bill of lading.

(f)(1) The enforcement officer may cause the offending vehicle and its operator to be removed to a location designated by that officer.

- (2) The enforcement officer may retain a copy of:
 - (A) The bill of lading;
 - (B) The import/export load permit; and
 - (C) Other documents that reflect the nature of the violation.

(3) The officer will then contact the Department of Finance and Administration's Motor Fuel Tax Section or designated representative for their initiation of assessment and penalty procedures.

(g)(1) 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 or her designated agent.

(2) 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 Acts 1987, No. 977, shall be in addition to any and all penalties imposed pursuant to the Arkansas Tax Procedure Act, Arkansas Code § 26-18-101 et seq.

(i) Any person transporting fuel or fuels into the State of Arkansas without the appropriate bill of lading and import/export load permit shall be:

- (1) Guilty of a misdemeanor; and
- (2) Fined not more than two thousand five hundred dollars (\$2,500).

(j) Any person taking possession of fuel or fuels within the state for delivery outside the state who is not licensed as a distributor and/or supplier:

- (1) Is in violation of Acts 1987, No. 977; and
- (2) Shall be subject to the penalties set forth in Acts 1987, No. 977.

(k)(1) Every common carrier pipeline company, every railroad company, and every water transportation company transporting fuel or fuels 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 Arkansas Statutes § 75-1117, and Acts 1987, No. 985, § 14, to the director.

(2) These reports shall contain the information required by Arkansas Statutes § 75-1117, Subsection (B), and by Acts 1987, No. 985, § 14(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 Department of Transportation relating to the Motor Fuel Tax Law, Arkansas Code § 26-55-201 et seq., as amended, and/or the Special Motor Fuels Tax Law, Arkansas Code § 26-56-101 et seq., as amended, and/or Acts 1987, No. 977, and/or other pertinent laws may call upon the Commissioner of Revenues for assistance.

Authority. Arkansas Code §§ 26-55-603, 26-55-604, 26-55-606.

26 CAR § 240-104. Administrative procedures.

(a) Upon demand, licensed distributors and/or suppliers may obtain a supply of prenumbered triplicate copy permits for use as required under Acts 1987, No. 977, at no cost to said distributor and/or supplier.

(b) Transporters registered with the United States Surface Transportation Board may, upon proof of certification to the Arkansas Department of Transportation Permit Section, obtain a supply of prenumbered triplicate copy permits for use as required under Acts 1987, No. 977, 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 Department of Transportation
Permit Section
P.O. Box 2261
Little Rock, Arkansas 72203

(d) The distributor and/or supplier and transporter receiving prenumbered permit books shall be subject to audit by the department.

(e)(1)(A) The distributor and/or supplier and transporter receiving the permit books will be responsible for accounting for all permits issued.

(B) The original copy of a permit voided for any reason must be submitted along with permits used.

(2) Failure to account for all permits issued will result in immediate recovery of remaining permits by the Director of State Highways and Transportation and no further permits will be issued except by the Permit Section.

(3)(A) Failure to report complete and correct information on each permit will:

(i) Result in an invalid permit; and

(ii) Be considered a violation of Acts 1987, No. 977.

(B) Any violation of Acts 1987, No. 977 is subject to the penalties herein detailed.

(f)(1) 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 or fuels on the vehicle.

(2) Fuel or fuels must be loaded before calling for the permit, as the bill of lading, fuel or fuels 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 or fuels in Arkansas in accordance with the provisions of Acts 1987, No. 977.

(i) The distributor and/or supplier named on the permit is responsible for getting the permit to the transporter if such transporter is:

(1) Different from themselves; and

(2) Not registered with the department's Permit Section to receive prenumbered books.

(j) The distributor and/or supplier named on the permit is responsible for reporting as a receipt and/or export on his or her Motor Fuel/Special Motor Fuel Tax report or reports each load permitted.

Authority. Arkansas Code § 26-55-604.