

# TITLE 4 – BUSINESS AND COMMERCIAL LAW

## Chapter 108 Fuel and Lubricants

Subchapter 1 — General Provisions  
Subchapter 2 — Quality Specifications

### Subchapter 1 — General Provisions

[Reserved]

### Subchapter 2 — Quality Specifications

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#### **4-108-201. Purpose.**

- (a) There should be uniform requirements for engine fuels, petroleum products, and automotive lubricants among the several states.
- (b) This subchapter provides for the establishment of quality specifications for these products.

**History.** Acts 2001, No. 586, § 1.

#### **4-108-202. Scope.**

- (a) This subchapter establishes a sampling, testing, and enforcement program, requires registration of engine fuels, and empowers the state to promulgate regulations as needed to carry out the provisions of this subchapter.
- (b) It also provides for administrative, civil, and criminal penalties.

**History.** Acts 2001, No. 586, § 2.

#### **4-108-203. Definitions.**

As used in this subchapter:

(1) “ASTM” means the American Society for Testing and Materials, a national voluntary consensus standards organization formed for the development of standards on characteristics and performance of materials, products, systems, and services, and the promotion of related knowledge;

(2) “Automotive lubricants” means any material interposed between two (2) surfaces that reduces the friction or wear between them;

(3) “Board” means the State Plant Board;

(4) “Director” means the Director of the State Plant Board and its designated agents;

(5) “Engine fuel” means any liquid or gaseous matter used for the generation of power in an internal combustion engine;

(6) (A) “Engine fuel designed for special use” means engine fuels designated by the director as requiring registration.

(B) (i) These fuels normally have no American Society for Testing and Materials or other national consensus standards applying to their quality or usability.

(ii) Common special fuels are racing fuels and those intended for agricultural and other off-road applications;

(7) “Person” means an individual, corporation, company, society, association, partnership, or governmental entity;

(8) “Petroleum products” means products obtained from distilling and processing of petroleum, crude oil, unfinished oils, recycled oils, natural gas liquids, refinery blend stocks, and other miscellaneous hydrocarbon compounds; and

(9) “Sold” means kept, offered, or exposed for sale, or sold.

**History.** Acts 2001, No. 586, § 3.

#### **4-108-204. Administration — Adoption of standards — Rules.**

(a) The provisions of this subchapter shall be administered by the Director of the State Plant Board.

(b) (1) (A) For the purpose of administering and giving effect to the provisions of this subchapter, the board may adopt the specification and test method standards set forth in both the most recent edition of the National Institute of Standards and Technology Handbook 130 and the most recent edition of the Annual Book of ASTM Standards and supplements thereto, and revisions thereof.

(B) When no American Society for Testing and Materials standard exists, other generally recognized national consensus standards may be used.

(2) The board is empowered to write rules and regulations on the advertising, posting of prices, labeling, standards for, and identity of fuels, petroleum products, and automotive lubricants and is authorized to establish a testing laboratory.

**History.** Acts 2001, No. 586, § 4.

#### **4-108-205. State Petroleum Products Division — General duties and powers.**

(a) There is hereby created a State Petroleum Products Division located for administrative purposes within the Arkansas Bureau of Standards of the State Plant Board.

(b) The board shall have the authority to:

(1) (A) Enforce and administer all the provisions of this subchapter by inspections, analyses, and other appropriate actions;

(B) (i) Have access during normal business hours to all places where engine fuels, petroleum products, and automotive lubricants are kept, transferred, offered, exposed for sale, or sold for the purpose of examination, inspection, taking of samples, and investigation.

(ii) If such access shall be refused by the owner or agent or other persons leasing the same, the director may obtain an administrative search warrant from a court of competent jurisdiction;

(C) Collect, or cause to be collected, samples of engine fuels, petroleum products, and automotive lubricants marketed in this state, and cause such samples to be tested or analyzed for compliance with the provisions of this subchapter;

(D) Define engine fuels for special use and refuse, revoke, suspend, or issue a stop-order if found not to be in compliance and remand a stop-order if the engine fuel for special use is brought into full compliance with this subchapter;

(E) Issue a stop-sale order for any engine fuel, petroleum product, and automotive lubricant found not to be in compliance and remand the stop-sale order if the engine fuel, petroleum product, or automotive lubricant is brought into full compliance with this subchapter; and

(F) Refuse, revoke, or suspend the registration of an engine fuel, petroleum product, or automotive lubricant; and

(2) Delegate to appropriate personnel any of these responsibilities for the proper administration of this subchapter.

**History.** Acts 2001, No. 586, § 5.

#### **4-108-206. Registration of engine fuels designed for special use.**

(a) All engine fuels designed for special use must be registered with the board.

(b) Such registration shall include the:

(1) Name, brand, or trademark under which the fuel will be sold;

(2) Name and address of the person registering the engine fuel;

(3) Special use for which the engine fuel is designed; and

(4) Certification, declaration, or affidavit stating the specifications which the fuel will meet upon testing.

**History.** Acts 2001, No. 586, § 6.

#### **4-108-207. Prohibited acts.**

It shall be unlawful to:

(1) Represent engine fuels, petroleum products, or automotive lubricants in any manner that may deceive or tend to deceive the purchaser as to the nature, brand, price, quantity, or quality of the products;

(2) Fail to register an engine fuel designed for special use;

(3) Submit incorrect, misleading, or false information regarding the registration of an engine fuel designed for special use;

(4) Hinder or obstruct the State Plant Board in the performance of its duties;

(5) Represent an engine fuel, petroleum product, or automotive lubricant that is contrary to the provisions of this subchapter; and

(6) Represent automotive lubricants with a Society of Automotive Engineers viscosity grade or American Petroleum Institute service classification other than those specified by the intended purchaser.

**History.** Acts 2001, No. 586, § 7.

#### **4-108-208. Civil penalties.**

(a) (1) Any person who by himself or herself, by his or her servant or agent, or as the servant or agent of another person, commits any of the acts enumerated in § 4-108-207 may be assessed by the State Plant Board a civil penalty of:

(A) Not less than one hundred dollars (\$100) nor more than three hundred dollars (\$300) for a first violation;

(B) Not less than four hundred dollars (\$400) nor more than six hundred dollars (\$600) for a second violation within three (3) years after the date of the first violation; and

(C) Not less than seven hundred dollars (\$700) nor more than one thousand dollars (\$1,000) for a third violation within three (3) years after the date of the first violation.

(2) For a violation to be considered as a second or subsequent offense, it must be a repeat of a violation as enumerated in § 4-108-207.

(b) (1) Any person subject to a civil penalty shall have a right to request an administrative hearing within ten (10) calendar days after receipt of the notice of the penalty.

(2) The board or a subcommittee of the board shall be authorized to conduct the hearing after giving appropriate notice to the respondent.

(3) The decision of the board shall be subject to appropriate judicial review under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(c) (1) If the respondent has exhausted his or her administrative appeals and the civil penalty has been upheld, he or she shall pay the civil penalty within twenty (20) calendar days after the effective date of the final decision.

(2) If the respondent fails to pay the penalty, a civil action may be brought by the director in any court of competent jurisdiction to recover the penalty.

(3) Any civil penalty collected under this section shall be transmitted to the Plant Board Fund.

**History.** Acts 2001, No. 586, § 8.

**Cross References.** Plant Board Fund, § 19-6-408.

#### **4-108-209. Criminal penalties.**

Any person who intentionally violates any provision of this subchapter or regulations promulgated thereto shall be guilty of a Class A misdemeanor.

**History.** Acts 2001, No. 586, § 9.

#### **4-108-210. Restraining order and injunction.**

The Director of the State Plant Board is authorized to apply to any court of competent jurisdiction for a restraining order or a temporary or permanent injunction restraining any person from violating any provision of this subchapter.

**History.** Acts 2001, No. 586, § 10.

**4-108-211. Title.**

This subchapter shall be known and may be cited as the “Engine Fuels, Petroleum Products, and Automotive Lubricants Inspection Act of 2001”.

**History.** Acts 2001, No. 586, § 11.

**4-108-212. Regulations.**

(a) The State Plant Board may by regulation adopted pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., adopt as a regulation of the Arkansas Bureau of Standards specifications, tolerances, and regulations for engine fuels, petroleum products and automotive lubricants set out in National Institute of Standards and Technology Handbook 130, or in any similar publication issued by the National Institute of Standards and Technology.

(b) In drafting the regulations, the bureau shall consider whether the specifications, tolerances, and regulations published by the National Institute of Standards and Technology are consistent with the needs of Arkansas businesses and consumers and may modify, amend, or delete suggested language found in the National Institute of Standards and Technology handbooks.

**History.** Acts 2001, No. 586, § 12.

**4-108-213. Regulations to be unaffected by repeal of prior enabling statute.**

The adoption of this subchapter or any of its provisions shall not affect any regulations promulgated pursuant to the authority of any earlier enabling statute unless inconsistent with this subchapter or modified or revoked by the State Plant Board.

**History.** Acts 2001, No. 586, § 13.