Appendix C: Codified Statutes and Rules for Approval

Exhibit C-I: Certified Copies of Final Statutes

VIEW DOCUMENT

The Arizona Revised Statutes have been updated to include the revised sections from the 54th Legislature, 2nd Regular Session. Please note that the next update of this compilation will not take place until after the conclusion of the 55th Legislature, 1st Regular Session, which convenes in January 2021.

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3-3401. Definitions

In this chapter, unless the context otherwise requires:

1. "Area A" has the same meaning prescribed in section 49-541.

2. "Area B" has the same meaning prescribed in section 49-541.

3. "Area C" means that portion of Pinal county lying west of range 11 east, excluding that portion of the county lying within area A as defined in section 49-541 and that portion of the county within the jurisdiction of any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

4. "Associate director" means the associate director of the division.

5. "Biodiesel" means a mono-alkyl ester that meets ASTM D6751.

6. "Biodiesel blend" means a motor fuel that is composed of biodiesel and diesel fuel and that is designated by the letter "B", followed by the numeric value of the volume percentage of biodiesel in the blend.

7. "Biofuel" means a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating or power or as a blend component in motor fuel.

8. "Biofuel blend" means a motor fuel that is composed of a biofuel, that is combined with a petroleum-based fuel and that is designated by the volume percentage of biofuel in the blend.

9. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into substances such as coal or petroleum or derivatives thereof, that may be transformed into biofuel.

10. "Biomass-based diesel" means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration

requirements for fuels and fuel additives established by the United States environmental protection agency under 42 United States Code 7545 and includes fuel derived from animal wastes, including poultry wastes and other waste materials, municipal solid waste and sludge and oil derived from wastewater and the treatment of wastewater. Biomass-based diesel does not include biodiesel.

11. "Biomass-based diesel blend" means a blend of petroleum-based diesel fuel with biomass-based diesel.

12. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the division.

13. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.

14. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

15. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter.

16. "Diesel fuel" means a refined middle distillate that is used as a fuel in a compression-ignition internal combustion engine and that meets the specifications of ASTM D975.

17. "Division" means the weights and measures services division of the department.

18. "Ethanol flex fuel" means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798 standard specification for ethanol fuel blends for flexible-fuel automotive spark-ignition engines.

19. "Fleet owner" means a registered owner or lessee of at least twenty-five vehicles.

20. "Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than five one-hundredths grams of lead for each United States gallon, that is produced, refined, manufactured, blended, distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other flammable liquids free from undissolved water, sediment or suspended matter, with or without additives, and that is commonly used as a fuel for spark-ignition internal combustion engines. Gasoline does not include diesel fuel or ethanol flex fuel.

21. "Gasoline provider" means any manufacturer of gasoline or any person who imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person who sells gasoline intended for ultimate consumption within a vehicle emissions control area. Gasoline provider does not mean a person with respect to a gasoline supplied or sold by the person to another person for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.

22. "Inspector" means a state official of the division.

23. "Liquid measuring device" means any meter, pump, tank, gauge or apparatus used for volumetrically determining the quantity of any internal combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

24. "Manufacturer's proving ground" means a facility whose sole purpose is to develop complete advanced vehicles for an automotive manufacturer.

25. "Misfuel" means the act of dispensing into the fuel tank of a motor vehicle a motor fuel that was not intended to be used in the engine of that motor vehicle.

26. "Motor fuel" means a petroleum or a petroleum-based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and ethanol flex fuels.

27. "Motor vehicle racing event" means a race that uses unlicensed vehicles designed and manufactured specifically for racing purposes and that is conducted on a public or private racecourse for the entertainment of the general public. Motor vehicle racing event includes practice, qualifying and demonstration laps conducted as part of the activities related to a motor vehicle race.

28. "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and that is approved as a blending agent under the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

29. "Oxygenated fuel" means an unleaded motor fuel blend that consists primarily of gasoline and at least one and one-half percent by weight of one or more oxygenates and that has been blended consistent with the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

30. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.

31. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.

32. "Product transfer document" means any bill of lading, loading ticket, manifest, delivery receipt, invoice or other documentation used on any occasion when a person transfers custody or title of motor fuel other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility.

33. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate intended to be accepted as an accurate weight on which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for-hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

34. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and

weights and measures are derived.

35. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and that has been issued a license by the division.

36. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and who has been issued a license by the division.

37. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.

38. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons, using acceptable laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.

39. "Supplier" means any person that imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person that sells gasoline intended for ultimate consumption within a vehicle emissions control area, except that supplier does not mean a person with respect to gasoline supplied or sold by the person to another for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.

40. "Vehicle emissions control area" means a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, or any portion of area B or C, except that such an area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

41. "Weight" as used in connection with any commodity means net weight.

42. "Weights" or "measures", or both, means all weights, measures, meters or counters of every kind, instruments and devices for weighing, measuring, metering or counting and any appliance and accessories associated with any or all such instruments and devices.

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3-3414. Powers and duties; definition

A. The division shall:

1. Maintain custody of the state reference standards of weights and measures that are traceable to the United States prototype standards and that are supplied to the states by the federal government or that are otherwise approved as being satisfactory by the national institute of standards and technology.

2. Keep the state reference standards in a safe and suitable place in the metrology laboratory of the division and ensure that they are not removed from the laboratory except for repairs or for calibration as may be prescribed by the national institute of standards and technology.

3. Keep accurate records of all standards and equipment.

4. Adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to title 41, chapter 6. In adopting these rules, the associate director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules shall not be made in conflict with this chapter.

5. Publish rules adopted pursuant to this chapter and issue appropriate copies at no cost to all new applicants for licensure and certification. Updated copies of the rules shall be distributed, on request, at no cost to the public.

6. Investigate complaints made to the division concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate to develop information relating to prevailing procedures in commercial quantity determination and relating to possible violations of this chapter, in order to educate the public and regulated persons to encourage and promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

7. Establish labeling standards, establish standards of weight, measure or count and establish reasonable standards of fill for any packaged commodity, and may establish standards for open dating information.

8. Grant, pursuant to this chapter, exemptions from the licensing provisions of this chapter for weighing and measuring instruments, standards or devices when the ownership or use of the instrument or device is limited to federal, state or local government agencies in the performance of official functions. On request, the division may conduct inspections of instruments, standards or devices and shall charge a fee pursuant to section 3-3452.

9. Delegate to appropriate personnel any of the responsibilities of the associate director for the proper administration of this chapter.

10. Inspect and test weights and measures that are kept, offered or exposed for sale.

11. Inspect and test, to ascertain if they are correct, weights and measures that are commercially used either:

(a) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count.

(b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

12. Test, at random, commodities, weights and measures that are used in public institutions for which monies are appropriated by the legislature. The testing of commodities, weights and measures in public institutions includes items:

(a) That have historically been of short weight, measure or count.

(b) That have been found to be of short weight, measure or count by other jurisdictions.

(c) That are to be tested as part of a regional or national survey.

13. Test, approve for use and affix a seal of approval for use on all weights, measures and commercial devices that are manufactured in or brought into this state as it finds to be correct and shall reject and mark as rejected weights,

measures and devices that it finds to be incorrect. Weights, measures and devices that have been rejected may be seized by the division if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The division shall condemn and may seize weights, measures and devices that are found to be incorrect and that are not capable of being made correct. The division may affix a nontampering seal to commercial devices that are tested and found to be within applicable tolerance.

14. Sample and test motor fuel that is stored, sold or exposed or offered for sale or that is stored for use by a fleet owner to determine whether the motor fuel meets the standards for motor fuel set forth in section 3-3433 and article 6 of this chapter and in any rule adopted by the associate director pursuant to this chapter.

15. Randomly witness tests on all mandated vapor recovery systems that are installed or operated in this state and, if the systems are determined to be in compliance with the law, approve those systems for use and reject, mark as rejected and stop the use of those systems that are determined not to be in compliance with the law.

16. Inspect facilities at which motor fuel is stored, sold or exposed or offered for sale to determine whether dispensing devices are properly labeled.

17. Publish and distribute to consumers and regulated persons weighing and measuring information.

18. Weigh, measure or inspect commodities that are kept, offered or exposed for sale, sold or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or rules adopted pursuant to this chapter. In carrying out this section, the associate director shall employ recognized sampling procedures, such as are designated in appropriate national institute of standards and technology handbooks and supplements to those handbooks, except as modified or rejected by rule.

19. Allow reasonable variations from the stated quantity of contents only after a commodity has entered intrastate commerce. These variations shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice.

20. Prescribe the standards of weight and measure and additional equipment methods of test and inspection to be employed in the enforcement of this chapter. The associate director may prescribe or provide the official test and inspection forms to be used in the enforcement of this chapter.

21. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

22. Subject to title 41, chapter 4, article 4, employ such personnel as needed to assist in administering this chapter.

23. Ensure that any information that is required to be filed with the division, that relates to the contents of motor fuels that are sold in this state and that is a trade secret as defined in section 49-201 is not disclosed.

24. Establish by rule labeling standards for tanks and containers of motor fuels.

B. The associate director may provide for the periodic examination and inspection of metering devices, including devices used to measure usage of electricity, natural gas or water by a consumer. Examination and inspection authority shall not apply to metering devices owned by federal, state or local government agencies unless requested by the government agency that owns the metering devices.

C. The associate director may establish standards for the presentation of cost-per-unit information. This subsection does not mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

D. The associate director, when necessary to carry out this chapter, may adopt and enforce rules relating to quality standards for motor fuel, kerosene, oil, except used oil fuel, and hazardous waste fuel, lubricating oils, lubricants, antifreeze and other liquid or gaseous fuels. The associate director shall adopt rules to ensure that oxygenated fuels, as described in article 6 of this chapter, that are stored, used, sold or exposed or offered for use or sale are blended and stored, sold, exposed or offered in such a manner as to ensure that the oxygenated fuels are properly blended, that they meet the standards set forth in section 3-3433 and article 6 of this chapter, and in rules adopted pursuant to this chapter, and that dispensers at which the oxygenated fuels are dispensed are labeled as defined by rule of the division in such a manner as to notify persons of the type of oxygenated fuel being dispensed and the maximum percentage of oxygenate

by volume contained in the oxygenated fuel. The associate director of the division shall consult with the director of the department of environmental quality in adopting rules pursuant to this subsection.

E. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the associate director or in response to a complaint by the public. The testing and inspection may be done by private persons and firms pursuant to contracts entered into by the associate director in accordance with title 41, chapter 23 or by a registered service agency or registered service representative licensed pursuant to section 3-3454. The associate director shall establish qualifications of persons and firms for selection for purposes of this subsection. The persons or firms conducting the testing and inspection shall immediately report to the division any violations of this chapter and incorrect weights, measures, devices, vapor recovery systems or vapor recovery components for investigation and enforcement by the division. A person or firm that tests or inspects a weight, measure, device, vapor recovery system or vapor recovery component that is rejected shall not correct the defect causing the rejection without the permission of the division.

F. During the course of an investigation or an enforcement action by the division, information regarding the complainant is confidential and is exempt from title 39, chapter 1, unless the complainant authorizes the information to be public.

G. For the purposes of the labeling requirements prescribed in this section, "oxygenated fuel" means a motor fuel blend containing 1.5 percent or more by weight of oxygen.

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3-3415. Enforcement powers of the associate director, agents and inspectors

A. When necessary for the enforcement of this chapter and rules adopted pursuant to this chapter, the associate director or the associate director's agents and inspectors shall:

1. Enter any commercial, nonprofit business or governmental premises during normal operating hours, except that if the premises are not open to the public, the associate director or the associate director's agents and inspectors shall first present their credentials.

2. Issue stop-use, hold and removal orders with respect to any weights and measures commercially used, stop-sale, hold and removal orders with respect to any commodities, bulk commodities or motor fuel kept, offered or exposed for sale, stop-use and hold orders with respect to a vapor recovery system or parts of a vapor recovery system and stop-use, stop-sale, hold and removal orders with respect to any motor fuel found to be in violation of this chapter or rules adopted pursuant to this chapter.

3. Seize for use as evidence, without formal warrant, any incorrect or unapproved weight, measure, package or commodity found to be used, retained, offered or exposed for sale or sold in violation of this chapter or rules adopted pursuant to this chapter.

4. Stop any commercial vehicle on reasonable cause to believe that the vehicle contains evidence of a violation of this chapter and, after presentment of the credentials of the associate director or the associate director's agents or inspectors, inspect the contents, require that the person in charge of the vehicle produce any documents in the person's possession concerning the contents and require the person to proceed with the vehicle to some specified place for inspection.

B. With respect to the enforcement of this chapter, the associate director or the associate director's agents or inspectors may issue a warning requiring corrective action or a citation to any violators of this chapter in accordance with section 13-3903.

C. The associate director or the associate director's agents or inspectors may apply for a special inspection warrant for inspection of real or personal property for the purpose of enforcement of this chapter. The special inspection warrant shall be issued as provided in section 49-433.

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3-3433. Standards for motor fuel; exceptions

A. Except as provided in section 3-3434 and subsections C, D, E, F, G and K of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the associate director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.

C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the associate director of the division by rule.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A shall be 9.0 pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.

E. From and after September 30 through March 31 of each year, a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume percent evaporated distillation temperature.

F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand persons or more and any portion of a county contained in area A shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.

G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B shall be ten pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor

vehicle racing event is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and the associate director determine will result in either of the following:

1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section 3-3492. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section 3-3492.

2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.

I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any gasoline provider unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Gasoline providers that use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.

J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975, biodiesel, biodiesel blends or biomass-based diesel or biomass-based diesel blends that contain sulfur in excess of fifteen parts per million. Locomotive and marine diesel fuel is exempt from this requirement if the fuel meets the requirements of 40 Code of Federal Regulations section 80.513(g) and (h).

K. A person shall label dispensers at which biodiesel, biodiesel blends, biomass-based diesel or biomass-based diesel blends are dispensed in conformance with 16 Code of Federal Regulations part 306. This section does not preclude a person from labeling a dispenser that dispenses diesel fuel that contains up to five percent biodiesel or biomass-based diesel with a label that states "may contain up to five percent biodiesel" or "may contain up to five percent biomass-based diesel".

L. For biodiesel blends that contain more than five percent by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies the transferee of the percent by volume of biodiesel in the product.

M. The associate director shall adopt rules regarding the establishment and enforcement of all of the following:

1. National or federal standards for individual biofuels and biofuel blends.

2. United States environmental protection agency and ASTM test methods for individual biofuels and biofuel blends.

3. Registration and reporting requirements for producers, blenders and suppliers of biofuels and biofuel blends.

4. Labeling requirements for biofuels and biofuel blends other than biodiesel or biodiesel blends.

5. Quality assurance and quality control programs for producers, blenders and suppliers of biofuels and biofuel blends addressing rack, batch or other blending.

6. Requirements that the dispensing equipment meet appropriate UL ratings where available and applicable, that the equipment comply with rules adopted by the division relating to approval, installation and sale of devices and that the equipment be compatible with the products being dispensed.

N. A biofuels or biofuel blends producer, blender, distributor, supplier or retail seller that is in compliance with this section and the rules adopted pursuant to this section is not liable to a consumer for any injuries or property damage related to a consumer who misfuels.

O. If any person transfers custody or title of a diesel fuel or distillate, biodiesel, a biodiesel blend, biomass-based diesel or a biomass-based diesel blend, except if the fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590.

P. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection O of this section. In addition, the fuel transporter shall ensure that the name and address of the final destination for the shipment, as prescribed by division rule, are included and that the product transfer documents accompany the shipment to its final destination.

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3-3473. Violations; classification; jurisdiction

A. A person is guilty of a class 1 misdemeanor who:

1. Knowingly hinders, interferes with or obstructs in any way the associate director or any of the associate director's agents or inspectors in entering the premises where a commercial device may be kept for inspecting or testing or in the performance of the official duties of the associate director or the associate director's agent or inspector.

2. Impersonates in any way the associate director or any one of the associate director's agents or inspectors by the use of the associate director's seal or badge or a counterfeit of the associate director's seal or badge, or in any other manner.

3. Uses, or possesses for the purpose of using for any commercial purpose, sells, offers or exposes for sale or hire, or possesses for the purpose of selling or hiring an incorrect weight or measure or any device or instrument used or calculated to falsify any weight or measure.

4. Sells, or offers or exposes for sale, less than the quantity the person represents of any commodity, thing or service.

5. Takes more than the quantity the person represents of any commodity, thing or service, when, as buyer, the person furnishes the weight or measure by means of which the amount of the commodity, thing or service is determined.

B. A person is guilty of a class 2 misdemeanor who:

1. Uses, or possesses for the purpose of current use for any commercial purpose, a weight or measure that does not bear a seal or mark of approval based on inspection and test as provided in section 3-3414, subsection A, paragraph 11, unless the weight or measure has been exempted from testing by order of the division, or unless the device has been placed in service as provided in this chapter. Any person or

persons making use of a commercial device that is subject to this chapter shall report to the associate director or the associate director's representatives, in writing, the number and location of the commercial device and shall promptly report the installation of any new commercial device.

2. Disposes of any rejected or condemned weight or measure in a manner contrary to law or rule.

3. Removes from any weight or measure, contrary to law or rule, any tag, seal or mark placed on the weight or measure by the appropriate authority pursuant to this chapter.

4. Keeps for the purpose of selling, advertising or offering or exposing for sale or sells any commodity, thing or service in a condition or manner contrary to law or rule.

5. Uses in retail trade, except in the preparation of packages put up in advance of sale and of medical prescriptions, a weight or measure that is so positioned that its indications may not be accurately read and the weighing, metering, measuring or counting operation observed from some position that may reasonably be assumed by a customer.

6. Violates this chapter or rules adopted under this chapter. A continuing violation may be deemed to be a separate violation each day during which the violation is committed for the purpose of imposing a fine.

C. The provisions of this section are in addition to and not in limitation of any other provision of law.

D. The attorney general and the county attorney shall have concurrent jurisdiction to prosecute violations of this chapter.

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3-3475. Civil penalties; hearing

A. A person who violates this chapter, any rule of the division or any license requirement is subject to a civil penalty imposed by the associate director.

B. A person who violates this chapter, any rule of the division or any license requirement may request an informal or formal hearing to review a civil penalty imposed under this section. If the person requests an informal hearing, the division may conduct the informal hearing, in person or telephonically, to resolve a warning or citation. If the person requests a formal hearing or the warning or citation is not resolved in the informal hearing, the division shall conduct a formal hearing in accordance with title 41, chapter 6, article 10. Except as prescribed in subsection C of this section, the civil penalty shall not exceed one thousand dollars for each infraction nor more than ten thousand dollars for any thirty-day period at each business location, for each registered service representative or for each public weighmaster, provided that no person shall be assessed more than fifty thousand dollars per thirty-day period.

C. The associate director may double the maximum civil penalty if any of the following applies:

1. A commercial device is found to be in violation with results that favor the retailer at more than twice the allowable tolerance as stated in national institute of standards and technology handbook 44.

2. A package is found to exceed the maximum allowable variation for the labeled quantity allowed in national institute of standards and technology handbook 133 or the average error of the lot is twice the sample error limit in favor of the retailer.

3. A vapor recovery system reinspection fails the required tests.

4. A maximum civil penalty has been imposed on a retailer for a price posting or price verification violation and in a reinspection, if conducted within ninety days, the failure rate is ten percent or more and at least one error is in favor of the retailer.

5. A maximum civil penalty has been imposed on a refiner, refinery, pipeline, terminal, fuel transporter, registered supplier or transmix processing facility for a violation of motor fuel quality standards or producing a product transfer document that is incorrect, incomplete or produced in any manner tending to mislead or deceive a person.

D. The attorney general shall bring actions to recover civil penalties pursuant to this section in the superior court in the county in which the violation occurred or in a county where the agency has its office. All monies derived from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.

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3-3491. Standards for oxygenated fuel; volatility; exceptions

A. From and after September 30 through March 31 of each year, in a county with a population of one million two hundred thousand or more persons and in any portion of a county contained in area A, blends of gasoline with ethanol shall not exceed the volatility requirements prescribed by section 3-3433 and rules adopted by the associate director under that section. From and after September 30 through March 31 of each year, in area B, blends of gasoline with ethanol may exceed the volatility requirements prescribed by section 3-3433 and rules adopted by the associate director under that section by up to one pound per square inch if the base fuel meets the requirements of ASTM D4814 and the final gasoline-ethanol blend contains at least six percent ethanol by volume but does not exceed United States environmental protection agency waivers. For any other locations and period of time, blends of gasoline with ethanol shall meet the volatility requirements as determined by division rule.

B. Notwithstanding subsection D of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and the associate director determine will result in motor vehicle carbon monoxide emission reductions that will equal or exceed the reductions that result under subsection D of this section. In making those determinations, the director of the department of environmental quality and the associate director shall compare the alternative measure against the emission reduction that would be obtained from a fuel with the maximum vapor pressure standard prescribed by subsection D of this section and the minimum oxygen standard prescribed by section 3-3492 or 3-3495. Alternative fuel control measures approved by the associate director of the division in consultation with the director of the department of environmental quality may be used by any gasoline provider unless the approval is rescinded by the associate director of the division at least one hundred eighty days before the beginning of any oxygenate period in the future. Gasoline providers that choose to use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director not later than sixty days before the start of the oxygenate period.

C. From and after September 30 through March 31 of each year, all blends of gasoline with alcohol other than ethanol shall satisfy all of the requirements prescribed by section 3-3433 and rules adopted by the associate director under that section and the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

D. Notwithstanding subsection A of this section, if the director of the department of environmental quality has previously raised the minimum oxygen content to the maximum percentage of oxygen allowed for each oxygenate as provided by section 3-3495, the designated air quality planning agency for area B has considered, analyzed and reviewed the costs and benefits of all other reasonable and available control measures in lieu of reducing volatility requirements to nine pounds per square inch and the director of the

department of environmental quality finds that area B has failed to maintain the carbon monoxide national ambient air quality standards by violating the standard, beginning with the oxygenate period beginning on the following September 30 and for each oxygenate period thereafter in area B, the volatility requirements described by section 3-3433, subsection G may be reduced to nine pounds per square inch. If a violation of the carbon monoxide national ambient air quality standards is recorded after the volatility requirements have been reduced to nine pounds per square inch, the director of the department of environmental quality shall remove the one pound per square inch waiver for gasoline-ethanol blends.

E. Gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within this state shall not contain the following:

1. Methyl tertiary butyl ether that exceeds 0.3 percent by volume.

2. A total of more than 0.10 percent oxygen by weight collectively from all of the following oxygenates:

(a) Diisopropylether (DIPE).

(b) Ethyl tert-butylether (ETBE).

(c) Isopropanol.

(d) Methanol.

(e) N-butanol.

(f) N-propanol.

(g) Sec-butanol.

(h) Tert-amylmethylether (TAME).

(i) Tert-butanol.

(j) Tert-pentanol (tert-amylalcohol).

F. Subsection E of this section does not prohibit the transshipment through this state, including storage incident to that transshipment, of gasoline that contains the oxygenates prescribed by subsection E of this section if both of the following apply:

1. The gasoline is used or disposed outside this state.

2. The gasoline is segregated from gasoline that is intended for use inside this state.

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3-3492. Area A; sale of gasoline; oxygen content

A. From and after November 1 through March 31 of each year:

1. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a gasoline-ethanol blend, contain not less than ten percent by volume of ethanol nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

2. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a blend other than a gasoline-ethanol blend, contain not less than 2.7 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.

B. Notwithstanding subsection A of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and the associate director determine will result in motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection A of this section and section 3-3433. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by section 3-3433 and with the minimum oxygen content or percentage by volume of ethanol as prescribed by this section.

C. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection B of this section and this subsection may be used by any gasoline provider unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Gasoline providers that use an approved alternate fuel control measure shall annually submit a compliance plan

to the associate director no later than sixty days before the first day of a gasoline control period.

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3-3493. Area A; fuel reformulation; rules

(L17, Ch. 295, sec. 2. Conditionally Eff.)

A. All gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.

B. For the period beginning November 1 through March 31 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with standards for California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in section 3-3433, subsections D and F. The fuel described in this subsection shall meet the requirements of section 3-3492, subsection A, paragraph 1 or 2.

C. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to comply with standards other than the standards prescribed by section 3-3492, subsection A if the petitioner can demonstrate that ethanol supply shortages are imminent.

D. The petition shall:

1. Identify specific supply conditions that will result in a shortage of ethanol.

2. Identify which oxygenate or oxygenates and the concentration that will be blended into gasoline for sale or use in area A.

3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half percent by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten percent by volume of ethanol.

4. Specify a time period for compliance with any provision of section 3-3492, subsection A, not to exceed sixty days.

E. The associate director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.

F. The associate director may reauthorize a petition if the petitioner can demonstrate that the conditions have continued. The reauthorization of a petition shall not exceed thirty days.

G. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any such petition.

H. The director of environmental quality in consultation with the associate director of the division shall adopt by rule:

1. Requirements to implement subsections A, B, C and D of this section.

2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A, B, C and D of this section.

I. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

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3-3493. Area A; fuel reformulation; rules

(L16, Ch. 232, sec. 27)

A. All gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.

B. For the period beginning November 1 through March 31 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with standards for California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in section 3-3433, subsections D and F. The fuel described in this subsection shall meet the requirements of section 3-3492, subsection A, paragraph 1.

C. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to comply with standards other than the standards prescribed by section 3-3492, subsection A if the petitioner can demonstrate that ethanol supply shortages are imminent.

D. The petition shall:

1. Identify specific supply conditions that will result in a shortage of ethanol.

2. Identify which oxygenate or oxygenates and the concentration that will be blended into gasoline for sale or use in area A.

3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half percent by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten percent by volume of ethanol.

4. Specify a time period for compliance with any provision of section 3-3492, subsection A, not to exceed sixty days.

E. The associate director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.

F. The associate director may reauthorize a petition if the petitioner can demonstrate that the conditions have continued. The reauthorization of a petition shall not exceed thirty days.

G. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any such petition.

H. The director of environmental quality in consultation with the associate director of the division shall adopt by rule:

1. Requirements to implement subsections A, B, C and D of this section.

2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A, B, C and D of this section.

I. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

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3-3494. Area C; fuel reformulation; rules

A. From and after May 31 through September 30 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with either of the following fuel reformulation options:

1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3434, subsection D.

2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3434, subsection D.

B. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to supply gasoline in area C that does not meet the standards in subsection A of this section if the petitioner demonstrates that a shortage in the supply of gasoline meeting the standards in subsection A of this section is imminent.

C. A petition under subsection B of this section shall:

1. Identify specific supply conditions that will result in a shortage of gasoline meeting the standards in subsection A of this section.

2. Identify the formulation of gasoline that will be sold in area C in lieu of gasoline meeting the standards in subsection A of this section.

3. Specify a time period for compliance with the standards of subsection A of this section not to exceed sixty days.

D. The associate director shall either grant or deny a petition under subsection B of this section in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.

E. The associate director may reauthorize a petition granted under subsection B of this section if the petitioner demonstrates that the conditions identified in the petition have continued. The reauthorization of a petition shall not exceed thirty days.

F. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any petition under subsection B of this section.

G. The associate director, in consultation with the director of the department of environmental quality, shall adopt by rule:

1. Requirements to implement subsections A, B and C of this section.

2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsection A of this section.

H. This section does not apply to fuel sold for use at a motor vehicle manufacturer proving ground or at a motor vehicle racing event.

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3-3495. Area B; sale of gasoline; oxygen content

A. From and after September 30 through March 31 of each year, all gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within area B or that is consumed in a motor vehicle within area B by a fleet owner shall contain not less than 1.8 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by the provisions of a waiver issued by the United States environmental protection agency.

B. Notwithstanding subsection A of this section, at any time earlier than sixty days before September 30 of each year, the designated air quality planning agency for area B with the concurrence of the director of the department of environmental quality may give notice, pursuant to the applicable plan required under section 49-406 for the Tucson air planning area, to the associate director of the division that the minimum oxygen content for the ensuing oxygenate seasons will be increased not less than .3 percent by weight of oxygen and not more than the maximum percentage of oxygen allowed for oxygenates by provisions of a waiver issued or other limits established by the United States environmental protection agency. Before making a determination to increase the minimum oxygen content pursuant to this subsection, the designated air quality planning agency for area B shall consider and conduct a cost-benefit analysis on all reasonable carbon monoxide emission reduction measures that could be implemented in lieu of increasing the minimum oxygen content.

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3-3496. Use of gasoline purchased outside of area A or area B

This article does not prohibit the use within area A or area B of gasoline purchased outside of area A or area B which does not contain the percentage weights of oxygen required by this article if the use is incidental and not for the purpose of evading the requirements of this article.

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3-3512. Stage I vapor recovery systems; stage II vapor recovery systems

A. A person shall not offer for sale, sell, install or use a new gasoline stage I vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or has been approved by a third party that is accredited to test equipment and recognized by industry and the division, and has not been rejected by the division. The division shall maintain and keep current a list of stage I vapor recovery systems and component parts that are approved by the division. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or rebuilder.

B. For gasoline dispensing sites with a throughput of over ten thousand gallons per month in area A or area B, a person shall not transfer or allow the transfer of gasoline into storage tanks at gasoline dispensing sites unless the storage tank is equipped with a stage I vapor recovery system consisting of a vapor-tight return line from the storage tank or its vent to the gasoline transport vehicle.

C. An owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site that is subject to stage I vapor recovery requirements shall comply with the following:

1. Install all necessary stage I vapor recovery systems and make any modifications necessary to comply with the requirements.

2. Provide adequate training and written instructions to the operator of the affected gasoline dispensing site and the gasoline transport vehicle.

3. Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage I vapor recovery systems.

4. Connect and ensure proper operation of the stage I vapor recovery systems whenever gasoline is being loaded, unloaded or dispensed.

5. In area A and other geographical areas as provided by subsection G of this section, have the stage I vapor recovery system tested annually by a registered service representative that is licensed by the division.

D. Before the initial installation or modification of any stage I vapor recovery system, the owner or operator of a gasoline storage tank,

gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the division. Application for the plan review and approval shall be on forms prescribed and provided by the division.

E. The division in consultation with the department of environmental quality and the office of the state fire marshal shall establish by rule standards for the installation and operation of stage I vapor recovery systems. The division shall establish by rule plan review and approval fees. In establishing those rules and standards, the associate director shall consider requirements in other states to ensure that only state-of-the-art technology is used.

F. Approval of a stage I vapor recovery system by the division does not relieve the owner or operator of the responsibility to comply with other applicable statutes, codes and rules pertaining to fire prevention, environmental quality and safety matters.

G. Any county, city or town outside of area A or area B may require gasoline dispensing sites with a throughput greater than ten thousand gallons per month to install, operate and maintain stage I vapor recovery systems in accordance with this section. Any county, city or town, including cities and towns within area B, also may require annual testing of required stage I vapor recovery systems pursuant to subsection C of this section. For a county, city or town considering the adoption of a resolution to require stage I vapor recovery systems or annual testing within its jurisdiction and on request, the department of environmental quality shall provide technical assistance in evaluating the air quality in that county, city or town and shall provide final review and approval of an adopted resolution.

H. A county board of supervisors or governing body of a city or town shall submit a resolution approved by the department of environmental quality to the associate director of the division requesting the imposition of the requirements for stage I vapor recovery systems within its jurisdiction.

I. The associate director shall adopt, by rule, compliance schedules for gasoline dispensing sites located within the jurisdiction requesting stage I vapor recovery system requirements no later than twelve months after receipt of the resolution from the county board of supervisors or governing board of a city or town. All gasoline dispensing sites shall be required to comply with stage I vapor recovery system rules within twenty-four months after the rules have been filed with the secretary of state. Sites with stage I vapor recovery systems that are already installed must comply with the testing requirements at the time the rules become effective.

J. A county board of supervisors or governing body of a city or town that adopts the requirements for stage I vapor recovery systems may repeal those requirements by adopting a resolution to remove the imposition of those requirements within its jurisdiction unless the county, city or town is in an ozone nonattainment area that has since been designated as moderate, serious or severe by the United States environmental protection agency under section 107(d) of the clean air act. On receipt of the resolution, the associate director of the division shall consult with the director of the department of environmental quality to verify that a county, city or town is outside of an ozone nonattainment area designated as moderate, serious or severe by the United States environmental protection agency under section 107(d) of the clean air act. After consultation with the department of environmental quality, the associate director of the division shall revise the rules to repeal the requirements for stage I vapor recovery systems within that jurisdiction as soon as practicable.

K. From and after September 30, 2018, stage II vapor recovery systems that collect vapors during vehicle refueling are prohibited in an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under section 107(d) of the clean air act or area A.

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3-3513. Compliance schedules

Notwithstanding section 3-3512, subsection I relating to schedules of compliance:

1. Gasoline dispensing facilities located in area A or in any other geographical area as provided in section 3-3512, subsection G for which construction began after the certification of rules adopted pursuant to section 3-3512 shall be constructed to include stage I vapor recovery systems that meet the minimum standards set forth in this chapter and division rules.

2. All gasoline dispensing sites located in area A or in any other geographical area as provided in section 3-3512, subsection G that begin underground storage tank replacement and that apply for a permit pursuant to title 49, chapter 3, article 3 or 5 on or after September 30, 1992 shall be in compliance within six months after the effective date of the rules adopted pursuant to section 3-3512. Compliance with this article is a condition of the permit.

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ARIZONA REVISED STATUTES

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Exhibit C-II: Codified Copies of the Rules

3 A.A.C. 7 Supp. 18-3

www.azsos.gov

Arizona Administrative CODE

This Chapter contains rule Sections that were filed to be codified in the *Arizona Administrative Code* between the dates of July 1, 2018 through September 30, 2018

Title 3

Office of the Secretary of State
ADMINISTRATIVE RULES DIVISION

TITLE 3. AGRICULTURE

CHAPTER 7. DEPARTMENT OF AGRICULTURE - WEIGHTS AND MEASURES SERVICES DIVISION

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The release of this Chapter in Supp. 18-3 replaces Supp. 17-3, 52 pages

Please note that the Chapter you are about to replace may have rules still in effect after the publication date of this supplement. Therefore, all superseded material should be retained in a separate binder and archived for future reference.

PREFACE

Under Arizona law, the Department of State, Office of the Secretary of State (Office), accepts state agency rule filings and is the publisher of Arizona rules. The Office of the Secretary of State does not interpret or enforce rules in the *Administrative Code*. Questions about rules should be directed to the state agency responsible for the promulgation of the rule.

Scott Cancelosi, Director
ADMINISTRATIVE RULES DIVISION

RULES

The definition for a rule is provided for under A.R.S. § 41-1001. "'Rule' means an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedures or practice requirements of an agency."

THE ADMINISTRATIVE CODE

The *Arizona Administrative Code* is where the official rules of the state of Arizona are published. The *Code* is the official codification of rules that govern state agencies, boards, and commissions.

The *Code* is separated by subject into titles. Titles are divided into chapters. A chapter includes state agency rules. Rules in chapters are divided into Articles, then Sections. The "R" stands for "rule" with a sequential numbering and lettering outline separated into subsections.

Rules are codified quarterly in the *Code*. Supplement release dates are printed on the footers of each chapter.
First Quarter: January 1 - March 31
Second Quarter: April 1 - June 30
Third Quarter: July 1 - September 30
Fourth Quarter: October 1 - December 31
For example, the first supplement for the first quarter of 2018 is cited as Supp. 18-1.

Please note: The Office publishes by chapter, not by individual rule section. Therefore there might be only a few sections codified in each chapter released in a supplement. Historical notes at the end of a section provide an effective date and information when a rule was last updated.

AUTHENTICATION OF PDF CODE CHAPTERS

The Office began to authenticate chapters of the *Administrative Code* in Supp. 18-1 to comply with A.R.S. § 41-1012(B) and A.R.S. § 5302(1), (2)(d) through (e), and (3)(d) through (e).

A certification verifies the authenticity of each *Code* chapter posted as it is released by the Office of the Secretary of State. The authenticated pdf of the *Code* includes an integrity mark with a certificate ID. Users should check the validity of the signature, especially if the pdf has been downloaded. If the digital signature is invalid it means the document's content has been compromised.

HOW TO USE THE CODE

Rules may be in effect before a supplement is released by the Office. Therefore, the user should refer to issues of the *Arizona Administrative Register* for recent updates to rule Sections.

ARIZONA REVISED STATUTE REFERENCES

The Arizona Revised Statutes (A.R.S.) are available online at the Legislature's website, www.azleg.gov. An agency's authority note to make rules is often included at the beginning of a chapter. Other Arizona statutes may be referenced in rule under the A.R.S. acronym.

SESSION LAW REFERENCES

Arizona Session Law references in a chapter can be found at the Secretary of State's website, under Services-> Legislative Filings.

EXEMPTIONS FROM THE APA

It is not uncommon for an agency to be exempt from the steps outlined in the rulemaking process as specified in the Arizona Administrative Procedures Act, also known as the APA (Arizona Revised Statutes, Title 41, Chapter 6, Articles 1 through 10). Other agencies may be given an exemption to certain provisions of the Act.

An agency's exemption is written in law by the Arizona State Legislature or under a referendum or initiative passed into law by Arizona voters.

When an agency files an exempt rulemaking package with our Office it specifies the law exemption in what is called the preamble of rulemaking. The preamble is published in the *Register* online at www.azsos.gov/rules, click on the *Administrative Register* link.

Editor's notes at the beginning of a chapter provide information about rulemaking sections made by exempt rulemaking. Exempt rulemaking notes are also included in the historical note at the end of a rulemaking Section.

The Office makes a distinction to certain exemptions because some rules are made without receiving input from stakeholders or the public. Other exemptions may require an agency to propose exempt rules at a public hearing.

EXEMPTIONS AND PAPER COLOR

At one time the office published exempt rules on either blue or green paper. Blue meant the authority of the exemption was given by the Legislature; green meant the authority was determined by a court order. In 2001 the Office discontinued publishing rules using these paper colors.

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Rhonda Paschal, managing rules editor, assisted with the editing of this chapter.

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Administrative Rules Division
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TITLE 3. AGRICULTURE

CHAPTER 7. DEPARTMENT OF AGRICULTURE - WEIGHTS AND MEASURES SERVICES DIVISION

Editor's Note: Chapter 7, including new Articles 1 through 10, were recodified from 20 A.A.C. 2 by the Department of Agriculture at 22 A.A.R. 2786. When recodified, all former Section references were revised to the new numbering scheme in this Chapter. Sections in this Chapter were originally adopted in 20 A.A.C. 2 under certain exemptions from the provisions of the Administrative Procedure Act, A.R.S. Title 41, Chapter 6. Refer to Laws 1997, Chapter 117, § 3 for more information (Supp. 16-3).

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CHAPTER 7. DEPARTMENT OF AGRICULTURE - WEIGHTS AND MEASURES SERVICES DIVISION

ARTICLE 1. ADMINISTRATION AND PROCEDURES

R3-7-101. Definitions

The definitions in A.R.S. §§ 3-3401, 3-3414, 3-3436, and 3-3511 and the following definitions apply to this Chapter:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Administrative order" means a corrective action notice that the Division issues for a violation of A.R.S. Title 3, Chapter 19, or this Chapter, that orders a person to:
   a. Remove from use or sale, or dispose of, a commercial device, commodity, or liquid fuel;
   b. Stop selling a commodity or liquid fuel until the person provides documentation to the Division that the weight, measure, fuel quality, or price posting complies with the requirements of A.R.S. Title 3, Chapter 19, and this Chapter;
   c. Stop using a commercial device, commodity, liquid fuel, vapor recovery system, or vapor recovery system component, until the person provides documentation to the Division that the weight, measure, fuel, vapor recovery system, or component complies with the requirements of A.R.S. Title 3, Chapter 19, and this Chapter;
   d. Stop performing weighmaster, deputy public weighmaster, registered service agency, or registered service representative licensed duties until the person provides documentation to the Division that the person is complying with the requirements of A.R.S. Title 3, Chapter 19, and this Chapter;
   e. Comply with labeling, policies, and cash register indicator displays according to A.R.S. Title 3, Chapter 19, and this Chapter;
   f. Stop constructing or modifying a vapor recovery system until the person complies with A.R.S. Title 3, Chapter 19, and this Chapter;
   g. Excavate a vapor recovery site according to R3-7-104(L); or
   h. Comply with scheduling a test according to R3-7-104(L).
3. "Application" means, for purposes of R3-7-108, forms and all documents and additional information the Division requires an applicant to submit when applying for a license.
4. "ASTM" means American Society for Testing and Materials.
5. "Area A" has the same meaning as in A.R.S. § 49-541.
6. "Area B" has the same meaning as in A.R.S. § 49-541.
7. "CARB" means the California Air Resources Board.
8. "CARB certified" means, with respect to a vapor recovery system, that the system has been certified in an executive order of the CARB.
9. "Certified prover" means a calibrated device, traceable to the National Institute of Standards and Technology, used for measuring liquid volume.
10. "Completion of construction" means the point when a gasoline dispensing site is placed into or returned into service following installation or modification of an approved vapor recovery system.
11. "Construction commenced" means the point in time when construction of a gasoline dispensing site begins:
    a. At a location where there was not one previously;
    b. To replace all gasoline storage tanks; or
    c. To replace, repair, or modify at least 75% of the facility's gasoline dispensing equipment.
12. "EPA" means the United States Environmental Protection Agency.
13. "Gasoline vapors" means volatile organic compounds in a gaseous state.
14. "Handbook 44" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2018 edition), incorporated by reference and on file with the Division. This incorporation by reference contains no future editions or amendments.
15. "Handbook 130" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2018 edition), incorporated by reference and on file with the Division. This incorporation by reference contains no future editions or amendments.
16. "Handbook 133" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (January 2018 edition), incorporated by reference and on file with the Division. This incorporation by reference contains no future editions or amendments.
17. "Malfunction" means any failure of gasoline vapor recovery equipment to operate in the normal and usual manner.
18. "Modification" means adding to, replacing, or upgrading a site's stage II vapor recovery system, but does not include the repair or replacement of like parts.
19. "Monthly throughput" means the total amount of gasoline transferred into or dispensed from a gasoline dispensing site during one calendar month.
20. "Motor vehicle" means any vehicle equipped with a spark-ignited internal combustion engine, except vehicles that run on or are guided by rails, and vehicles that are designed primarily for travel through air or water.
21. "NCWM" means the National Conference on Weights and Measures.
22. "NIST" means the National Institute of Standards and Technology.
23. "Operator" means a person in control of, or having responsibility for, the daily operation of a gasoline dispensing site.
24. "Out-of-service tag" means a red rejection tag that signifies a commercial device does not meet the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, or this Chapter.
25. "Person" as defined in A.R.S. § 3-3401, means an owner or operator of a commercial device or vapor recovery system, retail seller, wholesaler, registered supplier, pipeline distributor, packer, manufacturer, licensee, transporter, or consignee.
26. "Placed in service" means the certification by a registered service agency or representative that a commercial device meets the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter, and may be used, unless the Division orders otherwise.
27. "Placed-in-service report" means the form that a registered service representative completes and submits to the Division after placing a commercial device in service.

28. "Product transfer document" means the bill of lading, loading ticket, manifest, delivery receipt, invoice, or other customarily used documentation to denote delivery information for motor fuel.
29. "Retail" means the sale of a commodity to a consumer for profit by someone in the business of selling the commodity.
30. "Seal of authority" means a stamp or press of the Division's official mark, issued to a public weighmaster, certifying the weighmaster's authority to issue weight certificates.
31. "Service Counter" means a display staffed by a sales associate and requires a customer to receive assistance in order to purchase a product.
32. "Seizure" means taking into physical possession, or otherwise securing for evidence, a commodity, liquid fuel, weight, measure, commercial device, or component of a device by the Division.
33. "Stage II vapor recovery" means a system where at least ninety percent by weight of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.
34. "Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that a commercial device, including a vapor recovery system or vapor recovery component, or a commodity or liquid fuel, does not meet the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter.
35. "Third-party registered service agency" means a registered service agency that performs work under contract for any business or company.
36. "Underground storage tank" means a tank as described in A.R.S. § 491001.
37. "Unit" means a quantity adopted as a standard of measurement.
38. "Vapor recovery registered service representative" means an individual to whom the Division has issued a license authorizing the individual to conduct all vapor-recovery tests required under A.R.S. Title 3, Chapter 19 or this Chapter including annual vapor-recovery tests.
39. "Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, or this Chapter.
40. "Weight certificate" means a document, issued by a public weighmaster in a form approved by the Division, which certifies the accuracy of the weight of the commodity measured.

Historical Note

New Section R3-7-101 recodified from Section R20-2-101 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-102. Metrology Laboratory Testing and Calibration Fees

A. For all services of the Division's Metrology Laboratory, the Division shall charge $110 per hour with a minimum charge of $50.

B. In addition to the fee in subsection (A), the Division shall charge for travel and per diem at the rates established under A.R.S. §§ 38-623(D) and 38-624(C) for tests or calibrations conducted outside the Metrology Laboratory.

Historical Note

New Section R3-7-102 recodified from Section R20-2-102 at 22 A.A.R. 2786, effective August 16, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-103. Licensing and Fees

A. A license is effective on the first day of the month following the date that the license application is filed with the Division. If an application is filed on the first of a month and is complete and accurate, the license is effective on the first day of that month.

B. A payment is delinquent if not received or postmarked on or before the due date. The Division shall not process a license or renewal application for which payment is delinquent.

C. If the Division receives payment for a license that excludes the payment of applicable late fees or past due civil penalties, the Division shall apply the license fee payment to the licensee's account and issue a separate invoice for the additional monies owed to the Division. The license will not be issued by the Division until all fees due are paid.

Historical Note

New Section R3-7-103 recodified from Section R20-2-103 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-104. Administrative Enforcement Action

A. The Division shall take progressive enforcement action for a violation of A.R.S. Title 3, Chapter 19, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.

B. The Division shall make available a copy of its inspection report to the person who owns or operates a location that the Division inspects. The report shall include the inspection results and violations. The Division shall send a copy of the inspection report to the owner of a location by e-mail if the owner has provided an e-mail address to the Division. Inspection results and violations shall be posted on the Division website.

C. The person who owns or operates a location inspected by the Division may request a hearing under R3-7-109 to dispute the inspection results, violation, or enforcement action.

D. The Division shall suspend, revoke, or refuse to renew any license if the licensee does not comply with an enforcement action imposed under this Section.

E. A maximum civil penalty may be doubled as stated in A.R.S. § 3-3475(C).

F. Commercial device.
1. The Division may place out of service an unlicensed commercial device that it determines has been in use for more than 30 days.
2. The Division may confiscate a commercial device when a person violates an administrative order related to that commercial device, or removes a warning tag, out-of-service tag, or stop-sale, stop-use tag issued to that commercial device without Division authority.
3. The Division may condemn and confiscate a weight, measure, or other commercial device that the Division determines is incorrect and not capable of compliance with Handbook 44.
4. The Division shall issue an out-of-service tag or a stop-sale, stop-use tag if a commercial device is not in compliance with the requirements in A.R.S. Title 3 Chapter 19,

Handbook 44 or this Chapter and the lack of compliance creates a situation favorable to the person who owns or operates the commercial device.
a. A person shall not use a commercial device that has an out-of-service tag until the person repairs the commercial device.
b. A person shall not sell or use a commercial device that has a stop-sale, stop-use tag until the commercial device meets the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter.

5. The Division shall issue a warning tag when a commercial device is not in compliance with the requirements in A.R.S. Title 3, Chapter 19, Handbook 44, or this Chapter and the lack of compliance creates a situation favorable to the consumer. The Division shall issue an out-of-service tag if the commercial device is not repaired by the deadline on the warning tag. A person shall not use a commercial device after the period specified on the warning tag for repair unless the commercial device complies with A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter.
6. The Division may issue an out-of-service tag if a commercial device does not have a non-tampering seal affixed.
7. The Division shall issue an out-of-service tag if a Division inspector cannot conduct an inspection of a commercial device because of malfunction, abnormal performance, or a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
8. The Division shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero as prescribed in Handbook 44.
9. The Division shall issue a warning tag if the manufacturer's plate on a commercial device does not contain the information required by Handbook 44, is missing, or is unreadable. The Division shall issue an out-of-service tag if the person who owns or operates a commercial device does not obtain a compliant manufacturer's plate by the 30-day deadline imposed on the warning tag.
10. The Division shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The Division shall issue a stop-sale, stop-use tag if the large-scale approach is not made compliant by the deadline imposed on the warning tag.
11. In addition to any enforcement action under subsections (F)(1) through (10):
    a. If the Division finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title 3, Chapter 19, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
        i. The Division may impose a civil penalty up to $300 on the person who owns or operates the commercial device; and
        ii. The Division may impose a civil penalty up to $500 on the person who owns or operates the commercial device for each reinspection until the commercial device is in compliance.
    b. If the Division finds during an inspection that a person who weighs a product on a commercial device violates Handbook 44 or does not post rates according to Handbook 44 or this Chapter:
        i. The Division may issue an administrative order to the person at the conclusion of the inspection and impose a civil penalty up to $300; and
        ii. The Division may issue an administrative order to the person and impose a civil penalty up to $500 at each reinspection until the person complies with Handbook 44 and this Chapter.

G. Public and deputy public weighmaster.
1. The Division may issue an administrative order if a public weighmaster's:
    a. Weigh tickets are not in numbered sequence or are missing,
    b. The seal, press, or electronic seal is not readable, or
    c. Records are not maintained according to R3-7-505.
2. The Division may issue an administrative order and impose a civil penalty up to $500 on a public weighmaster if:
    a. The public weighmaster's weigh tickets contain inaccurate information,
    b. The public weighmaster violates an administrative order,
    c. The public weighmaster misuses a seal or press or has an unauthorized seal or press; or
    d. The public weighmaster misuses an electronic seal or signature.
3. The Division shall confiscate a seal or press if a public weighmaster violates an administrative order issued to the public weighmaster.
4. The Division shall suspend, revoke, or refuse to renew a license if a public weighmaster does not comply with an enforcement action under this Section.
5. The Division shall issue an administrative order and a civil penalty up to $300 to a person who performs public weighmaster duties without a license.
6. If a public weighmaster permits an unlicensed person to perform deputy public weighmaster duties, the Division may:
    a. Impose a civil penalty up to $300 on the public weighmaster for the first time the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties;
    b. Impose a civil penalty up to $500 on a public weighmaster for the second time the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties; and
    c. Confiscate the public weighmaster's records, equipment, and devices if the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties more than twice.

H. Packaging.
1. The Division shall issue an administrative order to an owner or an employee of the owner where a package inspection is held if a package is not in compliance with a requirement in Handbook 130 or Handbook 133. The person to whom the administrative order is issued shall correct the package violation by:
    a. Returning the package to the packer or manufacturer,
    b. Labeling the package to reflect its correct quantity,
    c. Placing a notice on the package that states the violation and pricing the package to reflect its correct quantity, or
    d. Repackaging the commodity so the package contains the quantity represented.
2. In addition to an administrative order, the Division may impose a civil penalty up to $500 per lot on a person who violates a requirement in Handbook 130 or Handbook 133.

I. Price verification.

1. The initial inspection of a retail location for price verification is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
2. The Division shall issue a stop-sale, stop-use tag to a person who fails a price verification inspection if the violation cannot be corrected within 30 minutes of the Division completing the inspection.
   a. The Division may impose a civil penalty up to $100 per violation on a person who fails a reinspection if the Division finds more than one item at more than its posted price.
   b. The Division may impose a civil penalty up to $200 per violation on a person who fails a second reinspection. The Division shall increase the per violation civil penalty imposed by $100 for each subsequent reinspection until the violation is corrected.
3. If the Division receives and substantiates a complaint about a person against whom the Division took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, the Division shall issue a stop-sale, stop-use tag and impose a civil penalty that is $100 more than the civil penalty that the Division previously imposed against this person.
4. The Division may issue a warning tag to a person who does not have a written price-error policy. The Division may impose a civil penalty up to $500 if the person does not have a written price-error policy upon reinspection.
5. The Division shall issue a warning tag to a person who does not have a price display visible to the consumer at a check-out location. The Division shall issue an out-of-service tag if the person does not have a price display visible to the consumer at a check-out location upon reinspection.

J. Price posting.
1. The initial inspection of a retail location for price posting is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
2. The Division shall issue a stop-sale, stop-use tag to a person who fails a price posting inspection if the violation cannot be corrected within 30 minutes of the Division completing the inspection.
3. The Division may impose a civil penalty up to $50 for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.
4. The Division may impose a civil penalty up to $100 for each inspected lot not priced if a person fails a second reinspection.
5. If the Division receives and substantiates a complaint about a person against whom the Division took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, the Division shall issue a stop-sale, stop-use tag and impose a civil penalty that is $100 more than the civil penalty that the Division previously imposed against this person.

K. Fuel quality and labeling.
1. The Division shall issue a warning tag to a person whose fuel dispenser labeling violates A.R.S. Title 3, Chapter 19, or this Chapter. The Division shall issue an out-of-service tag to the person if the person does not correct the fuel dispenser labeling violation within the time specified on the warning tag.
2. The Division may issue an administrative order to a person whose fuel storage tank labeling or external street signage violates A.R.S. Title 3, Chapter 19, or this Chapter. The Division may impose a civil penalty up to $300 if the person does not correct the labeling or signage violation within the time specified in the administrative order.
3. The Division may issue an administrative order and impose a civil penalty up to $500 per octane level or fuel grade to a person who violates a fuel-quality requirement under A.R.S. Title 41, Chapter 15, or this Chapter. The person shall correct the violation by:
   a. Removing non-compliant motor fuel from the storage tank and replacing it with compliant motor fuel,
   b. Selling the motor fuel at the correct octane level,
   c. Adding sufficient compliant motor fuel to the storage tank to bring the motor fuel in the storage tank into compliance,
   d. Removing all water from the storage tank or emptying the tank per R3-7-711 or R3-7-712, or
   e. Removing the non-compliant motor fuel to another area within the state if the motor fuel complies with specifications of that area.
4. The Division may issue an administrative order to a person who does not provide requested product transfer documentation within 24 hours of the Division's request. The Division may impose a civil penalty up to $300 on a person who provides the requested documentation between 24 and 72 hours. The Division may impose a civil penalty up to $500 on a person who does not provide the requested documentation within 72 hours.

L. Vapor recovery.
1. The Division may issue an administrative order to stop construction at a vapor recovery site and impose a civil penalty up to $500 on a person who:
   a. Begins construction or makes a major modification without an authority to construct plan approval,
   b. Does not comply with the authority to construct plan approval, or
   c. Does not obtain an approved change order for construction or major modification of the vapor recovery site unless:
      i. The vapor recovery system and its components comply with A.R.S. Title 3, Chapter 19, and this Chapter; and
      ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title 3, Chapter 19, and this Chapter.
2. The Division may issue an administrative order requiring a person to excavate a vapor recovery site if the person covers a vapor recovery component before a Division pre-burial inspection and may impose a civil penalty up to $500 if the excavated system does not pass required vapor recovery tests according to A.R.S. Title 3, Chapter 19, and this Chapter.
3. The Division shall issue an administrative order if a person fails to ensure that a vapor recovery site passes an initial test within 90 days of being opened or passes an annual test within the designated test month. The Division shall issue a stop-sale, stop-use tag if the person does not comply with the administrative order.
4. The Division may impose a civil penalty up to $100 on a person who does not have an authority to construct plan approval available for inspection at the construction site during normal business hours.
5. The Division may issue a warning tag to a person whose vapor recovery system labeling does not comply with R3-7-713. The Division may issue a stop-sale, stop-use tag and impose a civil penalty up to $500 on a person who

does not correct a labeling violation within the time specified on a warning tag.

6. The Division shall issue a stop-sale, stop-use tag to a person whose vapor recovery system fails a test under R3-7-905, R3-7-910, R3-7-1005, or R3-7-1010. If the test failure is isolated to a system component, the Division's stop-sale, stop-use tag shall pertain to that component so the rest of the system may operate.

M. The Division may impose a civil penalty up to $500 and issue another stop-sale, stop-use tag to a person who violates a stop-sale, stop-use tag. The Division may impose a civil penalty up to $500 and revoke, suspend, or refuse to renew a commercial device license if a person removes a stop-sale, stop-use tag without approval.

N. Registered service agency and registered service representative.

1. If a registered service agency submits to the Division an inaccurate or incomplete placed-in-service or test report, the Division may impose a civil penalty up to $50 on the agency each time the agency resubmits a placed-in-service or test report without making all needed corrections.
2. The Division may impose a civil penalty up to $300 on a registered service representative who incorrectly:
   a. Installs a commercial device,
   b. Repairs a commercial device,
   c. Tests a vapor recovery system, or
   d. Repairs a vapor recovery system.
3. If an unlicensed person represents itself as a registered service agency, the Division may:
   a. Issue an administrative order,
   b. Impose a civil penalty up to $500 and confiscate the unlicensed person's calibration standards if the unlicensed person violates the administrative order, and
   c. Deny a registered service agency license to the unlicensed person if the unlicensed person fails to comply with the enforcement action under this subsection.
4. The Division may issue an administrative order to an unlicensed person who performs the duties of a registered service representative. The Division may impose a civil penalty up to $300 on the registered service agency for which the unlicensed individual works.
5. The Division may issue an administrative order if a registered service representative places a commercial device into service without Division authorization. The Division may impose a civil penalty up to $500 on the registered service agency whose representative places a commercial device into service without Division authorization.
6. The Division may impose a civil penalty up to $500 on a registered service agency whose registered service representative uses a metrology standard or vapor recovery testing equipment that is not certified according to this Chapter and, as applicable, CARB test methods. The Division may confiscate a metrology standard or vapor recovery testing equipment if a registered service representative uses the uncertified standard or equipment after the registered service agency is penalized. The Division shall return the standard or equipment when it is properly certified.
7. The Division shall issue an administrative order to a vapor recovery registered service agency or person who owns a vapor recovery system that does not, according to A.R.S. Title 3, Chapter 19, and this Chapter:
   a. Notify the Division of a test date and time,
   b. Begin a test at the approved time,
   c. Appear for a witnessed test,
   d. Close a vapor recovery system for repairs if the system fails, or
   e. Perform a test.
8. The Division may impose a civil penalty up to $300 on a vapor RSA that violates subsections (M)(7)(a), (b), (d), or (e). The Division may impose a civil penalty up to $300 on a vapor recovery registered service agency that violates subsection (M)(7)(c) twice in 12 months.
9. If a registered service agency's registered service representative does not attach a non-tampering seal on a commercial device that is equipped for a seal, the Division may:
   a. Impose a civil penalty up to $300 on the registered service agency for the first violation, and
   b. Impose a civil penalty up to $500 on the registered service agency for each subsequent violation by the registered service representative.
10. If a registered service representative determines that a vapor recovery system or component is not in compliance with A.R.S. Title 3, Chapter 19, or this Chapter, the registered service representative shall:
    a. Secure the non-compliant vapor recovery system or component from use before the registered service representative leaves the vapor recovery site or until the system or component passes the tests required by R3-7-910;
    b. Notify the Division of the secured, non-compliant vapor recovery system or component before leaving the vapor recovery site; and
    c. Notify the Division of the time of the test required by R3-7-910 or R3-7-1010 by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner.
11. If a registered service representative fails to comply with subsection (M)(10)(b) or (c), the Division may:
    a. Impose a civil penalty up to $300 on the registered service representative;
    b. Issue an administrative order, if the registered service representative is penalized under this subsection three times in 12 months, requiring the registered service representative to take and pass the licensing competency examination; and
    c. Suspend or revoke the license of the registered service agency employing the registered service representative if the registered service representative does not comply with an order issued under subsection (M)(11)(b).
12. If a registered service representative fails to notify the Division of a non-compliant commercial device under R3-7-602(B)(1)(f), the Division may impose a civil penalty up to $300.

Historical Note

New Section R3-7-104 recodified from Section R20-2-104 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-105. Repealed

Historical Note

Repealed Section R3-7-105 recodified from repealed Section R20-2-105 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-106. Repealed

Historical Note
Repealed Section R3-7-106 recodified from repealed Section R20-2-106 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-107. Repealed

Historical Note
Repealed Section R3-7-107 recodified from repealed Section R20-2-107 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-108. Time-frames for Licenses, Renewals, and Authorities to Construct

A. For each type of license, renewal, or authority issued by the Division, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.

B. For each type of license, renewal, or authority issued by the Division, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the Division receives an application.
1. If the application is not administratively complete, the Division shall send a deficiency notice to the applicant.
   a. The deficiency notice shall state each deficiency and the information needed to complete the application.
   b. Within the time provided in Table 1 for response to the deficiency notice, the applicant shall submit to the Division the missing information specified in the deficiency notice. The time-frame for the Division to finish the administrative completeness review is suspended from the date the Division mails or e-mails the deficiency notice to the applicant until the date the Division receives the missing information.
   c. If the applicant does not submit the missing information within the time to respond to the deficiency notice set forth in Table 1, the Division shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn. An applicant who desires to reapply shall begin the application process anew.
2. If the application is administratively complete, the Division shall send a written notice of administrative completeness to the applicant. If the Division, within 10 days of submittal, fails to send a written notice of administrative completeness or deficiency notice outlined in subsection (B)(1), the application shall automatically be deemed administratively complete.

C. For each type of license, renewal, or authority issued by the Division, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Division sends written notice of administrative completeness to the applicant.
1. During the substantive review time-frame, the Division may make one comprehensive written request for additional information. The applicant shall submit the additional information within the time provided in Table 1 for response to a comprehensive written request for additional information. The time-frame for the Division to finish the substantive review is suspended from the date the Division mails or e-mails the request until the Division receives the information.
2. If the applicant does not submit the requested additional information within the time-frame in Table 1, the Division shall issue a written notice informing the applicant that the application is deemed withdrawn. The applicant may request in writing that the Division deny the application within 15 days of the date of the notice of withdrawal. An applicant who desires to reapply shall begin the application process anew.
3. The Division shall issue a written notice of denial of license, renewal, or authority if the Division determines that the applicant does not meet all of the substantive criteria required by A.R.S. Title 3, Chapter 19, and this Chapter for a license, renewal, or authority. The notice of denial shall include:
   a. Reasons for the denial, with citations to the statutes or rules on which the denial is based; and
   b. The name and telephone number of a Division employee who can answer questions regarding the application process.
4. If the applicant meets all of the substantive criteria required by A.R.S. Title 3, Chapter 19, and this Chapter for a license, renewal, or authority the Division shall issue the license, renewal, or authority to the applicant.

D. The time period for an applicant to respond to a deficiency notice or request for additional information shall commence on the date of personal service or the postmark date.

E. In computing any time period prescribed in this Section, the day of the act, event, or default shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday. The computation shall include intermediate Saturdays, Sundays and holidays.

F. An applicant whose license, renewal, or authority is denied has a right to a hearing, an opportunity for rehearing, and if the denial is upheld, judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

Historical Note
New Section R3-7-108 recodified from Section R20-2-108 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-109. Administrative Hearing Procedures

A.R.S. Title 41, Chapter 6, Articles 6 and 10 apply to the Division's hearings.

Historical Note
New Section R3-7-109 recodified from Section R20-2-109 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-110. Motion for Rehearing or Review

A. Except as provided in subsection (G), any party in a contested case or appealable agency action before the Division who is aggrieved by a decision rendered in the case may file with the Division, a written motion for rehearing or review of the decision, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the particular grounds for the motion.

B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Division. A response may be filed within 15 days after service of the motion or amended motion by any other party. The Division may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

C. A rehearing or review of the decision may only be granted for any of the following reasons materially affecting the moving party's rights or ability to receive a fair hearing:
1. Any irregularity in the hearing, order, or abuse of discretion by the administrative law judge or the Division.

2. Misconduct of the Division, the administrative law judge, or the prevailing party.
3. Accident or surprise that could not have been prevented by ordinary prudence.
4. Newly discovered material evidence that could not have been discovered with reasonable diligence and produced at the original hearing.
5. Excessive or insufficient penalties.
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing.
7. That the decision is not justified by the evidence or is contrary to law.

D. The Division may affirm or modify its decision, or grant a rehearing or review. After giving the parties or their counsel notice and an opportunity to be heard, the Division may grant a rehearing or review for a reason not stated in a party's motion. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted. The rehearing or review shall cover only those matters so specified.

E. The Division, within the time for filing a motion for rehearing or review under this rule, may order a rehearing or review for any of the reasons set forth in subsection (C), after giving the parties notice and an opportunity to be heard.

F. When a motion for rehearing or review is based upon affidavits, the moving party shall serve the affidavits with the motion. An opposing party has 15 days from the date of service to serve opposing affidavits. The Division may extend the period to respond up to 20 days for good cause, or by written stipulation of the parties. If the Division permits reply affidavits, the replying party has five days in which to serve them.

G. If the Division makes specific findings that the immediate effectiveness of a decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Division may issue the decision as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Division's final decision.

Historical Note

New Section R3-7-110 recodified from Section R20-2-110 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-111. Repealed

Historical Note

Repealed Section R3-7-111 recodified from repealed Section R20-2-111 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-112. Repealed

Historical Note

Repealed Section R3-7-112 recodified from repealed Section R20-2-112 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-113. Renumbered

Historical Note

Renumbered Section R3-7-113 recodified from renumbered Section R20-2-113 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-114. Renumbered

Historical Note

Renumbered Section R3-7-114 recodified from renumbered Section R20-2-114 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-115. Renumbered

Historical Note

Renumbered Section R3-7-115 recodified from renumbered Section R20-2-115 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-116. Renumbered

Historical Note

Renumbered Section R3-7-116 recodified from renumbered Section R20-2-116 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-117. Renumbered

Historical Note

Renumbered Section R3-7-117 recodified from renumbered Section R20-2-117 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

Table 1. Time-frames (calendar days)

Type of License	Authority	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Commercial Device	R3-7-201	14	28	30	30	44
Public Weighmaster	R3-7-501	14	28	30	30	44
Registered Service Agency/Representative	R3-7-601	14	28	30	30	44
Authority to Construct	R3-7-904 R3-7-1004	14	28	30	30	44

Historical Note

Article 1, Table 1, Time-frames (in days), recodified from 20 A.A.C. 2, Article 1, Table 1, Time-frames (in days), at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

ARTICLE 2. COMMERCIAL DEVICES

R3-7-201. Licensing Process

Before using a commercial device, a person or a contracted registered service representative shall apply for a license for the commercial device. The commercial device may be used without a license for up to 30 days after an application is filed with the Division. The application shall be on a form supplied by the Division that includes:

1. The applicant's name, address, and telephone number;
2. The name, address, and telephone number of the location where the commercial device will be operated;
3. A description of the commercial device;
4. The applicant's signature; and
5. An e-mail address for the owner or operator for the Division to provide licenses, invoices, inspections and reports, enforcement action, and other notifications.

Historical Note

New Section R3-7-201 recodified from Section R20-2-201 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-202. Repealed

Historical Note

Repealed Section R3-7-202 recodified from repealed Section R20-2-202 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-203. Approval, Installation, and Sale of Devices

A. A commercial device installed or placed in use after January 1, 1975, shall have an NCWM National Type Evaluation Program (NTEP) Certificate of Conformance or have a certificate of approval from the California Type Evaluation Program. NTEP Certificate of Conformance issuance may be verified at the NCWM website: http://www.ncwm.net/ntep/cert_search.

1. If a commercial device has been continuously licensed, or evidence shows it has been in use by the owner in Arizona since January 1, 1975, the commercial device is exempt from NCWM or California Type Evaluation Program prototype approval.
2. If a commercial device exempt under subsection (A)(1) fails the specifications, tolerances, or other technical requirements of Handbook 44 during a Division inspection, the Division shall issue an out of service tag or confiscate the device per R3-7-104(F)(3) and revoke the commercial device license. A person shall no longer use the device commercially.

B. The seller of a commercial device that is remanufactured for the purpose of commercial sale shall mark the commercial device as remanufactured.

Historical Note

New Section R3-7-203 recodified from Section R20-2-203 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-204. Livestock and Vehicle Scale Installation

A. Portable livestock and portable vehicle scales shall be designed to be moveable from one location to another.

B. Portable scales and low-profile electronic scales shall be accessible for maintenance.

C. Notwithstanding Handbook 44, vehicle and livestock scales installed above ground shall have 2 feet minimum clearance from the bottom of the lowest platform support girder to the ground.

D. Notwithstanding Handbook 44, vehicle and livestock scales, installed with a pit, shall have 2 feet minimum clearance from the bottom of the main girder that is lowest in platform support to the pit floor.

Historical Note

New Section R3-7-204 recodified from Section R20-2-204 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

R3-7-301. Repealed

Historical Note

Repealed Section R3-7-301 recodified from repealed Section R20-2-301 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-302. Handbook 130 and Handbook 133

A. A person shall comply with all packaging, labeling, and method of sale requirements in Handbook 130, except as otherwise stated in this Chapter. A person shall ensure that packaged commodities kept, offered, exposed for sale, sold, or in the process of delivery are weighed, measured, and inspected using sampling and testing procedures designated in Handbook 133, except as otherwise stated in this Chapter.

B. A retail seller shall ensure that a package that is offered for sale in a variable weight, measurement, or count, and that is weighed, measured, or counted at the time of sale, includes a label on the package identifying the net weight, measurement, or count, item description, and packer's name if the packer is not the retailer. Pre-packaged produce does not require a label on each package if the retailer:

1. Clearly labels the price-per-pound where the packaged produce is displayed, and
2. Deducts a tare for the packaging from the gross weight at the time of sale.

C. A retail seller shall price a commodity at the date and time that it is ordered by a customer.

D. A retail seller who offers, exposes, or advertises a commodity for sale or rent shall post a definite, plain, and conspicuous price on the commodity or adjacent to where the commodity is displayed. If the price of the commodity is by weight, measure, or count, the retailer shall place the price per weight, measure, or count on the commodity or adjacent to where the commodity is displayed. If a retailer offers a commodity for sale or rent at a price reduced by a percentage or a fixed amount from a previously offered price, the retailer shall place the reduction or reduced price on the commodity or adjacent to where the commodity is displayed.

E. A person who owns or operates a plant nursery shall label each commodity with its identity and price, or post a sign with this information adjacent to the point of display.

F. A retail seller shall ensure that the price of each item purchased is displayed visibly to the public at each check-out location.

G. Items in or behind a service counter that can be sold only with the assistance of a sales associate are not required to have a price displayed. If a price is displayed, it must meet the requirements of this Chapter.

Historical Note

New Section R3-7-302 recodified from Section R20-2-302 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-303. Repealed

Historical Note
Repealed Section R3-7-303 recodified from repealed Section R20-2-303 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-304. Repealed

Historical Note
Repealed Section R3-7-304 recodified from repealed Section R20-2-304 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-305. Repealed

Historical Note
Repealed Section R3-7-305 recodified from repealed Section R20-2-305 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-306. Repealed

Historical Note
Repealed Section R3-7-306 recodified from repealed Section R20-2-306 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-307. Repealed

Historical Note
Repealed Section R3-7-307 recodified from repealed Section R20-2-307 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-308. Repealed

Historical Note
Repealed Section R3-7-308 recodified from repealed Section R20-2-308 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-309. Repealed

Historical Note
Repealed Section R3-7-309 recodified from repealed Section R20-2-309 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-310. Repealed

Historical Note
Repealed Section R3-7-310 recodified from repealed Section R20-2-310 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-311. Repealed

Historical Note
Repealed Section R3-7-311 recodified from repealed Section R20-2-311 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-312. Repealed

Historical Note
Repealed Section R3-7-312 recodified from repealed Section R20-2-312 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-313. Repealed

Historical Note
Repealed Section R3-7-313 recodified from repealed Section R20-2-313 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 4. PRICE VERIFICATION AND PRICE POSTING

R3-7-401. Repealed

Historical Note
Repealed Section R3-7-401 recodified from repealed Section R20-2-401 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-402. Price-posting Inspection Procedure and Violation Exceptions

A. The Division shall choose one item that was used and up to four adjacent items that were not used for a price-verification inspection as the samples for a price-posting inspection.

B. If the Division finds an alleged price-posting violation involving an item used during its price-verification inspection, the Division shall record the price-posting violation on the inspection report.

C. The following are price-posting violations:
1. No price is posted or displayed for an inspected item unless it is not required under subsection (D)(12);
2. Less than 98 percent of the prices of inspected items are posted accurately; or
3. A percentage off is provided, but there is no price displayed for the item on, in, or behind a service counter.

D. The following are not price-posting violations:
1. A price is posted on a shelf where an item is displayed rather than marked on the item individually;
2. A price is posted on the shelf or on a hook in front of or behind a row of items at the farthest left side of all items with the same price for up to 3 feet of shelf space or at the farthest left and farthest right side of the shelf or hooks with the same priced items. For items of the same price, the uniform price codes may differ for the commodities with prices labeled in this manner, as long as the price posted is a generic price and does not refer to a specific product;
3. A price is posted on a vertical display in a location clearly visible to the consumer for items of the same price;
4. Self-contained refrigerated coolers may have prices posted on the inside or outside of the refrigerator doors located on the left, right, or center of the shelving units in a location clearly visible to the consumer.
5. A storage area that is posted as a storage area for which a customer should ask for assistance;
6. A restocking area that is posted as a restocking area for which a customer should ask for assistance;
7. A price is posted on a hook in front of or behind a row of items but the price is clearly visible or a notice is clearly visible stating that the price is posted behind the row of items;
8. An item is located in an advertising display without a posted price but a notice is posted informing a customer to ask for price information assistance about an item in the display;
9. A menu-type sign at a point of display that lists the name and price of every item at the point of display in legible text. A menu-type sign may also be used to display single-item purchase prices in areas where space is limited, or used to display a price for purchase of multiple items and single-item purchase prices at the point of display as long as it is located at, above or near the point of display;

10. A point of display contains more than one item posted with the manufacturer's name or logo and the price and name of each item in the point of display is posted;
11. A price is posted only at each entrance to a store but that price is the price of each item in the store, or at each entrance to a department within a store but that price is the price of each item in the department;
12. A notice states that there is an additional charge based on an item's size and each size and the additional charge for each size is posted; and
13. An item that does not have a price and is located in or behind a service counter and available only with the assistance of a sales associate. If a price is displayed, it must meet the requirements of this Chapter.

Historical Note
New Section R3-7-402 recodified from Section R20-2-402 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-403. Repealed

Historical Note
Repealed Section R3-7-403 recodified from repealed Section R20-2-403 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-404. Repealed

Historical Note
Repealed Section R3-7-404 recodified from repealed Section R20-2-404 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-405. Repealed

Historical Note
Repealed Section R3-7-405 recodified from repealed Section R20-2-405 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-406. Repealed

Historical Note
Repealed Section R3-7-406 recodified from repealed Section R20-2-406 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-407. Repealed

Historical Note
Repealed Section R3-7-407 recodified from repealed Section R20-2-407 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-408. Repealed

Historical Note
Repealed Section R3-7-408 recodified from repealed Section R20-2-408 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-409. Repealed

Historical Note
Repealed Section R3-7-409 recodified from repealed Section R20-2-409 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-410. Repealed

Historical Note
Repealed Section R3-7-410 recodified from repealed Section R20-2-410 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-411. Repealed

Historical Note
Repealed Section R3-7-411 recodified from repealed Section R20-2-411 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-412. Repealed

Historical Note
Repealed Section R3-7-412 recodified from repealed Section R20-2-412 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 5. PUBLIC WEIGHMASTERS

R3-7-501. Qualifications; License and Renewal Application Process

A. In addition to the requirements of A.R.S. § 3-3453, to be a public weighmaster or a deputy public weighmaster, a person shall:
1. Be at least 18 years old,
2. Be able to operate a scale accurately, and
3. Be able to execute weight certificates properly.

B. A person shall not perform the duties of a public weighmaster until the person passes the written weighmaster examination administered by the Division with a minimum score of 75 percent. A person may not take the examination more than three times in six months and must wait 7 days before retaking the exam.

C. A person that meets the qualifications for public weighmaster or deputy public weighmaster may apply for a license on a form supplied by the Division. A separate application shall be submitted for each location the public weighmaster or deputy public weighmaster will issue weight tickets.
1. The application form includes:
   a. The applicant's name, address, and telephone number;
   b. A statement by the applicant that the applicant knows and understands weighmaster laws and rules;
   c. The name, address, and telephone number of each of the applicant's public weighmaster locations; and
   d. The applicant's signature.
2. The public weighmaster's application form also includes:
   a. The name of each deputy public weighmaster operating at each location;
   b. A statement that the public weighmaster understands they are responsible to ensure that any deputy public weighmasters working at the location are adequately trained and licensed;
   c. The name and address of the scale; and
   d. The scale description.
3. The deputy public weighmaster application shall include a certification that they understand the requirements on a form provided by the Division and be signed by both the public weighmaster and the applicant.
4. An applicant may be required to submit evidence of qualifications.
5. The public weighmaster shall ensure all deputy public weighmasters are licensed for the location prior to their issuance of weight tickets.
6. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. § 41-1080.

D. Before the Division issues or renews a public weighmaster or deputy public weighmaster license, the applicant shall pay the

required fees and provide information required in A.R.S. Title 3, Chapter 19, and this Chapter.

E. The Division does not charge a fee to process a change in name or address.

F. In the event a public weighmaster leaves employment, a licensed deputy public weighmaster may utilize a public weighmaster stamp which contains only the location identity as issued under R3-7-506(B) for 30 days at a location while a public weighmaster license application is underway. A public weighmaster stamp containing the public weighmaster's name may not be continued to be used following a public weighmaster's departure.

Historical Note

New Section R3-7-501 recodified from Section R20-2-501 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-502. Duties

A public weighmaster shall:

1. Be responsible for the daily operation and maintenance of the licensed scale used when performing weighmaster duties;
2. Use scales according to applicable laws and rules;
3. Be responsible for all acts performed by any deputy public weighmaster designated by the weighmaster; and
4. Ensure deputy public weighmasters are licensed prior to their issuance of a weight ticket and cancel deputy public weighmasters licenses within 10 days of their leaving employment to ensure each location has the correct licensed deputy public weighmasters. A deputy public weighmaster license may be canceled by sending an e-mail or other written notification to the Division.

Historical Note

New Section R3-7-502 recodified from Section R20-2-502 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-503. Grounds for Denying License or Renewal; and Disciplinary Action

A. The Division may deny a weighmaster license for any of the following reasons:

1. Providing false or misleading information;
2. Failing to meet the requirements stated in this Article; or
3. Any of the reasons stated in subsections (B)(1) through (9).

B. The Division may impose disciplinary action against, or refuse to renew a public weighmaster's license for any of the reasons stated in subsection (A)(1) or (2), or if the Division has determined that the public weighmaster:

1. Does not have the ability to weigh accurately;
2. Has not correctly made weight certificates;
3. Has been found to have violated any provision of A.R.S. Title 3, Chapter 19, or this Chapter;
4. Has falsified a weight certificate;
5. Has delegated authority to someone other than a licensed public weighmaster or deputy public weighmaster;
6. Has improperly used a weighmaster's seal of authority;
7. Has presigned certificates for later use;
8. Has issued a weight certificate on which changes or alterations were made; or
9. Has used a scale for public weighing that is not properly licensed.

Historical Note

New Section R3-7-503 recodified from Section R20-2-503 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-504. Scales and Vehicle Weighing

A. When making a weight determination, a public weighmaster shall use a weighing device that is suitable for the function.

B. The public weighmaster shall not use a scale to weigh a load that exceeds the normal or rated capacity of the scale.

C. The owner or user of a weighing device is responsible for the accuracy of the device used by a public weighmaster. The owner or user shall comply with Handbook 44.

D. If a scale is equipped with a printing device, it shall be used for all relevant entries on the weight certificate.

E. The Division shall separately license and regulate each scale location.

F. A weighmaster shall weigh any vehicle or combination of vehicles on a scale having a platform that fully accommodates the vehicle or combination of vehicles as one unit.

G. If a combination of vehicles is divided into separate units to be weighed, each separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each unit.

Historical Note

New Section R3-7-504 recodified from Section R20-2-504 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-505. Weight Certificates

A. In issuing a weight certificate, a public weighmaster shall enter only those weight values that the weighmaster or deputy public weighmaster has accurately and personally determined.

B. A public weighmaster or deputy public weighmaster shall not make any entries on a weight certificate issued by another person.

C. By signing a weight certificate, a weighmaster or the weighmaster's deputy shall be responsible for the accuracy of all entries on the weight certificate.

D. A weight certificate is valid only when properly signed and sealed by the issuing public weighmaster or the deputy public weighmaster. The name and image of the seal of the public weighmaster and deputy public weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature and embossed seal if the electronically imprinted name and seal is that of the weighmaster or deputy public weighmaster who weighed, measured, or counted the commodity. To issue an electronic signature or seal, the weighmaster or deputy public weighmaster shall have an individual login associated with the electronic signature and seal or other security measures in place to prevent non-licensed persons from use.

E. If an error is made on a weight certificate, the weighmaster shall void the certificate and issue a new certificate. No changes or alterations shall be made on a certificate.

F. A weight certificate shall state:

1. The date of issuance;
2. The name of the declared owner, agent, or consignee of the material weighed;
3. The accurate weight of the material weighed or counted;
4. The means by which the material is being transported at the time it is weighed or counted;
5. An identification number of the transporting unit, including a license number; and
6. The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE. This is to certify that the described merchandise was weighed,

counted, or measured by a public or deputy public weighmaster, and when properly signed and sealed, is prima facie evidence of the accuracy of the weight, count, or measure shown as prescribed by law."

7. The printed name, signature, and license number of the public weighmaster or deputy public weighmaster issuing the weight ticket.

G. A public weighmaster shall maintain a legible copy of each weight certificate issued at each scale location, for a minimum of one year. A weighmaster also shall ensure that weight certificates are consecutively numbered and filed numerically, including voids. A weighmaster shall not use another filing system without Division approval.

H. A public weighmaster is liable for any forged signatures or electronic signatures.

Historical Note

New Section R3-7-505 recodified from Section R20-2-505 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-506. Seal of Authority

A. A weighmaster shall obtain a seal for the certification of weight certificates at cost through the Division.

B. The Division shall assign a number to a seal identifying the specific location for which the seal is issued.

C. A seal is the property of the state. A weighmaster shall surrender a seal to the Division within 30 days after the weighmaster no longer operates as a licensed public weighmaster if the seal contains the public weighmaster's name. If the seal was issued under R3-7-506(B) and only contains the location identification, it may be retained for use by the next licensed public weighmaster if it is still legible. Illegible seals shall be surrendered to the Division.

D. A public weighmaster shall have one seal for use at each scale location.

E. A seal shall be accessible to the weighmaster and authorized deputies during all business hours at the scale location for the timely and proper certification of weight certificates.

F. A public weighmaster shall keep a seal of authority at each scale location and make it available for inspection by the Division during all business hours.

G. A public weighmaster may recreate the state-assigned seal in an electronic format for use as provided under subsection R3-7-505(D). The Division shall provide a template of seal.

Historical Note

New Section R3-7-506 recodified from Section R20-2-506 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-507. Prohibited Acts

A. A person shall not:

1. Issue a certified weight certificate without being a licensed public weighmaster or a person properly authorized to act for a public weighmaster;
2. Procure, print, or cause to be printed any public weighmaster weight certificate without being a licensed public weighmaster or a deputy public weighmaster authorized to act for a public weighmaster;
3. Possess unfilled or unused public weighmaster weight certificate forms without being a licensed public weighmaster or a deputy public weighmaster authorized to act for a public weighmaster;
4. Furnish or give false information to a weighmaster for use in the completion of a weight certificate;
5. Present a certificate for payment falsified by the insertion of any weight, measure, or count not determined by the issuing weighmaster;
6. Use without authorization the title "licensed public weighmaster" or any similar title;
7. Represent oneself to be a public weighmaster without holding a license issued by the Division;
8. Engage in public weighing without holding a valid license as a public weighmaster, or acting under the authority of a licensed public weighmaster;
9. Use an unlicensed scale in the performance of public weighmaster duties; or
10. Operate a scale for public weighing unless that person is licensed as a public or deputy public weighmaster.
11. Nothing in this subsection shall be construed to prevent administrative staff of the public or deputy public weighmaster from performing administrative duties such as filing weight tickets.

B. People engaged in the business of printing weight certificate forms, their representatives, and the Division are exempt from the prohibitions specified in subsections (A)(2) and (3).

Historical Note

New Section R3-7-507 recodified from Section R20-2-507 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

R3-7-601. Qualifications; License and Renewal Application Process

A. Registered service agency.

1. To obtain a license as a registered service agency, an applicant shall provide evidence that:
   a. The applicant's registered service representative has a thorough knowledge of all appropriate laws within A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter;
   b. The applicant provided its representative with a copy of the portions of A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter relating to registered service representative duties;
   c. The applicant:
      i. Possesses the necessary certified standards and testing equipment to service commercial devices; and
      ii. Possesses the necessary test equipment calibrated in the time-frame required by the equipment manufacturer or CARB Executive Orders to perform the required testing of a vapor recovery system or vapor recovery component properly; or
      iii. Has access to the necessary standards and testing equipment belonging to another registered service agency and has written approval from that agency to use its standards and testing equipment; and
   d. The applicant shall ensure that its registered service representative operates the equipment according to A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter.
2. The Division shall not issue a registered service agency license until at least one of the applicant's employees passes a registered service representative competency exam.

3. An applicant for a registered service agency license shall submit an application form, obtained from the Division that provides:
   a. Name, address, telephone number, electronic mail address, and facsimile number;
   b. License information from other states;
   c. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
   d. A list of all of the applicant's devices and testing equipment with corresponding serial or identification numbers;
   e. Branch office information;
   f. Names of registered service representatives and their experience with other registered service agencies or states;
   g. License and disciplinary history; and
   h. Applicant's signature.

B. Third-party registered service agency. In addition to complying with the requirements in subsection (A), a third-party registered service agency shall provide the Division with evidence that the third-party registered service agency:
1. Holds a valid license issued by the Arizona Registrar of Contractors,
2. Complies with workers' compensation insurance laws, and
3. Maintains liability insurance sufficient to cover the value of work to be performed.

C. Registered service representative.
1. To obtain a license as a registered service representative, an applicant shall provide evidence that:
   a. The applicant has a thorough knowledge of all appropriate laws within A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders, and this Chapter;
   b. The applicant possesses the necessary training or experience regarding appropriate standards and testing equipment to service the specific commercial device, vapor recovery system, or vapor recovery system component indicated on the application;
   c. The applicant will operate according to appropriate laws within A.R.S. Title 3, Chapter 19, Handbook 44, CARB Executive Orders; and this Chapter; and
   d. The applicant has passed the competency examination specified in subsection (D).
2. An applicant for a registered service representative license shall submit an application on a form obtained from the Division that provides:
   a. Name, address, telephone number, and facsimile number;
   b. License information from other states;
   c. An indication of whether the applicant is applying to be a registered service representative or a vapor recovery service representative;
   d. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
   e. Work experience with other registered service agencies in Arizona or other states;
   f. License and disciplinary history; and
   g. Applicant's signature.
3. An applicant for a vapor recovery registered service representative license shall maintain and make available to the Division upon request evidence of being:
   a. Certified by the manufacturer to test or repair all vapor recovery systems and components, or
   b. Determined qualified by the Division to test or repair all vapor recovery systems and components.
4. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. § 41-1080.

D. Competency examination. Before being issued a registered service representative license, an applicant shall pass a Division-administered competency examination.
1. An applicant for a vapor recovery registered service representative license shall complete the Division's training class before taking the competency examination. The Division may waive the training class requirement for up to 12 months for new applicants.
2. An applicant shall bring a copy of Handbook 44 to the examination site. An applicant for a vapor recovery registered service representative license shall additionally bring copies of CARB test procedures, Executive Orders, and Division Standard Operating Procedures.
3. An applicant shall complete the competency examination within the time specified by the Division and pass with a score of 75 percent or greater.
4. The Division shall not allow an applicant to take the competency examination more than three times in six months and the applicant must wait seven days prior to retaking the exam.
5. The associate director may contract with a third-party testing company to administer testing to provide added convenience to registered service representatives. Taking exams through the third party is optional and the registered service representative shall be responsible for payment of any additional costs related to third-party testing.

E. As required under A.R.S. § 3-3454(G), the Division shall specify on a registered service representative license the devices that the registered service representative may service, repair, or install or the vapor recovery systems or components that the vapor recovery registered service representative may test or repair. A registered service representative shall perform only the services approved by the Division for the registered service representative.

F. Renewal of a registered service representative license. Under A.R.S. § 3-3454(D), a registered service representative license is valid for 12 months and expires unless renewed. To renew a registered service representative license, the registered service agency employing the registered service representative shall comply with R3-7-603(E). Before complying with R3-7-603(E), the registered service agency shall ensure that once every 36 months a vapor registered service representative completes the Division's training class and takes and passes the Division's written vapor recovery competency examination.

G. The Division does not charge a fee to process a change in business name or address.

Historical Note

New Section R3-7-601 recodified from Section R20-2-601 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-602. Duties

A. Registered service agency.
1. A registered service agency shall:
   a. Maintain all equipment used for commercial device certification according to standards traceable to NIST, and
   b. Maintain and use equipment for testing vapor recovery systems and vapor recovery system components

according to this Chapter, CARB test procedures, and manufacturer specifications.

2. When a registered service agency restores or newly places in service a commercial device, the registered service agency shall complete a placed-in-service report form prescribed by the Division.
   a. Within seven calendar days after the commercial device is restored to service or newly placed in service, the registered service agency shall complete an online placed-in-service report to the Division. If an online placed-in-service report is not available for the device, a paper report shall be submitted;
   b. The registered service agency shall give a copy of the placed-in-service report to the person who owns or operates the commercial device;
   c. The registered service agency shall retain a copy of the placed-in-service report or any required vapor recovery report for one year;
   d. The registered service agency shall ensure that the placed-in-service report contains the assigned license number of the registered service representative who installs or repairs the commercial device and completes the report;
   e. The registered service agency shall ensure that the placed-in-service report is completed and signed by the registered service representative noting each rejected commercial device restored to service and each newly installed commercial device placed in service;
   f. The registered service agency shall ensure that the placed-in-service report includes the serial or identification number of each standard used by the registered service representative to calibrate the commercial device for each rejected device restored to service and for each newly installed device placed in service; and
3. A registered service agency shall have all equipment used for commercial device certification certified annually by the manufacturer. Vapor recovery test equipment shall be certified as required by the CARB test procedure or this Chapter.
4. A registered service agency shall not use new equipment for commercial device certification until it is certified by a NIST-traceable laboratory.
5. A registered service agency shall ensure that employees do not perform registered service representative duties until licensed. A registered service agency may train an employee in registered service representative duties only if the employee is within the direct line of sight and hearing of a supervising licensed registered service representative.
6. A registered service agency shall use a form approved by the Division to record vapor recovery test results and violations. The test results shall be e-mailed to the Division within seven days after completion of the test.
7. A registered service agency shall ensure that its registered service representative provides a vapor recovery system owner or operator with written test preparation instructions, at least 5 business days before an initial or annual test.

B. Registered service representative.
1. A registered service representative shall:
   a. Install only commercial devices that meet the requirements of this Chapter;
   b. Perform all vapor recovery tests according to this Chapter;
   c. Perform all appropriate tests when repairing a commercial device or repairing or replacing a vapor recovery system or component to ensure that the requirements of A.R.S. Title 3, Chapter 19, this Chapter, Handbook 44, and CARB Executive Orders are met;
   d. Report to the user equipment or commercial devices that do not conform to NIST standards; and
   e. Complete placed-in-service reports accurately.
   f. Report to the Division within one hour by e-mail or phone of finding a device that is not certified as part of the Certificate of Conformance under R3-7-203(A) and is installed to fraudulently obtain consumer credit card information. Additionally, the registered service representative shall contact the local law enforcement agency for collection of the device as evidence.
2. If a vapor recovery registered service representative cannot correct a violation and has to leave the vapor recovery site, the registered service representative shall secure the non-compliant vapor recovery system or component from commercial use. The non-compliant system or component shall not be used for commercial purposes until it is repaired and passes the test required by R3-7-910. The registered service representative shall notify the Division of the stop-sale, stop-use prior to leaving the site. The registered service representative shall notify the Division regarding retest of the site by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner, so that the Division may witness the test.

Historical Note

New Section R3-7-602 recodified from Section R20-2-602 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-603. Grounds for Denying License or Renewal; Disciplinary Action; and Certification of Standards and Testing Equipment

A. The Division shall not issue a license or renewal until an applicant pays all appropriate fees.

B. Upon receipt and acceptance of all required documents, fees, and Division certification of standards, the Division shall issue the agency a license or renewal.

C. The Division shall include on a license an assigned number, that remains effective until either withdrawn by the Division or until it expires. The Division shall issue a license with the agency's assigned license number to each registered service representative employed by the agency who has passed the competency examination.

D. Neither a registered service agency nor a registered service representative shall transfer a license.

E. A registered service agency shall submit the renewal fee for the agency license and the agency's representatives' licenses by the first day of the month that each license expires.

F. The Division may deny a license or renewal for any of the following reasons:
1. Providing false or misleading information;
2. Failure to meet annual certification requirements for standards or testing equipment;
3. Failure to meet the requirements stated in this Article; or
4. For any reason that would be grounds for suspension, revocation, or refusal to renew.

G. The Division may suspend, revoke, or refuse to renew a license if the applicant is not qualified to perform those duties

required or has been found to have violated any provision of A.R.S. Title 3, Chapter 19, or this Chapter.

H. Every registered service agency and representative shall comply with the Division's metrology laboratory annual schedule for certification of field standards contained in A.R.S. § 3-3416(F).

Historical Note

New Section R3-7-603 recodified from Section R20-2-603 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-604. Prohibited Acts

A. A person shall not:

1. Perform any duty or do any act required to be done by a registered service agency or registered service representative without holding a registered service agency or registered service representative license issued by the Division;
2. Use the title of registered service agency or registered service representative, any similar title, or hold oneself out as a registered service agency or representative without a valid license; or
3. Remove an official out-of-service, warning, or stop-sale, stop-use tag except as authorized in this Chapter, or by the Division.

B. A registered service agency or registered service representative shall not:

1. Fraudulently complete or file a placed-in-service report;
2. Delegate licensed authority or responsibility to an unlicensed person;
3. Perform a function without certified equipment;
4. Install or place in service a commercial device before satisfying all of the statutory and rule requirements;
5. Fail to report a commercial device to the Division that is found to be out of compliance under R3-7-602;
6. Install, calibrate, or repair a commercial device without placing a decal or label on the device as prescribed by the associate director;
7. Leave a location where there is a non-compliant commercial device without securing the commercial device from commercial use; or
8. Leave a vapor recovery site where there is a non-compliant system or component without securing the system or component from commercial use

Historical Note

New Section R3-7-604 recodified from Section R20-2-604 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-605. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Department. The documents incorporated by reference contain no future editions or amendments.

1. California Air Resources Board Executive Order G-70-17-AD, *Modification of Certification of the Emco Wheaton Balance Phase II Vapor Recovery System*, May 6, 1993, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
2. California Air Resources Board Executive Order G-70-36-AD, *Modification of Certification of the OPW Balance Phase II Vapor Recovery System*, September 18, 1992, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
3. California Air Resources Board Executive Order G-70-52-AM, *Certification of Components for Red Jacket, Hirt, and Balance Phase II Vapor Recovery Systems*, October 4, 1991, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
4. California Air Resources Board Executive Order G-70-70-AC, *Modification of Certification of the Healy Phase II Vapor Recovery System for Gasoline Dispensing Facilities*, June 23, 1992, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
5. California Air Resources Board Executive Order G-70-150-AE, *Modification to the Certification of the Marconi Commerce Systems Inc. (MCS) "Formerly Gibarco" VaporVac Phase II Vapor Recovery System*, July 12, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
6. California Air Resources Board Executive Order G-70-153-AD, *Modification to the Certification of the Dresser/Wayne WayneVac Phase II Vapor Recovery System*, April 3, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
7. California Air Resources Board Executive Order G-70-154-AA, *Modification to the Certification of the Tokheim MaxVac Phase II Vapor Recovery System*, June 10, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
8. California Air Resources Board Executive Order G-70-163-AA, *Modification to the Certification of the OPW VaporEZ Phase II Vapor Recovery System*, September 4, 1996, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
9. California Air Resources Board Executive Order G-70-164-AA, *Modification to Certification of the Hasstech VCP-3A Vacuum Assist Phase II Vapor Recovery System*, December 10, 1996, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
10. California Air Resources Board Executive Order G-70-165, *Certification of the Healy Vacuum Assist Phase II Vapor Recovery System with the Model 600 Nozzle*, April 20, 1995, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
11. California Air Resources Board Executive Order G-70-169-AA, *Modification to the Certification of the Franklin Electric INTELLIVAC Phase II Vapor Recovery System*, August 11, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
12. California Air Resources Board Executive Order G-70-177-AA, *Modification to the Certification of the Hirt VCS400-7 Vacuum Assist Phase II Vapor Recovery System*, December 9, 1999, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
13. California Air Resources Board Executive Order G-70-180, *Order Revoking Certification of Healy Phase II Vapor Recovery Systems for Gasoline Dispensing Facilities*, April 17, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
14. California Air Resources Board Executive Order G-70-183-AA, *Relating to Language Correction in Existing Executive Order G-70-183 (Healy Systems, Inc.)*, June 29, 2001, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
15. California Air Resources Board Executive Order G-70-186, *Certification of the Healy Model 400 ORVR Vapor Recovery System*, October 26, 1998, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

16. California Air Resources Board Executive Order G-70-188, *Certification of the Catlow ICVN Vapor Recovery Nozzle System for use with the Gilbarco VaporVac Vapor Recovery System*, May 18, 1999, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
17. California Air Resources Board Executive Order G-70-191-AA, *Relating to Language Correction in Existing Executive Order G-70-191 (Healy Systems, Inc.)*, July 30, 2001, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
18. California Air Resources Board Executive Order G-70-196, *Certification of the Saber Technologies, LLC Saber-Vac VR Phase II Vapor Recovery System*, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

Historical Note

New Section R3-7-605 recodified from Section R20-2-605 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R3-7-701. Definitions

In addition to the definitions in A.R.S. § 3-3401 and R3-7-101, the following definitions apply to this Article unless the context otherwise requires:

"Address" means a street number, street name, city, state, and zip code.

"Approved oxygenate" means an oxygenate not prohibited by A.R.S. 3-3491(E).

"Area A" has the same meaning as in A.R.S. § 3-3401.

"Area B" has the same meaning as in A.R.S. § 3-3401.

"Area C" has the same meaning as in A.R.S. § 3-3401.

"Arizona Cleaner Burning Gasoline" or "Arizona CBG" means a gasoline blend that meets the requirements of this Article for gasoline produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles within the CBG-covered area, except as provided under A.R.S. § 3-3493(I).

"AST" means aboveground storage tank.

"AZRBOB" or "Arizona Reformulated Blendstock for Oxygenate Blending" means a combination of gasoline blendstocks that is intended to be or represented to constitute Arizona CBG upon the addition of a specified amount (or range of amounts) of an approved oxygenate after the blendstock is supplied from the facility at which it was produced or imported.

"Batch" means a quantity of motor fuel or AZRBOB that is homogeneous for motor fuel properties specific for the motor fuel standards applicable to that motor fuel or AZRBOB.

"Beginning of transport" means the point at which:

A registered supplier relinquishes custody of Arizona CBG or AZRBOB to a transporter or third-party terminal; or

A registered supplier that retains custody of Arizona CBG or AZRBOB begins transfer of the Arizona CBG or AZRBOB into a vessel, tanker, or other container for transport to the CBG-covered area.

"Biodiesel" has the same meaning as prescribed under A.R.S. § 3-3401.

"Biodiesel blend" has the same meaning as prescribed under A.R.S. § 3-3401. Per ASTM D975, diesel fuel may contain 5 percent or less biodiesel and is not considered to be a biodiesel blend.

"Biofuel" has the same meaning as prescribed under A.R.S. § 3-3401.

"Biofuel blend" has the same meaning as prescribed under A.R.S. § 3-3401.

"Biofuel blender" means a person that modifies a motor fuel by adding a biofuel.

"Biofuel producer" means a person that owns, leases, operates, controls, or supervises a facility at which biofuel is produced.

"Biofuel Supplier" means a marketer or jobber of a biofuel or biofuel blend.

"Biomass" has the same meaning as prescribed under A.R.S. § 3-3401.

"Biomass-based diesel" has the same meaning as prescribed under A.R.S. § 3-3401.

"Biomass-based diesel blend" has the same meaning as prescribed under A.R.S. § 3-3401.

"Blendstock" means any liquid compound that is blended with another liquid compound to produce a motor fuel, including Arizona CBG. A deposit-control or similar additive registered under 40 CFR 79 is not a blendstock.

"CARB" means the California Air Resources Board.

"CARBOB Model" means the procedures incorporated by reference in R3-7-702(11).

"CARB Phase 2 gasoline" means gasoline that meets the specifications incorporated by reference in R3-7-702(8).

"CBG-covered area" means a county with a population of 1,200,000 or more persons according to the most recent United States decennial census and any portion of a county within area A.

"Conventional gasoline" means gasoline that conforms to the requirements of this Chapter for sale or use in Arizona, but does not meet the requirements of Arizona CBG or AZRBOB.

"Diesel fuel" or "Diesel" has the same meaning as prescribed under A.R.S. § 3-3401. Per ASTM D975, diesel fuel may contain 5 percent or less biodiesel.

"Duplicate" means a portion of a sample that is treated the same as the original sample to determine the accuracy and precision of an analytical method.

"EPA" means the United States Environmental Protection Agency.

"EPA waiver" means a waiver granted by the Environmental Protection Agency as described in "Waiver Requests under Section 211(f) of the Clean Air Act," which is incorporated by reference in R3-7-702.

"Ethanol flex fuel" has the same meaning as prescribed under A.R.S. § 3-3401.

"Final destination" means the name and address of the location to which a transferee will deliver motor fuel for further distribution or final consumption.

"Final distribution facility" means a stationary motor-fuel transfer point at which motor fuel or AZRBOB is transferred into a cargo tank truck, pipeline, or other delivery vessel from which the motor fuel or AZRBOB will be delivered to a motor-fuel dispensing site. A cargo tank truck is a final distribution facility if the cargo tank truck transports motor fuel or AZRBOB and carries documentation that the type and amount or range of amounts of oxygenates designated by the registered supplier will be or have been blended directly into the cargo tank truck before delivery of the resulting motor fuel to a motor-fuel dispensing site.

"Fleet" means at least 25 motor vehicles owned or leased by the same person.

"Fleet vehicle fueling facility" means a facility or location where a motor fuel is dispensed for final use by a fleet.

"Fuel ethanol" means denatured ethanol that meets the requirements in ASTM D4806, which is incorporated by reference in R3-7-702.

"Gasoline" has the same meaning as prescribed under A.R.S. § 3-3401.

"Isobutanol" means butanol isomer 2-methyl-1-propanol that meets the requirements in ASTM D7862, which is incorporated by reference in R3-7-702.

"Jobber" means a person that distributes a motor fuel from a bulk storage plant to the owner or operator of a UST or AST or purchases a motor fuel from a terminal for distribution to the owner or operator of a UST or AST.

"Manufacturer's proving ground" has the same meaning as prescribed under A.R.S. § 3-3401.

"Marketer" means a person engaged in selling or offering for sale motor fuels.

"Motor Fuel" has the same meaning as prescribed under A.R.S. § 3-3401.

"Motor fuel dispensing site" means a facility or location where a motor fuel is dispensed into commerce for final use.

"Motor fuel property" means any characteristic listed in R3-7-751(A)(1) through (7), R3-7-751(B)(1) through (7), Table 1, Table 2, or any other motor fuel standard referenced in this Article.

"Motor vehicle" means a vehicle equipped with a spark-ignited or compression-ignition internal combustion engine except:

A vehicle that runs on or is guided by rails, or

A vehicle designed primarily for travel through air or water.

"Motor vehicle racing event" has the same meaning as prescribed under A.R.S. § 3-3401.

"MTBE" means methyl tertiary butyl ether.

"Neat" means pure or 100 percent.

"NOx" means oxides of nitrogen.

"Octane," "octane number," or "octane rating" mean the anti-knock characteristic of gasoline as determined by the resultant arithmetic test average of ASTM D2699 and ASTM D2700.

"Oxygenate" has the same meaning as prescribed under A.R.S. § 3-3401.

"Oxygenate blender" means a person that owns, leases, operates, controls, or supervises an oxygenate-blending facility, or that owns or controls the blendstock or gasoline used, or the gasoline produced, at an oxygenate-blending facility.

"Oxygen content" means the percentage by weight of oxygen contained in a gasoline oxygenate blend as determined under ASTM D4815.

"Pipeline" means a transporter that owns or operates an interstate common-carrier pipe or is subject to Federal Energy Regulatory Commission tariffs to transport motor fuels into Arizona.

"Premium Diesel" means a diesel fuel meeting the requirements in ASTM D975 and in Handbook 130, Uniform Engine Fuels and Automotive Lubricants Regulations, Section 2.2.1(a) through 2.2.1(d).

"Producer" means a refiner, blender, or other person that produces a motor fuel, including Arizona CBG or AZRBOB.

"Production facility" means a facility at which a motor fuel, including Arizona CBG or AZRBOB, is produced. Upon request of a producer, the associate director may designate, as part of the producer's production facility, a physically separate bulk storage facility that:

Is owned or leased by the producer;

Is operated by or at the direction of the producer; and

Is used to store or distribute motor fuels, including Arizona CBG or AZRBOB, that are supplied only from the production facility.

"Product transfer document" has the same meaning as prescribed under A.R.S. § 3-3401.

"Refiner" means a person that owns, leases, operates, controls, or supervises a refinery in the United States, including its trust territories.

"Refinery" means a facility that produces a liquid fuel, including Arizona CBG or AZRBOB, by distilling petroleum, or a transmix facility that produces a motor fuel offered for sale or sold into commerce as a finished motor fuel.

"Reproducibility" means the testing method margin of error as provided in the ASTM specification or other testing method required under this Article.

"Supply" means to provide or transfer motor fuel to a physically separate facility, vehicle, or transportation system.

"Terminal" means an owner or operator of a motor fuel storage tank facility that accepts custody, but not necessarily ownership, of a motor fuel from a registered supplier, oxygenate blender, pipeline, or other terminal and relinquishes custody of the motor fuel to a transporter or another terminal.

"Test result" means any document that contains a result of testing including all original test measures, all subsequent test measures that are not identical to the original test measure, and all worksheets on which calculations are performed.

"Transferee" means a person that receives title to or custody of a motor fuel.

"Transferor" means a person that relinquishes title to or custody of a motor fuel to a transporter, marketer, jobber, or motor fuel dispensing site.

"Transmix" means a mixture of petroleum distillate fuel and gasoline that does not meet the Arizona standards for either petroleum distillate fuels or gasoline.

"Transmix facility" means a facility at which transmix is processed into its components and then the components either are combined with a finished product or further processed to produce a finished motor fuel.

"Transporter" means a person that causes motor fuels, including Arizona CBG or AZRBOB, to be transported into or within Arizona.

"UST" means underground storage tank.

"Vapor pressure" means dry vapor pressure equivalent of gasoline or blendstock as measured according to ASTM D5191.

"Vehicle emissions control area" has the same meaning as prescribed under A.R.S. § 3-3401.

"VOC" means volatile organic compound.

Historical Note

New Section R3-7-701 recodified from Section R20-2-701 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-702. Material Incorporated by Reference

A. The following documents are incorporated by reference and on file with the Division. The documents incorporated by reference contain no future editions or amendments.

1. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 14, 2016 Edition, Government Publishing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.
2. API Recommended Practice 1637 (API RP 1637), "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals," published July 2006, Reaffirmed May 2012, American Petroleum Institute (API), 6300 Interfirst Drive, Ann Arbor, MI, 48108.
3. ASTM Standard D975, 2016a (ASTM D975- 16a), "Standard Specification for Diesel Fuel Oils," published 2016, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
4. ASTM Standard D4806, 2016a (ASTM D4806- 16a), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," published 2016, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
5. ASTM Standard D4814, 2016ee1 (ASTM D4814-16ee1), "Standard Specification for Automotive Spark-Ignition Engine Fuel," published 2016, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
6. Waiver Requests under Section 211(f) of the Clean Air Act, (August 22, 1995 edition), United States Environmental Protection Agency, Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code 6406-J, Washington, D.C. 20460.
7. ASTM Standard D5798, 2015 (ASTM D5798- 15), "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines," published 2015, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
8. ASTM Standard D6751, 2015ce1 (ASTM D6751-15ce1), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," published 2015, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
9. ASTM Standard D7862, 2017 (ASTM D7862-17), "Standard Specification for Butanol for Blending with Gasoline for Use as Automotive Spark-Ignition Engine Fuel," published 2017, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
10. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," adopted April 20, 1995. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
11. The Federal Complex Model contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: Government Publishing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.
12. California Air Resources Board, The California Reformulated Gasoline Regulations, Title 13, California Code of Regulations, Section 2266.5 (Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending), as of April 9, 2005. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
13. California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
14. ASTM Standard D7467, 2015ce1 (ASTM D7467-15ce1), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published 2015, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
15. SAE International, SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines," published May 5, 2012, SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001 or www.sae.org.

B. Subsection (A)(11) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Historical Note

New Section R3-7-702 recodified from Section R20-2-702 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers

A. After completing an inspection, the Division shall return all motor fuel to the owner or operator of a motor fuel dispensing site at the site where the Division collected the motor fuel.

B. After completing an inspection, if a motor fuel cannot be returned to the owner or operator of a motor fuel dispensing site at the site where the Division collected the motor fuel, the Division shall transport the motor fuel to another site of the

owner or operator's choice and within a 20-mile radius of the inspection site.

Historical Note
New Section R3-7-703 recodified from Section R20-2-703 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-704. Motor Fuel Dispensing Site Price and Grade Posting on External Signs

A. A person who owns or operates a motor fuel dispensing site that has an external sign shall ensure that the sign:
1. Identifies whether the price differs depending on whether the payment is cash, credit, or debit;
2. Identifies the self-service and full-service prices, if different;
3. Discloses the full price of motor fuel including fractions of a cent and all federal and state taxes, if the sign displays the motor fuel price. A decimal point shall be used in the displayed price when a dollar sign precedes the posted price;
4. Displays lettering at a height of at least 1/5 of the letter height of the motor fuel price displayed on the external sign or 2 1/2", whichever is larger, and is visible from the road;
5. States the terms of any condition if the displayed price is conditional upon the sale of another product or service. The terms of any condition shall comply with the letter height requirement in subsection (A)(4);
6. Describes the motor fuel that meets ASTM D975 as No. 1 Diesel, #1 Diesel, No. 2 Diesel, #2 Diesel, or premium diesel. Describes other fuel for use in compression ignition engines as biodiesel, or biodiesel blend. Diesel fuel No. 2 may be labeled on dispensers as diesel fuel without indication of the fuel grade;
7. Describes motor fuel with an ethanol concentration of 51 to 83 volume percent as ethanol flex fuel;
8. Identifies the unit of measure of the price, if it is other than per gallon; and
9. Sites that sell Ethanol Flex Fuel previously labeled as "E-85" shall update the signage to reflect the sale of Ethanol Flex Fuel no later than January 1, 2018. In no case shall signage with an incorrect ethanol content be advertised at the motor fuel dispensing site.

B. For the following terms used on a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index as determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method:

	Term	Minimum Antiknock Index
1.	Regular, Reg, Unleaded, UNL, or UL	87
2.	Midgrade, Mid, or Plus	89
3.	Premium, PREM, Super, Supreme, High, or High Performance	91

C. A person may use an alternative to the descriptions provided in subsection (B) upon receipt of written approval by the associate director.

Historical Note
New Section R3-7-704, including Table, Antiknock Index, recodified from Section R20-2-704 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-705. Dispenser Labeling at Motor Fuel Dispensing Sites

The owner or operator of a motor fuel dispensing site shall label dispensers in accordance with the following provisions:

A. Pricing, motor fuel grade, octane rating, and lead substitute. A motor fuel dispensing station owner or operator shall ensure that information regarding pricing, motor fuel grade, octane rating, and lead-substitute addition displayed on a motor fuel dispenser:
1. Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes;
2. Displays the highest price of motor fuel sold from the dispenser prior to any deliberate action of the customer resulting in a discounted price being displayed, provided the dispenser is capable of dispensing and computing the price of motor fuel at more than one price;
3. Complies with the requirements of R3-7-704(A)(1), (A)(2), (A)(3), (A)(5), (A)(6), (A)(7), (A)(8), (A)(9) and (B).
4. Displays the octane rating of each grade of gasoline;
5. Displays the signs required by Handbook 130 for motor fuel dispensers that dispense gasoline with lead substitute, in letters at least 1/4" in height; and
6. Sites that sell ethanol flex fuel previously labeled as "E-85" shall update the signage to reflect the sale of ethanol flex fuel no later than January 1, 2018. In no case shall signage with an incorrect ethanol content be advertised at the motor fuel dispensing site.

B. All motor fuels shall meet the labeling requirements of 16 CFR 306. Additionally, the following requirements apply:
1. Gasoline containing fuel ethanol.
   a. Gasoline containing greater than 1.5 percent by weight oxygen or 4.3 percent by volume fuel ethanol shall be labeled with the following statement to indicate the maximum percent by volume of fuel ethanol contained in the gasoline: "May contain up to ____ % fuel ethanol."
   b. Within the CBG-covered area and area B, gasoline containing fuel ethanol shall be labeled with the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles."
   c. Gasoline for sale outside of the CBG-covered area with an ethanol content greater than 10 volume percent and less than or equal to 15 volume percent shall additionally be labeled in accordance with 40 CFR 80.1501, as it existed on July 18, 2014, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.
2. Gasoline containing an oxygenate other than fuel ethanol. Gasoline containing greater than 1.5 percent by weight shall be labeled with the following statement to indicate the type and maximum percent by volume of oxygenate contained in the gasoline: "May contain up to ____ % _____."
3. The labels in subsection B(1) and (B)(2) shall be printed in black and white block letters on a sharply contrasting background with lettering no smaller than ¼ inch. The

statements in subsection (B)(1)(i) and (B)(1)(ii) may be printed on the same label or on separate labels if the statements are displayed next to each other.

4. Non-oxygenated gasoline. It is prohibited to label a dispenser as containing no oxygenate if the gasoline contains more than 0.5 percent by volume of any oxygenates.
5. Biodiesel blends. The diesel grade component as contained within ASTM D975 for grades other than No. 2 diesel shall be identified.

C. Unattended retail motor fuel dispensers. In addition to all labeling and sign requirements in this Article, the owner or operator of a motor fuel dispensing site that is unstaffed shall post on or next to each motor fuel dispenser a sign or label, in public view, that conspicuously lists the owner's or operator's name, address, and telephone number.

D. All dispensers shall have a decal that contains the Division's name and phone number. A template of the decal shall be placed on the Weights and Measures Services Division website for use by retailers. The seal placed by the Division under A.R.S. § 3-3414(A)(13) satisfies this requirement.

E. All labels required under this section shall be in the upper 50 percent of the front panel of each motor fuel dispenser and shall be clean, legible, and visible at all times.

Historical Note

New Section R3-7-705 recodified from Section R20-2-705 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-706. Repealed

Historical Note

New Section R3-7-706 recodified from Section R20-2-706 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Repealed by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB

A. When a transferor transfers custody or title to a motor fuel that is not Arizona CBG or AZRBOB, and the motor fuel is not sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following information:

1. The grade of the motor fuel;
2. The volume of each grade of motor fuel being transferred;
3. The date of the transfer;
4. Product transfer document number;
5. For conventional gasoline, the minimum octane rating of each grade as prescribed by 16 CFR 306;
6. For conventional gasoline, the type and maximum volume of oxygenate contained in each grade;
7. For conventional gasoline transported in or through the CBG-covered area, the statement, "This gasoline is not intended for use inside the CBG-covered area";
8. If a lead substitute is present in the gasoline, the type of lead substitute present;
9. For the following biofuel or biofuel blends;
   a. Ethanol Flex Fuel shall contain a declaration of the volume percent of ethanol in the blend; or
   b. Biodiesel and biomass-based diesel blends containing more than 5 percent biodiesel or biomass-based diesel shall contain a declaration of the volume percent biodiesel or biomass-based diesel in the blend, as well as the grade of diesel in the blend; and
   c. All other biofuel or biofuel blends shall contain the percentage of biofuel in the finished product.
10. The final destination:
   a. When a terminal is the transferor, the owner or operator of the terminal shall include on the product transfer document the terminal name and address and the transporter name and address;
   b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
   c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.

B. To enable a transferor to comply fully with the requirement in subsection (A)(10)(b) and (A)(10)(c), the transferee shall supply to the transferor information regarding the final destination.

C. A registered supplier, third-party terminal, or pipeline may use standardized product codes on pipeline tickets as the product transfer documentation.

D. A person identified in subsection (A) shall retain product transfer documentation for each shipment delivered for 12 months. This documentation shall be available within two working days from the time of the Division's request.

E. A person identified in subsection (A) shall maintain product transfer documentation for a transfer or delivery during the preceding 30 days at that person's address listed on the product transfer documentation.

F. An owner or operator of a motor fuel dispensing site or fleet owner shall maintain product transfer documentation for the three most recent deliveries of each grade of motor fuel on the premises of the motor fuel dispensing site owner or operator or fleet owner. This documentation shall be available for Division review.

G. The Division shall accept a legible photocopy of a product transfer document instead of the original.

H. A person transferring custody or title of Arizona CBG or AZRBOB shall comply with R3-7-757.

Historical Note

New Section R3-7-707 recodified from Section R20-2-707 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-708. Gasoline Oxygenate Blends

A. A person that has custody of gasoline blended with an oxygenate shall ensure that the amount of oxygenate does not exceed the amount allowed by EPA waivers, Section 211(f) of the Clean Air Act, and A.R.S. § 3-3491.

B. Special provisions for gasoline ethanol blends.

1. A gasoline ethanol blend that meets the requirements in subsections (B)(1)(a) and (b) shall not exceed the vapor pressure specified in ASTM D4814 by more than 1 psi:
   a. The concentration of the ethanol, excluding the required denaturing agent, shall be:
      i. From May 1 through September 15, at least nine percent and no more than 10 percent by volume of the gasoline ethanol blend; and
      ii. From September 16 through April 30, at least 1.5 percent by weight and no more than 10 per-

cent by volume of the gasoline ethanol blend; and

b. The ethanol content of the gasoline ethanol blend shall:

i. Be determined using the appropriate test method listed in ASTM D4814, and

ii. Not exceed any applicable waiver condition under Section 211(f) of the Clean Air Act.

2. The provision in subsection (B)(1) is effective for gasoline ethanol blends sold:

a. Outside the CBG-covered area year around, and

b. Within the CBG-covered area during April.

3. Gasoline blended with no more than 10 percent by volume of fuel ethanol shall be blended using one of the following alternatives:

a. The base gasoline complies with the standards in ASTM D4814, the fuel ethanol complies with the standards in ASTM D4806, and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:

i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and

ii. The minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived;

b. The finished blend complies with the standards in ASTM D4814; or

c. The base gasoline complies with the standards in ASTM D4814 except distillation and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:

i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and

ii. The minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived.

4. A gasoline ethanol blend shall meet the standards specified in ASTM D4814.

C. In addition to complying with the requirements in R3-7-707, the transferor of an oxygenated gasoline blend shall ensure that the product transfer document contains a legible and conspicuous statement that the gasoline being transferred contains an oxygenate and lists the type and percentage concentration of the oxygenate.

D. Nothing in this subsection shall preclude the sale of gasoline with an ethanol content greater than 10 percent by volume and less than or equal to 15 percent by volume of ethanol outside of the CBG-covered area.

Historical Note

New Section R3-7-708 recodified from Section R20-2-708 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-709. Repealed

Historical Note

New Section R3-7-709 recodified from Section R20-2-709 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Repealed by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-710. Blending Requirements

A. A person that has custody of or transports an oxygenated gasoline blend shall ensure that no neat oxygenate blending occurs at a motor fuel dispensing site or fleet vehicle fueling facility.

B. If a motor fuel dispensing site storage tank contains an oxygenated gasoline blend that does not contain the amount of oxygen required by A.R.S. §§ 3-3491, 3-3492, 3-3495, or R3-7-751, the owner or operator of the motor fuel dispensing site shall do one of the following:

1. Add a gasoline blend that dilutes the non-compliant oxygenated gasoline blend to the level of oxygen content required by A.R.S. §§ 3-3491, 3-3492, 3-3495, or R3-7-751;

2. Empty the storage tank and replace the non-compliant oxygenated gasoline blend with a required oxygenate blend;

3. Upon written permission of the associate director, add gasoline that contains no more than 20 percent by volume of the same oxygenate to the non-compliant oxygenated gasoline blend.

Historical Note

New Section R3-7-710 recodified from Section R20-2-710 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-711. Gasoline-Alcohol Blend Storage Tank Requirements

A. Before a person adds the initial gasoline-alcohol blend into a storage tank, the person shall:

1. Test the storage tank for the presence of water and, if any water is detected, remove the water from the storage tank; and

2. Install a fuel filter designed for use with gasoline-alcohol blends in the fuel line of all motor fuel dispensers that dispense gasoline-alcohol blends.

B. If water is detected in a storage tank containing a gasoline-alcohol blend, the owner or operator shall empty the storage tank.

Historical Note

New Section R3-7-711 recodified from Section R20-2-711 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-712. Water in Motor Fuel Dispensing Site Storage Tanks

A motor fuel dispensing site owner or operator shall ensure that water in a motor fuel storage tank other than an alcohol gasoline blend, does not exceed 1" in depth when measured from the bottom through the fill pipe. The owner or operator shall remove all water from the tank before delivery or sale of motor fuel from that tank.

Historical Note

New Section R3-7-712 recodified from Section R20-2-712 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-713. Motor Fuel Storage Tank Labeling

A. An owner or operator of a motor fuel dispensing site shall ensure that all motor fuel storage tank fill pipes and gasoline vapor return lines located at the motor fuel dispensing site are labeled to identify the contents accurately as:

1. Unleaded gasoline,

2. Unleaded midgrade gasoline,

3. Unleaded premium gasoline,

4. No. 1 or #1 diesel fuel,

5. No. 2, #2 diesel fuel, or diesel fuel,
6. Premium diesel,
7. Gasoline vapor return,
8. Biodiesel or biodiesel blend, for blends containing more than 5 percent by volume,
9. E85 or Ethanol flex fuel, or
10. Other fuel as designated on the product transfer document.

B. An owner or operator of a motor fuel dispensing site shall ensure that the label required under subsection (A) is at least 1 1/2" x 5" with at least 1/4" black or white block lettering on a sharply contrasting background and that the label is clean, visible, and legible at all times.

C. An owner or operator of a motor fuel dispensing site may display other information on the reverse side of a two-sided label.

D. An owner or operator of a motor fuel dispensing site shall not put motor fuel into storage tanks without attaching the proper label.

E. A person shall not deliver motor fuel to a motor fuel dispensing site unless the product transfer documents confirm the motor fuel is the correct type as indicated on the tank fill pipes labeled under subsection (A) or the product being delivered meets or exceeds the standards.

F. If tank manhole covers are color-coded, the color coding shall comply with API 1637.

Historical Note

New Section R3-7-713 recodified from Section R20-2-713 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-714. Additional Requirements for Motor Fuels

A. A person that owns or operates a motor fuel dispensing site, transmix, or production facility outside the CBG-covered area shall ensure that a motor fuel offered for sale meets the requirements of the applicable specifications in R3-7-702 except that the maximum vapor pressure from May 1 through September 30 shall be 9.0 pounds per square inch or as allowed under R3-7-708(B).

B. The owner or operator of a motor fuel dispensing site shall ensure that the finished gasoline is visually free of water, sediment, and suspended matter and is clear and bright at ambient temperature or 70° F (21° C), whichever is greater.

C. Prohibited activities regarding a motor fuel sold or offered for sale.

1. The owner or operator of a motor fuel dispensing site shall not sell or offer for sale from the motor fuel dispensing site storage tank a product that is not a motor fuel.
2. The owner or operator of a motor fuel dispensing site or transmix or production facility shall not sell or offer for sale a motor fuel that contains more than 0.3 volume percent MTBE or more than 0.1 weight percent oxygen from all other ethers or alcohols as listed in A.R.S. § 3-3491.
3. A transporter shall not deliver to a motor fuel dispensing site or place in a motor fuel dispensing site storage tank a product that is not motor fuel.

D. Biofuels and biofuel blends. Biofuel producers, biofuel blenders, and biofuel suppliers and owners or operators of motor fuel dispensing sites shall comply with the requirements in R3-7-718.

Historical Note

New Section R3-7-714 recodified from Section R20-2-714 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-715. Motor Fuel Testing Methods and Requirements

A. Unless otherwise required in A.R.S. Title 3, Chapter 19, or this Chapter, the producer of a motor fuel shall test and certify the motor fuel for its motor fuel properties using the methodologies in R3-7-702.

B. The octane rating shall be determined and certified in accordance with 16 CFR 306 using the average of ASTM D2699 and ASTM D2700, also known as the (R+M)/2 method.

Historical Note

New Section R3-7-715 recodified from Section R20-2-715 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-716. Sampling and Access to Records

A. The Division shall obtain motor fuel samples for testing from:

1. The same motor fuel dispenser used for sales to customers;
2. The same motor fuel dispenser used for dispensing motor fuel into fleet vehicles;
3. A bulk storage facility;
4. A pipeline having custody of motor fuel, including Arizona CBG or AZRBOB;
5. A transporter of motor fuel, including Arizona CBG or AZRBOB;
6. A final distribution facility;
7. A third-party terminal having custody of motor fuel, including Arizona CBG or AZRBOB;
8. An oxygenate blender or registered supplier; or
9. A transmix or production facility.

B. An owner or operator of a motor fuel dispensing site, pipeline, third-party terminal, or storage, transmix, production, or distribution facility, or a transporter, registered supplier, or oxygenate blender shall maintain for five years records relating to producing, importing, blending, transporting, distributing, delivering, testing, or storing motor fuels, including Arizona CBG or AZRBOB, and shall make the records available for Division inspection upon request.

Historical Note

New Section R3-7-716 recodified from Section R20-2-716 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-717. Motor Fuel Dispensing Site Equipment

A. Hold-open latch. If an owner or operator of a motor fuel dispensing site has a dispensing device with a motor fuel nozzle equipped with a hold-open latch, the owner or operator shall ensure that the latch operates according to the manufacturer's specifications.

B. Nozzle requirements for diesel fuel. An owner or operator of a motor fuel dispensing site with a dispensing device from which diesel fuel is sold at retail shall ensure that the dispensing device has a nozzle spout with a diameter that conforms to SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines."

C. Motor fuel dispenser filters. An owner or operator of a motor fuel dispensing site shall ensure that:

1. All gasoline, gasoline-alcohol blends, and ethanol flex fuel dispensers have a 10 micron or smaller nominal pore-sized filter;

2. Dispensers that dispense gasoline-alcohol blends shall have fuel filters designed for use with gasoline-alcohol blends;
3. All biodiesel, biodiesel blends, diesel, and kerosene dispensers have a 30 micron or smaller nominal pore-sized filter; or
4. In the event a fuel dispenser is not manufactured to be equipped to use fuel filters, they shall be installed in line with the fuel dispensing hose at the base of the dispenser. If this is not feasible, the motor fuel dispensing site owner may provide evidence that fuel filters cannot be installed at the site due to the configuration and apply for a waiver from these requirements from the Associate Director.

D. From and after September 30, 2018, all retail diesel fuel dispensers shall be equipped with nozzles that have a green grip guard and ethanol flex fuel dispensers shall be equipped with nozzles that have a yellow grip guard. No other nozzles shall be equipment with these color grip guards.

E. Motor fuel dispensers shall meet appropriate UL ratings and be compatible with the motor fuel being dispensed.

Historical Note

New Section R3-7-717 recodified from Section R20-2-717 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-718. Additional Requirements for Production, Transport, Distribution, and Sale of Biofuels and Biofuel Blends

A. Registration and reporting requirements for biofuel blenders, biofuel producers, and biofuel suppliers of biofuel or biofuel blends in Arizona.

1. Registration requirement.
   a. A biofuel producer, biofuel supplier, or biofuel blender shall register with the associate director, using a form prescribed by the associate director, before producing or supplying biofuel or biofuel blend in Arizona.
   b. A person required to register under subsection (A)(1)(a) shall notify the associate director within 10 days after the effective date of a change in any of the information provided under subsection (A)(1)(a).
   c. If a biofuel producer, biofuel supplier, or biofuel blender fails to register under subsection (A)(1)(a), the associate director shall take action as allowed under A.R.S. § 3-3475 and R3-7-762.
   d. The Division shall maintain and make available to the public a list of all persons registered under this Section.
2. Reporting requirement.
   a. A person required to register under subsection (A)(1)(a) shall report to the Division by January 30th of each year for the previous calendar year. The person shall:
      i. Report on a form or in a format prescribed by the associate director;
      ii. Provide the total amount of biofuel or biofuel blend produced or supplied for the previous calendar year, including the total amount of each blend component;
      iii. Attest to the truthfulness and accuracy of the information submitted; and
      iv. Ensure that the report form is signed or submitted electronically by a corporate officer, or the officer's designee, responsible for operations at the facility at or from which the biofuel or biofuel blend was produced or supplied.
   b. The Division shall classify the information submitted under subsection (A)(2)(a) as confidential and protected under A.R.S. § 44-1374 if the person that submits the information expressly designates the information as confidential.

B. Quality Assurance and Quality Control (QA/QC) program requirements.

1. A biofuel producer or biofuel blender shall implement a QA/QC program to ensure the quality of a biofuel or biofuel blend produced in or supplied in or into Arizona;
2. The QA/QC program implemented by a biofuel producer shall include the following minimum requirements:
   a. A sampling and testing program to certify that the biofuel meets applicable ASTM requirements. All samples shall be collected following addition of any applicable blend components in accordance with ASTM methods. The plan shall include a policy for sample retention;
   b. A Certificate of Analysis with a unique identification number generated for each batch produced and indicated on the product transfer document;
   c. The Certificate of Analysis required under subsection (B)(2)(b) and any other supporting sampling and testing documentation required under this Section is made available to the Division within 24 hours of a request; and
   d. Any storage tank containing biofuel that is inactive for more than 30 days is resampled and analyzed to verify the fuel meets ASTM standards.
3. The QA/QC program implemented by a biofuel blender shall include the following minimum requirements:
   a. Retention of:
      i. Documentation that demonstrates the applicable biofuel blend components were received from a facility registered with the EPA under 40 CFR 80, subpart K or M;
      ii. Certificates of Analysis for the biofuel used as a blend component in the blending process; and
      iii. Documentation such as a product transfer document that demonstrates the diesel fuel used in the blending process meets the requirements of ASTM D975;
   b. For biodiesel blending, all diesel fuel used as a blend component is analyzed to verify the biodiesel content before blending if the initial volume percent of biodiesel content in the diesel fuel component is unknown; alternatively, for biodiesel blends blended at a motor fuel dispensing site, the biofuel blender may assume the diesel contains 5% biodiesel and prepare and maintain calculations demonstrating the biodiesel content of the final biodiesel blend if it is advertised to consumers as a B6 to B20 biodiesel blend and the calculations demonstrate the biodiesel blend will be compliant with the biodiesel content advertised;
   c. Any storage tank containing biofuel that is inactive for more than 30 days is resampled and analyzed to verify the fuel meets ASTM standards; and
   d. All biodiesel used as a blend component in biodiesel blends consists of at least 99 percent biodiesel unless approved by the Division.
4. All records required under this subsection are maintained either onsite or at an offsite location for at least five years and made available to the Division upon request.
5. In the event the Division identifies biofuel or biofuel blends that do not meet ASTM requirements, the pro-

ducer or biofuel blender shall evaluate the QA/QC program and make any additional changes that may be required to bring the fuel into compliance.

C. Ethanol flex fuel sold or offered for sale within the CBG-covered area shall:
1. Use fuel ethanol that meets the standards in this Chapter, and
2. Have a maximum vapor pressure that does not exceed the maximum vapor pressure requirements in R3-7-751(A)(6).

D. Requirements for motor fuel dispensing sites. The owner or operator of a motor fuel dispensing site at which ethanol flex fuel is dispensed shall ensure that any ethanol flex fuel, biodiesel or biodiesel blend sold, offered or exposed for sale, or dispensed was received from and traceable to a person registered with the Division under subsection (A)(1) and the Environmental Protection Agency under 40 CFR 80, subparts K or M.

E. Exemptions.
1. A biofuel producer, biofuel supplier, or biofuel blender located outside of Arizona and supplying biofuel to a registered biofuel producer, biofuel supplier, or biofuel blender located within Arizona is not required to register under subsection (A)(1)(a);
2. Diesel fuel containing five percent by volume or less biodiesel is exempt from this Section if the following conditions are met:
   a. The diesel fuel meets the standards of ASTM D975; and
   b. If the initial volume percent of biodiesel content is unknown, the person blending the biodiesel into diesel fuel analyzes the diesel fuel to verify the initial biodiesel content and ensure the resulting blend meets the requirements in ASTM D975.
3. A biofuel producer, biofuel supplier, or biofuel blender who produces, supplies, or blends diesel fuel blended with a biomass-based diesel where the resulting fuel meets the requirements in ASTM D975 is exempt from this section.
4. Gasoline containing up to 10 percent ethanol is exempt from this section.

Historical Note
New Section R3-7-718 recodified from Section R20-2-718 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-719. Repealed

Historical Note
Repealed Section R3-7-719 recodified from repealed Section R20-2-719 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-720. Renumbered

Historical Note
Renumbered Section R3-7-720 recodified from renumbered Section R20-2-720 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-721. Renumbered

Historical Note
Renumbered Section R3-7-721 recodified from renumbered Section R20-2-721 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-722. Reserved

Historical Note
Reserved Section R3-7-722 recodified from reserved Section R20-2-722 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-723. Reserved

Historical Note
Reserved Section R3-7-723 recodified from reserved Section R20-2-723 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-724. Reserved

Historical Note
Reserved Section R3-7-724 recodified from reserved Section R20-2-724 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-725. Reserved

Historical Note
Reserved Section R3-7-725 recodified from reserved Section R20-2-725 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-726. Reserved

Historical Note
Reserved Section R3-7-726 recodified from reserved Section R20-2-726 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-727. Reserved

Historical Note
Reserved Section R3-7-727 recodified from reserved Section R20-2-727 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-728. Reserved

Historical Note
Reserved Section R3-7-728 recodified from reserved Section R20-2-728 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-729. Reserved

Historical Note
Reserved Section R3-7-729 recodified from reserved Section R20-2-729 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-730. Reserved

Historical Note
Reserved Section R3-7-730 recodified from reserved Section R20-2-730 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-731. Reserved

Historical Note
Reserved Section R3-7-731 recodified from reserved Section R20-2-731 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-732. Reserved

Historical Note
Reserved Section R3-7-732 recodified from reserved Section R20-2-732 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-733. Reserved

Historical Note
Reserved Section R3-7-733 recodified from reserved Section R20-2-733 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-734. Reserved

Historical Note
Reserved Section R3-7-734 recodified from reserved Section R20-2-734 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-735. Reserved

Historical Note
Reserved Section R3-7-735 recodified from reserved Section R20-2-735 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-736. Reserved

Historical Note
Reserved Section R3-7-736 recodified from reserved Section R20-2-736 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-737. Reserved

Historical Note
Reserved Section R3-7-737 recodified from reserved Section R20-2-737 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-738. Reserved

Historical Note
Reserved Section R3-7-738 recodified from reserved Section R20-2-738 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-739. Reserved

Historical Note
Reserved Section R3-7-739 recodified from reserved Section R20-2-739 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-740. Reserved

Historical Note
Reserved Section R3-7-740 recodified from reserved Section R20-2-740 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-741. Reserved

Historical Note
Reserved Section R3-7-741 recodified from reserved Section R20-2-741 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-742. Reserved

Historical Note
Reserved Section R3-7-742 recodified from reserved Section R20-2-742 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-743. Reserved

Historical Note
Reserved Section R3-7-743 recodified from reserved Section R20-2-743 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-744. Reserved

Historical Note
Reserved Section R3-7-744 recodified from reserved Section R20-2-744 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-745. Reserved

Historical Note
Reserved Section R3-7-745 recodified from reserved Section R20-2-745 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-746. Reserved

Historical Note
Reserved Section R3-7-746 recodified from reserved Section R20-2-746 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-747. Reserved

Historical Note
Reserved Section R3-7-747 recodified from reserved Section R20-2-747 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-748. Reserved

Historical Note
Reserved Section R3-7-748 recodified from reserved Section R20-2-748 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-749. Definitions Applicable to Arizona CBG and AZRBOB

The following definitions apply only to R3-7-750 through R3-7-762, including Tables A, 1, and 2:

"Designated alternative limit" means a motor fuel property specification, expressed in the nearest part per million by weight for sulfur content, nearest 10th percent by volume for aromatic hydrocarbon content, nearest 10th percent by volume for olefin content, and nearest degree Fahrenheit for T90 and T50, that is assigned by a registered supplier to a final blend of Type 2 Arizona CBG or AZRBOB for purposes of compliance with the Predictive Model Procedures.

"Downstream oxygenate blending" means combining AZRBOB and an oxygenate to produce fungible Arizona CBG.

"Importer" means any person that assumes title or ownership of Arizona CBG or AZRBOB produced by an unregistered supplier.

"Oxygenate-blending facility" means any location (including a truck) where an oxygenate is added to Arizona CBG or AZRBOB and the resulting quality or quantity of Arizona CBG is not altered in any other manner except for the addition of a deposit-control or similar additive registered under 40 CFR 79.

"Oxygenated Arizona CBG" means Arizona CBG with a maximum oxygen content of 4.0 wt. percent or another oxygen content approved by the associate director under A.R.S. § 3-3493, that is produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles in the CBG-covered area from November 1 through March 31 of each year.

"Performance standard" means the VOC and NOx emission reduction percentages in R3-7-751(A)(8) and Table 1.

"PM" or "Predictive Model Procedures" means the California Predictive Model and CARB's "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformu-

lated Gasoline Using the California Predictive Model," as adopted April 20, 1995, which is incorporated by reference in R3-7-702.

"PM alternative gasoline formulation" means a final blend of Arizona CBG or AZRBOB that is subject to a set of PM alternative specifications.

"PM alternative specifications" means the specifications for the following fuel properties, as determined using a testing methodology in R3-7-759:

Maximum vapor pressure, expressed in the nearest 100th of a pound per square inch;

Maximum sulfur content, expressed in the nearest part per million by weight;

Maximum olefin content, expressed in the nearest 10th of a percent by volume;

Minimum and maximum oxygen content, expressed in the nearest 10th of a percent by weight;

Maximum T50, expressed in the nearest degree Fahrenheit;

Maximum T90, expressed in the nearest degree Fahrenheit; and

Maximum aromatic hydrocarbon content, expressed in the nearest 10th of a percent by volume.

"PM averaging compliance option" means, with reference to a specific fuel property, the compliance option for PM alternative gasoline formulations by which final blends of Arizona CBG and AZRBOB are assigned designated alternative limits under R3-7-751(G), (H), and (I).

"PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.

"PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.

"PM flat limit compliance option" means, with reference to a specific fuel property, the compliance option that each gallon of gasoline must meet for that specified fuel property as contained in the PM alternative specifications.

"Produce" means:

Except as otherwise provided, to convert a liquid compound that is not Arizona CBG or AZRBOB into Arizona CBG or AZRBOB.

If a person blends a blendstock that is not Arizona CBG or AZRBOB with Arizona CBG or AZRBOB acquired from another person, and the resulting blend is Arizona CBG or AZRBOB, the person conducting the blending produces only the portion of the blend not previously Arizona CBG or AZRBOB. If a person blends Arizona CBG or AZRBOB with other Arizona CBG or AZRBOB in accordance with this Article, without the addition of a blendstock that is not Arizona CBG or AZRBOB, that person is not a producer of Arizona CBG or AZRBOB.

If a person supplies Arizona CBG or AZRBOB to a refiner that agrees in writing to further process the Arizona CBG or AZRBOB at the refiner's refinery and be treated as the producer of Arizona CBG or AZRBOB, the refiner is the producer of the Arizona CBG or AZRBOB.

If an oxygenate blender blends oxygenates into AZRBOB supplied from a gasoline production or import facility, and does not alter the quality or quantity of the AZRBOB or the quality or quantity of the resulting Arizona CBG certified by a registered supplier in any other manner except for the addition of a deposit-control or similar additive, the producer or importer of the AZRBOB, rather than the oxygenate blender, is considered the producer or importer of the full volume of the resulting Arizona CBG.

"Registered supplier" means a producer or importer that supplies Arizona CBG or AZRBOB and is registered with the associate director under R3-7-750.

"Third-party terminal" means an owner or operator of a gasoline storage tank facility that accepts custody, but not ownership, of Arizona CBG or AZRBOB from a registered supplier, oxygenate blender, pipeline, or other third-party terminal and relinquishes custody of the Arizona CBG or AZRBOB to a transporter or other terminal.

"Type 1 Arizona CBG" means a gasoline that meets the standards contained in R3-7-751(A) and Table 1.

"Type 2 Arizona CBG" means a gasoline that meets the standards contained in Table 2 or is certified using the PM according to the requirements of R3-7-751(G), (H), and (I), and meets the requirements in:

R3-7-751(A) beginning April 1 through October 31 of each year, and

R3-7-751(B) beginning November 1 through March 31 of each year.

"Winter" means November 1 through March 31.

Historical Note

New Section R3-7-749 recodified from Section R20-2-749 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-750. Registration Relating to Arizona CBG or AZRBOB

A. Each of the following shall register with the associate director before producing, importing, or obtaining custody of Arizona CBG or AZRBOB:
1. A refiner that produces Arizona CBG or AZRBOB;
2. An importer that imports Arizona CBG or AZRBOB;
3. An oxygenate blender that blends oxygenate with AZRBOB to produce Arizona CBG; or
4. A pipeline or third-party terminal that has custody of Arizona CBG or AZRBOB.

B. A person listed in subsection (A) shall register on a form prescribed by the associate director and include the following information:
1. Business name, business address, and contact name or position title and telephone number;
2. For each refinery or oxygenate blending facility, the facility name, physical location, contact name or position title and telephone number, and type of facility;
3. For each refinery, oxygenate blending facility, or importer:
   a. The location of the records required under this Article. If records are kept off-site, the primary off-site storage facility name, physical location, and contact name or position title and telephone number; and

b. If an independent laboratory is used to meet the requirements of R3-7-752(F), the name and address of the independent laboratory, and contact name or position title and telephone number;

4. If required under 40 CFR 80.76(d), the EPA registration number; and
5. A statement of consent permitting the Division or its authorized agent to collect samples and access records as provided in R3-7-716.

C. A person registered under subsection (B) shall notify the associate director within 10 days after the effective date of a change in any of the information provided under subsection (B).

D. If a refiner, importer, or oxygenate blender fails to register under this Section, all Arizona CBG or AZRBOB produced by the refiner or oxygenate blender or imported by the importer and transported to the CBG-covered area is presumed to be noncompliant from the date that registration should have occurred.

E. The Division shall maintain a list of all registered suppliers.

Historical Note

New Section R3-7-750 recodified from Section R20-2-750 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-751. Arizona CBG Requirements

A. General fuel property and performance requirements. In addition to the other requirements of this Article and except as provided in subsection (B), all Arizona CBG shall meet the following requirements and for any fuel property not specified, shall meet the requirements in ASTM D4814. The dates in this subsection are compliance dates for the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility.

1. Sulfur: 95 ppm by weight (max).
2. Aromatics: 50 percent by volume (max).
3. Olefins: 25 percent by volume (max).
4. E200: 70-30 percent volume.
5. E300: 100-70 percent volume.
6. Maximum vapor pressure:
   a. October: 9.0 psi.
   b. November 1 - March 31: 9.0 psi.
   c. April: 10.0 psi.
   d. May: 9.0 psi.
   e. June 1 - September 30: 7.0 psi.
   f. A gasoline ethanol blend in the CBG-covered area is subject to the 1 psi vapor pressure waiver, as described in R3-7-708(B), during April only.
7. Oxygen and oxygenates:
   a. Minimum content:
      i. November 1 - March 31: 10 percent fuel ethanol by volume or 12.5 percent isobutanol by volume. If A.R.S. § 3-3493(C) petition in effect: 2.7 percent oxygen by weight as approved by the associate director.
      ii. April 1 - October 31: 0 percent by weight (any oxygenate).
   b. The maximum oxygen content shall not exceed 4.0 percent by weight for fuel ethanol and shall not exceed the amount allowed by EPA waivers under Section 211(f) of the Clean Air Act for other oxygenates. Additionally, the oxygen content shall comply with the requirements of A.R.S. § 3-3491 and § 3-3492.
   c. Arizona CBG shall not contain more than 0.3 volume percent MTBE nor more than 0.1 weight percent oxygen from all other ethers or alcohols listed in A.R.S. § 3-3491.
8. Type 1 Arizona CBG shall meet the Federal Complex Model VOC emissions reduction percentage May 1 through September 15: 27.5 percent (Federal Complex Model settings: Summer, Area Class B, Phase 2). Type 2 Arizona CBG shall meet CARB Phase 2 requirements.

B. Wintertime requirements. In addition to the other requirements of this Article, the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility shall ensure that beginning November 1 through March 31 of each year, all Arizona CBG meets the following fuel property requirements.

1. Sulfur: 80 ppm by weight (max),
2. Aromatics: 30% by volume (max),
3. Olefins: 10% by volume (max),
4. 90% Distillation Temp. (T90): 330° F (max),
5. 50% Distillation Temp. (T50): 220° F (max),
6. Vapor Pressure: 9.0 psi (max), and
7. Oxygenate;
   a. Minimum oxygenate content - 10 percent fuel ethanol by volume or 12.5 percent isobutanol by volume;
   b. Maximum oxygen content - 4.0 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 3-3492; and
   c. Alternative minimum fuel ethanol or isobutanol content may be used if approved by the associate director under A.R.S. § 3-3493(C).

C. Fuel ethanol and other oxygenate specifications. A person that uses fuel ethanol or other oxygenates as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol or other oxygenates meet the following requirements:

1. A sulfur content not exceeding 10 ppm by weight;
2. The fuel ethanol or other oxygenate must be composed solely of carbon, hydrogen, nitrogen, oxygen, and sulfur;
3. For fuel ethanol, only gasoline previously certified under 40 CFR Part 80 (including previously certified blendstocks for oxygenate blending), gasoline blendstocks, or natural gas liquids may be used as denaturants; and
4. For fuel ethanol, the concentration of all denaturants is limited to a maximum of 3.0 volume percent.

D. General elections. Except as provided in subsection (E), a registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the associate director on a form or in a format prescribed by the associate director. The election shall state:

1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with Type 1 Arizona CBG, Type 2 Arizona CBG, or the PM alternative gasoline formulation requirements and, if the registered supplier will supply Arizona CBG or AZRBOB that complies with the PM alternative gasoline formulation requirements, whether the registered supplier will certify using the CARB Phase 2 model; and
2. For each applicable fuel property or performance standard in the election under subsection (D)(1), whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards. A registered supplier shall not elect to comply with average standards unless the registered supplier is in compliance with R3-7-760. A

registered supplier shall not elect to comply with Type 1 Arizona CBG average standards in Table 1, columns B and C, from September 16 through October 31 and February 1 through April 30.

E. Winter elections. Beginning November 1 through March 31 of each year, a registered supplier shall ensure that all Arizona CBG or AZRBOB complies with Type 2 Arizona CBG requirements or the PM alternative gasoline formulation requirements under Table 2. A registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the associate director on a form or in a format prescribed by the associate director. The election shall state:

1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with the Type 2 Arizona CBG or the PM alternative gasoline formulation requirements; and
2. For each applicable fuel property, whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards.

F. A registered supplier may elect and produce Type 1 Arizona CBG from December 1 through March 31 but the registered supplier shall not distribute the Arizona CBG to a motor fuel dispensing site within the CBG-covered area before April 1.

G. Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. A registered supplier shall certify Arizona CBG or AZRBOB under R3-7-752 as meeting all requirements of the election made in subsection (D) or (E). For each fuel property, Type 1 Arizona CBG shall comply with the requirements in either column A or columns B through D of Table 1, and shall be certified using the Federal Complex Model, which is incorporated by reference in R3-7-702. For each fuel property, Type 2 Arizona CBG shall comply with the requirements of columns A and B (averaging option), or column C in Table 2. The PM alternative gasoline formulation shall meet the requirements of subsections (H), (I), and (J), and column A of Table 2. A registered supplier may certify Arizona CBG or AZRBOB using an equivalent test method that the Division approves using the criteria stated in R3-7-759.

H. Certification and use of Predictive Model for alternative PM gasoline formulations.

1. Except as provided in subsections (H)(4) and (J), a registered supplier shall use the PM as provided in the Predictive Model Procedures.
2. A registered supplier shall certify a PM alternative gasoline formulation with the associate director by either:
   a. Submitting to the associate director a complete copy of the documentation provided to the executive officer of CARB according to 13 California Code of Regulations, Section 2264 and subsection (J); or
   b. Notifying the associate director, on a form prescribed by or in a format acceptable to the associate director, of:
      i. The PM alternative specifications that apply to the final blend, including for each specification whether it is a PM flat limit or a PM averaging limit; and
      ii. The numerical values for percent change in emissions for oxides of nitrogen and hydrocarbons determined in accordance with the Predictive Model Procedures.
3. A registered supplier shall deliver the certification required under subsection (H)(2) to the associate director before transporting the PM alternative gasoline formulation.
4. Restrictions for elections to sell or supply final blends as PM alternative gasoline formulations.
   a. A registered supplier shall not make a new election to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation if the registered supplier has an outstanding requirement under subsection (K) to provide offsets for fuel properties at the same production or import facility.
   b. If a registered supplier elects to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation subject to a PM averaging compliance option for one or more fuel properties, the registered supplier shall not elect any other compliance option, including another PM alternative gasoline formulation, if an outstanding requirement to provide offsets for fuel properties exists under the provisions of subsection (K). This subsection does not preclude a registered supplier from electing another PM alternative gasoline formulation if:
      i. The PM flat limit for one or more fuel properties is changed to a PM averaging limit, or a single PM averaging limit for which there is no outstanding requirement to provide offsets is changed to a PM flat limit;
      ii. There are no changes to the PM alternative specifications for remaining fuel properties; and
      iii. The new PM alternative formulation meets the criteria in the Predictive Model Procedures.
   c. If a registered supplier elects to sell or supply from the registered supplier's production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier shall not use a previously assigned designated alternative limit for a fuel property to provide offsets under subsection (K).
   d. If a registered supplier notifies the associate director under subsection (D) or (E) that a final blend of Arizona CBG is sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of Arizona CBG or AZRBOB subsequently sold or supplied from that production or import facility are subject to the same PM alternative specifications until the registered supplier either:
      i. Designates a final blend at that facility as a PM alternative gasoline formulation subject to different PM alternative specifications; or
      ii. Elects, under subsection (D) or (E), a final blend at that facility subject to a flat limit compliance option or an averaging compliance option.

I. Prohibited activities regarding PM alternative gasoline formulations. A registered supplier shall not sell, offer for sale, supply, or offer to supply from the registered supplier's production or import facility Arizona CBG that is reported as a PM alternative gasoline formulation under R3-7-752 if any of the following occur:

1. The elected PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures,

2. The registered supplier is prohibited by subsection (H)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation,
3. The gasoline fails to conform with any PM flat limit in the PM alternative specifications election, or
4. With respect to any fuel property for which the registered supplier elects a PM averaging limit:
   a. The gasoline exceeds the applicable PM average limit in Table 2, column B, and no designated alternative limit for the fuel property is established for the gasoline in accordance with subsection (H)(2); or
   b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection (H)(2), and either the gasoline exceeds the designated alternative limit for the fuel property or the designated alternative limit for the fuel property exceeds the PM averaging limit and the exceedance is not fully offset in accordance with subsection (K).

J. Oxygen content requirements for PM alternative gasoline formulations. A registered supplier shall ensure that from November 1 through March 31, all alternative PM gasoline formulations comply with oxygen content requirements for the CBG-covered area. Regardless of the oxygen content, a registered supplier shall certify the final alternative PM gasoline formulation using the PM with a minimum oxygen content of 2.0 percent by weight. A registered supplier may use the CARBOB Model as a substitute for the preparation of a fuel ethanol hand blend and use the fuel qualities calculated under the CARBOB Model for compliance and reporting purposes.

K. Offsetting fuel properties and performance standards. A registered supplier that elects to comply with the averaging standards for any of the fuel properties or performance standards contained in Tables 1 and 2, or the PM, shall, from a single production or import facility, complete physical transfer of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount by which the Arizona CBG or AZRBOB exceeds the averaging standard according to the following schedule:
1. A registered supplier that elects to comply with the averaging standards contained in Table 2 or the PM shall offset each exceeded average standard within 90 days before or after beginning to transport any final blend of Arizona CBG or AZRBOB from the production or import facility;
2. A registered supplier that elects to comply with the averaging standard for the VOC Emission Reduction Percentage in Table 1, column B, shall offset an exceedance of the standard that occurs from May 1 through September 15 during that same period; and
3. A registered supplier that elects to comply with the averaging standard for the NOx Emission Reduction Percentage contained in Table 1, column B, shall offset an exceedance of the standard that occurs from May 1 through September 15 during that same period.

L. Consequence of failure to comply with averages.
1. In addition to a penalty under R3-7-762, if any, a registered supplier that fails to comply with a requirement of subsection (K) shall meet the applicable per-gallon standards contained in Table 1, Table 2, or an alternative PM gasoline formulation, for a probationary period as follows:
   a. For a registered supplier that elects to comply with the standards contained in Table 1, the probationary period begins on the first day of the next averaging season and ends on the last day of that averaging season if the conditions of subsection (L)(2) are met;
   b. For a registered supplier that elects to comply with the standards contained in Table 2 or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives a notice from the associate director, that the registered supplier did not comply with the requirements of subsection (K). Before the probationary period begins, the registered supplier shall notify the associate director in writing of the beginning date of the probationary period. The probationary period ends 90 days after its beginning date.
2. A registered supplier shall not produce or import Arizona CBG or AZRBOB under an averaging compliance election until:
   a. The registered supplier submits a compliance plan to the associate director that includes:
      i. An implementation schedule for actions to correct noncompliance, and
      ii. Reporting requirements that document implementation of the compliance plan,
   b. The associate director approves the plan,
   c. The registered supplier implements the plan, and
   d. The registered supplier achieves compliance.
3. If a registered supplier fails to comply with the requirements of subsection (K) within one year of the end of a probationary period under subsection (L)(1), the registered supplier shall comply with applicable per-gallon standards for a subsequent probationary period of two years, or until the conditions in subsection (L)(2) are satisfied, whichever is later.
   a. If a registered supplier elects to comply with the Table 1 standards, the probationary period begins on the first day of the next averaging season.
   b. If a registered supplier elects to comply with the Table 2 standards or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives notice from the associate director, that the registered supplier did not comply with the requirements of subsection (K). Before the probationary period begins, the registered supplier shall notify the associate director in writing of the beginning date of the probationary period.
4. If a registered supplier fails to comply with the requirements of subsection (K) within one year after the end of a probationary period provided under subsection (L)(3), the registered supplier shall permanently comply with applicable per-gallon standards.

M. Effect of VOC survey failure. Each time a VOC survey conducted under R3-7-760 shows excess VOC emissions in the CBG-covered area, the VOC emissions performance reduction in R3-7-751(A)(8) and the minimum per-gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0 percent, not to exceed the VOC percent emissions reduction percentage per-gallon standard in Table 1, column A.

N. Effect of NOx survey failure. Each time a NOx survey conducted under R3-7-760 shows excess NOx emissions in the CBG-covered area, the NOx average emission reduction percentage applicable to the period of May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0 percent.

O. Subsequent survey compliance. If the minimum VOC or average NOx emissions reduction percentage has been made more stringent according to subsection (M) or (N) and all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction per-

centage in the CBG-covered area, the applicable VOC or NOx emissions adjusted reduction percentage shall be reduced by an absolute 1.0 percent beginning in the year following the year in which the second compliant survey is conducted. Each emissions reduction percentage adjusted under this subsection shall not be decreased below the following:

1. >27 percent for the VOC emissions reduction percentage, May 1 through September 15, Table 1, column C; and
2. >6.8 percent for the NOx emissions reduction percentage, May 1 through September 15, Table 1, column B.

P. Subsequent survey failures. If a VOC or NOx emissions reduction percentage is made less stringent under subsection (O) and a subsequent VOC or NOx survey shows excess VOC or NOx emissions in the CBG-covered area:

1. For a VOC survey failure, the Federal Complex Model VOC emissions reduction percentage in R3-7-751(A)(8) and the minimum per gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0 percent, not to exceed the VOC percent emissions reduction percentage per gallon standard in Table 1, column A;
2. For a NOx survey failure, the NOx average emission reduction percentage applicable May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0 percent; and
3. If the VOC or NOx emission reduction percentage is increased under subsection (P)(1) or (2), the VOC or NOx emission reduction percentage shall not be made less stringent regardless of the result of subsequent surveys for VOC or NOx emissions.

Q. Effective date for adjusted standards. If a performance standard is adjusted by operation of subsection (M), (N), (O), or (P), the effective date for the change is the beginning of the next averaging season for which the standard is applicable.

R. The use of oxygenates other than ethanol under subsection (A)(7)(a)(i) and (B)(7)(a) is prohibited until EPA approves a revision to the state implementation plan allowing the use of oxygenates other than ethanol.

Historical Note

New Section R3-7-751 recodified from Section R20-2-751 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-751.01. Repealed

Historical Note

Repealed Section R3-7-751.01 recodified from repealed Section R20-2-751.01 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-752. General Requirements for Registered Suppliers

A. A registered supplier shall certify that each batch of Arizona CBG or AZRBOB transported for sale or use in the CBG-covered area meets the standards in this Article.

B. A registered supplier shall make the certification on a form or in a format prescribed by the associate director. The registered supplier shall include in the certification information on shipment volumes, fuel properties as determined under R3-7-759, and performance standards for each batch of Arizona CBG or AZRBOB. The registered supplier shall submit the certification to the associate director on or before the 15th day of each month for each batch of Arizona CBG or AZRBOB transported during the previous month.

C. Recordkeeping and records retention.

1. A registered supplier that samples and analyzes a final blend or shipment of Arizona CBG or AZRBOB under this Section shall maintain, for five years from the date of each sampling, records of the following:
   a. Sample date;
   b. Identity of blend or product sampled;
   c. Container or other vessel sampled;
   d. The final blend or shipment volume; and
   e. The test results for sulfur, aromatic hydrocarbon, olefin, oxygen, vapor pressure, and as applicable, T50, T90, E200, and E300 as determined under R3-7-759.
2. If Arizona CBG or AZRBOB produced or imported by a registered supplier is not tested and documented as required by this Section, the associate director shall deem the Arizona CBG or AZRBOB to have a vapor pressure, sulfur, aromatic hydrocarbon, olefin, oxygen, T50, and T90 that exceeds the standards specified in R3-7-751 or the comparable PM averaging limits, unless the registered supplier demonstrates to the associate director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.
3. A registered supplier shall provide to the associate director any records maintained by the registered supplier under this Section within 20 days of a written request from the associate director. If a registered supplier fails to provide records for a blend or shipment of Arizona CBG or AZRBOB, the associate director shall deem the final blend or shipment of Arizona CBG or AZRBOB in violation of R3-7-751, unless the registered supplier demonstrates to the associate director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.

D. Notification requirement. A registered supplier shall notify the associate director by fax or e-mail before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.

E. Quality Assurance and Quality Control (QA/QC) Program. A registered supplier shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the registered supplier's laboratory testing of Arizona CBG or AZRBOB. The registered supplier shall submit the QA/QC program to the associate director for approval at least three months before the registered supplier transports Arizona CBG or AZRBOB. The associate director shall approve a QA/QC program only if the associate director determines that the QA/QC program ensures that the registered supplier's laboratory testing procedures comply with R3-7-759 and the data generated by the registered supplier's laboratory are complete, accurate, and reproducible. If the registered supplier makes significant changes to the QA/QC program, the registered supplier shall resubmit the QA/QC program to the associate director for review and approval. Within 30 days of receiving the changed QA/QC program, the associate director shall determine whether the changed QA/QC program meets the original quality objectives. The associate director shall approve the changed QA/QC program if it meets the quality objectives. Instead of developing a QA/QC program, a registered supplier may comply with the independent testing requirements of subsection (F).

F. Independent testing.

1. A registered supplier of Arizona CBG or AZRBOB that does not develop a QA/QC program shall conduct a program of independent sample collection and analysis for the Arizona CBG or AZRBOB produced or imported, that complies with one of the following:

a. Option 1. A registered supplier shall, for each batch of Arizona CBG or AZRBOB produced or imported, have an independent laboratory collect and analyze a representative sample from the batch using the methodology specified in R3-7-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.
b. Option 2. A registered supplier shall have an independent testing program for all Arizona CBG or AZRBOB that the registered supplier produces or imports that consists of the following:
i. An independent laboratory shall collect a representative sample from each batch;
ii. The associate director or designee shall identify up to 10% of the samples collected under subsection (F)(1)(b)(i) for analysis; and
iii. The independent laboratory shall, for each sample identified by the associate director or designee, analyze the sample using the methodology specified in R3-7-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.

2. The associate director or designee may request in writing a duplicate of the batch sample collected under subsection (F)(1)(a) or (b) for analysis by a laboratory selected by the associate director or designee. The registered supplier shall submit a duplicate of the sample to the associate director within 24 hours of the written request.
3. Designation of independent laboratory.
a. A registered supplier that does not develop a QA/QC program shall designate one independent laboratory for each production or import facility at which the registered supplier produces or imports Arizona CBG or AZRBOB. The independent laboratory shall collect samples and perform analyses according to subsection (F).
b. A registered supplier shall identify the designated independent laboratory to the associate director under the registration requirements of R3-7-750.
c. A laboratory is considered independent if:
i. The laboratory is not operated by a registered supplier or the registered supplier's subsidiary or employee,
ii. The laboratory does not have any interest in any registered supplier, and
iii. The registered supplier does not have any interest in the designated laboratory.
d. Notwithstanding the restrictions in subsection (F)(3)(c), the associate director shall consider a laboratory independent if it is owned or operated by a pipeline owned or operated by four or more registered suppliers.
e. A registered supplier shall not use a laboratory that is debarred, suspended, or proposed for debarment according to the Government-wide Debarment and Suspension regulations, 40 CFR 32, or the Debarment, Suspension and Ineligibility provisions of the Federal Acquisition Regulations, 48 CFR 9.4.
4. A registered supplier shall ensure that its designated independent laboratory:
a. Records the following at the time the designated independent laboratory collects a representative sample from a batch of Arizona CBG or AZRBOB:
i. The producer's or importer's assigned batch number for the batch sampled;
ii. The volume of the batch;
iii. The identification number of the gasoline storage tank in which the batch is stored at the time the sample is collected;
iv. The date and time the batch became Arizona CBG or AZRBOB;
v. The date and time the sample is collected;
vi. The grade of the batch (for example, unleaded premium, unleaded mid-grade, or unleaded); and
vii. For Arizona CBG or AZRBOB produced by computer-controlled in-line blending, the date and time the blending process began and the date and time the blending process ended, unless exempt under subsection (G);
b. Retains each sample collected under this subsection for at least 45 days, unless this time is extended by the associate director for up to 180 days;
c. Submits to the associate director a quarterly report on or before the 15th day of January, April, July, and October of each year that includes, for each sample of Arizona CBG or AZRBOB analyzed under subsection (F):
i. The results of the independent laboratory's analyses for each fuel property, and
ii. The information specified in subsection (F)(4)(a) for each sample; and
d. Supplies to the associate director, upon request, a duplicate of the sample.

G. Exemptions to QA/QC and independent laboratory testing requirements. A registered supplier that produces or imports Arizona CBG or AZRBOB using computer-controlled in-line blending equipment and operates under an exemption from EPA under 40 CFR 80.65(f)(iv), is exempt from the requirements of subsections (E) and (F), if reports of the results of the independent audit program of the registered supplier's computer-controlled in-line blending operation, which are submitted to EPA under 40 CFR 80.65(f)(iv), are submitted to the associate director by March 1 of each year.

H. Use of laboratory analysis for certification of Arizona CBG and AZRBOB.
1. If both a registered supplier and an independent laboratory collect a sample from the same batch of Arizona CBG or AZRBOB and perform a laboratory analysis under subsection (F) to determine compliance of the sample with a fuel property, the registered supplier and independent laboratory shall use the same test methodology. The results of the analysis conducted by the registered supplier shall be used for certification of the Arizona CBG or AZRBOB under subsection (B), unless the absolute value of the difference between the two results is larger than one of the following:
a. Sulfur content: 25 ppm by weight,
b. Aromatics: 2.7% by volume,
c. Olefins: 2.5% by volume,
d. Fuel ethanol: 0.4% by volume,
e. Isobutanol: 0.6% by volume
f. Vapor pressure: 0.3 psi,
g. 50% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
h. 90% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
i. E200: 2.5% by volume,
j. E300: 3.5% by volume, or

k. API gravity: 0.3° API.

2. If the absolute value of the difference between the results of the analyses conducted by the registered supplier and independent laboratory is larger than one of the values specified in subsection (H)(1), the registered supplier shall use one of the following for certification of the batch of Arizona CBG or AZRBOB under subsection (B):
   a. The larger of the two values for each fuel property, except the smaller of the two values shall be used for measures of oxygenates; or
   b. Have a second independent laboratory analyze the Arizona CBG or AZRBOB for each fuel property. If the difference between the results obtained by the second independent laboratory and those obtained by the registered supplier are within the range listed in subsection (H)(1), the registered supplier's results shall be used for certifying the Arizona CBG or AZRBOB under subsection (B).

Historical Note

New Section R3-7-752 recodified from Section R20-2-752 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-753. General Requirements for Pipelines and Third-party Terminals

A. A pipeline or third-party terminal shall not accept Arizona CBG or AZRBOB for transport unless:
1. The Arizona CBG or AZRBOB is physically transferred from an importer, refiner, oxygenate blender, pipeline, or third-party terminal registered with the Division under R3-7-750; and
2. The registered supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the standards in R3-7-751(A) or (B), as applicable, without reproducibility or numerical rounding.

B. A pipeline or third-party terminal that transports Arizona CBG or AZRBOB shall collect a sample of each incoming batch. The pipeline or third-party terminal shall retain the sample for at least 30 days unless this time is extended for an individual sample for up to 180 days by the associate director.

C. A pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of at least one sample from one batch completing shipment for each registered supplier each day at each input location.

D. A pipeline shall provide the associate director with a report summarizing the quality control testing results obtained under subsection (C) within 10 days of the end of each month. The report shall contain the quantity of Arizona CBG or AZRBOB, date tendered, whether the Arizona CBG or AZRBOB was transported by pipeline, present sample location, and laboratory analysis results.

E. If a batch does not meet the standards in R3-7-751(A) or (B), as applicable, but is within reproducibility, the pipeline shall notify the associate director by fax or e-mail within 48 hours of the batch volume and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results.

F. If a batch does not meet the standards in R3-7-751(A) or (B), as applicable, including reproducibility, the pipeline or third-party terminal shall notify the associate director by fax or e-mail within 24 hours of the batch quantity and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results. If the batch is in the pipeline's or third-party terminal's control, the pipeline or third-party terminal shall prevent release of the batch from a distribution point until the batch is certified as meeting the standards in R3-7-751(A) or (B), as applicable.

G. A pipeline or third-party terminal shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the pipeline's or third-party terminal's laboratory testing. The QA/QC program for a pipeline or third-party terminal shall include a description of the laboratory testing protocol used to verify that Arizona CBG or AZRBOB transported to the CBG-covered area meets the standards in R3-7-751(A) or (B). A pipeline or third-party terminal shall submit the QA/QC program to the associate director for approval at least three months before the pipeline or third-party terminal begins to transport Arizona CBG or AZRBOB. The associate director shall approve a QA/QC program only if the associate director determines that the QA/QC program ensures that the pipeline's or third-party terminal's laboratory testing produces data that are complete, accurate, and reproducible. If a pipeline or third-party terminal makes significant changes to the QA/QC program, the pipeline or third-party terminal shall resubmit the QA/QC program to the associate director for review and approval. Within 30 days of receiving the changed QA/QC program, the associate director shall determine whether the changed QA/QC program meets the quality objectives originally approved by the Division. The associate director shall approve the changed QA/QC program if it meets the quality objectives.

H. A portion of a facility that a third-party terminal uses for production, import, or oxygenate blending is exempt from this Section, but the third-party terminal shall operate the exempt portion of the facility in compliance with requirements for registered suppliers in R3-7-752 and oxygenate blenders in R3-7-755, as applicable.

I. A pipeline is not liable under R3-7-761 if it follows all of the procedures in this Section.

Historical Note

New Section R3-7-753 recodified from Section R20-2-753 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-754. Downstream Blending Exceptions for Transmix

A. A pipeline or third-party terminal may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of one percent by volume. Each pipeline or third-party terminal shall document the transmix blending (recording each batch and volume of transmix blended) and maintain the records at the third-party terminal for two years from the date of blending.

B. One of two methods shall be used to measure the transmix as it is blended into the product stream:
1. Meters, calibrated at least twice each year; or
2. Tank gauge as per American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992), incorporated by reference and on file with the Division. A copy may also be obtained at American Petroleum Institute, 1220 L St., N.W., Washington, D.C. 20005-4070. This incorporation by reference contains no future editions or amendments.

Historical Note

New Section R3-7-754 recodified from Section R20-2-754 at 22 A.A.R. 2786, effective August 15, 2016 (Supp.

16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending

A. Application of Arizona CBG standards to AZRBOB.
1. Determining whether AZRBOB complies with Arizona CBG standards.
   a. If a registered supplier designates a final blend as AZRBOB and complies with the provisions of this Section, the fuel properties and performance standards of the AZRBOB, for purposes of compliance with Table 2, are determined by adding the specified type and amount of oxygenate to a representative sample of the AZRBOB and determining the fuel properties and performance standards of the resulting gasoline using the test methods in R3-7-759 or, in the case of fuel ethanol blends, certifying the AZRBOB using the CARBOB model. If the registered supplier designates a range of amounts of oxygenate to be added to the AZRBOB, the minimum designated amount of oxygenate shall be added to the AZRBOB to determine the fuel properties and performance standards of the resulting Arizona CBG. If a registered supplier does not comply with this subsection, the Division shall determine whether the AZRBOB complies with applicable fuel properties and performance standards, excluding requirements for vapor pressure, without adding oxygenate to the AZRBOB.
   b. In determining whether AZRBOB complies with the Arizona CBG standards, the registered supplier shall ensure that the oxygenate added to the representative sample under subsection (A)(1)(a) is representative of the oxygenate the registered supplier reasonably expects will be subsequently added to the AZRBOB.
2. Calculating the volume of AZRBOB. If a registered supplier designates a final blend as AZRBOB and complies with this Section, the volume of AZRBOB is calculated for compliance purposes under R3-7-751 by adding the minimum amount of oxygenate designated by the registered supplier. If a registered supplier fails to comply with this subsection, the Division shall calculate the volume of AZRBOB for purposes of compliance with applicable fuel properties and performance standards without adding the amount of oxygenate to the AZRBOB..

B. Restrictions on transferring AZRBOB.
1. A person shall not transfer ownership or custody of AZRBOB to any other person unless the transferee notifies the transferor in writing that:
   a. The transferee is a registered oxygenate blender and will add oxygenate in the type and amount (or within the range of amounts) designated in R3-7-757 before the AZRBOB is transferred from a final distribution facility, or
   b. The transferee will take all reasonably prudent steps necessary to ensure that the AZRBOB is transferred to a registered oxygenate blender that adds the type and amount (or within the range of amounts) of oxygenate designated in R3-7-757 to the AZRBOB before the AZRBOB is transferred from a final distribution facility.
2. A person shall not sell or supply Arizona CBG from a final distribution facility if the type and amount or range of amounts of oxygenate designated in R3-7-757 have not been added to the AZRBOB.

C. Restrictions on blending AZRBOB with other products. A person shall not combine AZRBOB supplied from the facility at which the AZRBOB is produced or imported with any other AZRBOB, gasoline, blendstock, or oxygenate, except for:
1. Oxygenate in the type and amount (or within the range of amounts) specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility, or
2. Other AZRBOB for which the same oxygenate type and amount (or range of amounts) is specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility.
3. A registered oxygenate blender may utilize an oxygenate type other than the one specified by the registered supplier provided all the requirements of R3-7-751, R3-7-752, R3-7-755, and R3-7-759 are demonstrated with the addition of the different oxygenate type.

D. Quality assurance sampling and testing requirements for a registered supplier supplying AZRBOB from a production or import facility. A registered supplier supplying AZRBOB from a production or import facility shall use an independent third-party quality assurance sampling and testing program as described in subsection (E) or conduct a quality assurance sampling and testing program that meets the requirements of 40 CFR 80.69(a)(7), as it existed on July 1, 1996, except for the changes listed in subsections (D)(1) through (3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
1. 40 CFR 80.69(a)(7). The word "RBOB" is changed to read "AZRBOB";
2. 40 CFR 80.69(a)(7). "...using the methodology specified in § 80.46..." is changed to read "...using the methodology specified in R3-7-759...;" and
3. 40 CFR 80.69(a)(7)(ii). "(within the correlation ranges specified in § 80.65(e)(2)(i))" is changed to read "(within the ranges of the applicable test methods).

E. General requirements for an independent third-party quality assurance sampling and testing program. A registered supplier may contract with an independent third party that conducts a quality assurance sampling and testing program for one or more registered suppliers. The registered supplier shall ensure that the quality assurance sampling and testing program:
1. Is designed and conducted by a third party that is independent of the registered supplier. To be considered independent:
   a. The third party shall not be an employee of a registered supplier,
   b. The third party shall not have an obligation to or interest in any registered supplier, and
   c. The registered supplier shall not have an obligation to or interest in the third party;
2. Is conducted from November 1 through March 31 on all samples collected under the program design previously approved by the associate director under subsection (G);
3. Involves sampling and testing that is representative of all Arizona CBG dispensed in the CBG-covered area;
4. Analyzes each sample for oxygenate according to the methodologies specified in R3-7-759;
5. Bases results on an analysis of each sample collected during the sampling period unless a specific sample does not comply with the applicable per gallon maximum or minimum standards for the fuel property being evaluated

in addition to any reproducibility applicable to the fuel property;

6. Participates in a correlation program with the associate director to ensure the validity of analysis results;
7. Does not provide advance notice, except as provided in subsection (F), of the date or location of any sampling;
8. Provides a duplicate of any sample, with information regarding where and the date on which the sample was collected, upon request of the associate director, within 30 days after submitting the report required under subsection (E)(10);
9. Permits a Division official to monitor sample collection, transportation, storage, and analysis at any time; and
10. Prepares and submits a report to the associate director within 30 days after the sampling is completed that includes the following information:
    a. Name of the person collecting the samples;
    b. Attestation by an officer of the third party that the sampling and testing was done according to the program plan approved by the associate director under subsection (G) and the results are accurate;
    c. Identification of the registered supplier for whom the sampling and testing program was conducted if the sampling and testing program was conducted for only one registered supplier;
    d. Identification of the area from which the samples were collected;
    e. Address of each motor fuel dispensing site from which a sample was collected;
    f. Dates on which the samples were collected;
    g. Results of the analysis of the samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable;
    h. Name and address of each laboratory at which the samples were analyzed;
    i. Description of the method used to select the motor fuel dispensing sites from which a sample was collected;
    j. Number of samples collected at each motor fuel dispensing site; and
    k. Justification for excluding a collected sample if one was excluded.

F. An independent third party that contracts with one or more registered suppliers to conduct a quality assurance sampling and testing program shall begin the sampling on the date selected by the associate director. The associate director shall inform the third party of the date selected at least 10 business days before sampling is to begin.

G. To obtain the associate director's approval of an independent third-party quality assurance sampling and testing program plan, the person seeking the approval shall:

1. Submit the plan to the associate director no later than January 1 to cover the sampling and testing period from November 1 through March 31 of each year, and
2. Have the plan signed by an officer of the third party that will conduct the sampling and testing program.

H. No later than September 1 of each year, a registered supplier that intends to meet the requirements in subsection (D) by contracting with an independent third party to conduct quality assurance sampling and testing from November 1 through March 31 shall enter into the contract and pay all of the money necessary to conduct the sampling and testing program. The registered supplier may pay the money necessary to conduct the sampling and testing program to the third party or to an escrow account with instructions to the escrow agent to release the money to the third party as the testing program is implemented. No later than September 15, the registered supplier shall submit to the associate director a copy of the contract with the third party, proof that the money necessary to conduct the sampling and testing program has been paid, and, if applicable, a copy of the escrow agreement.

I. Requirements for oxygenate blenders.

1. Requirement to add oxygenate to AZRBOB. If an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender represents that oxygenate will be added to the AZRBOB, the oxygenate blender shall add oxygenate to the AZRBOB in the type and amount (or within the range of amounts) identified in the documentation accompanying the AZRBOB.
2. Additional requirements for oxygenate blending at terminals. An oxygenate blender that makes Arizona CBG by blending oxygenate with AZRBOB in a motor fuel storage tank, other than a truck used to deliver motor fuel to a retail outlet or bulk-purchaser consumer facility, shall determine the oxygen content and volume of the Arizona CBG before shipping, by collecting and analyzing a representative sample of the Arizona CBG, using the methodology in R3-7-759.
3. Additional requirements for oxygenate blending in trucks. An oxygenate blender that blends AZRBOB in a motor fuel delivery truck shall conduct quality assurance sampling and testing that meets the requirements in 40 CFR 80.69(e)(2), as it existed on July 1, 1996, except for the changes listed in subsections (I)(3)(a) through (c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
    a. 40 CFR 80.69(e)(2). The word "RBOB" is changed to read "AZRBOB;"
    b. 40 CFR 80.69(e)(2)(iv). "... using the testing methodology specified at § 80.46 ..." is changed to read "... using the testing methodology specified in R3-7-759...;" and
    c. 40 CFR 80.69(e)(2)(v). "(within the ranges specified in § 80.70(b)(2)(I))" is changed to read "(within the ranges of the applicable test methods)."
4. Additional requirements for in-line oxygenate blending in pipelines using computer-controlled blending.
    a. An oxygenate blender that produces Arizona CBG by blending oxygenate with AZRBOB into a pipeline using computer-controlled in-line blending shall, for each batch of Arizona CBG produced:
        i. Obtain a flow proportional composite sample after the addition of oxygenate and before combining the resulting Arizona CBG with any other Arizona CBG;
        ii. Determine the oxygen content of the Arizona CBG by analyzing the composite sample within 24 hours of blending using the methodology in R3-7-759; and
        iii. Determine the volume of the resulting Arizona CBG.
    b. If the test results for the Arizona CBG indicate that it does not contain the amount of oxygenate specified by the ranges of the applicable test methods, the oxygenate blender shall:

i. Notify the pipeline to downgrade the Arizona CBG to conventional gasoline or transmix upon arrival in Arizona;
ii. Begin an investigation to determine the cause of the noncompliance;
iii. Collect a representative sample every two hours during each in-line blend of AZRBOB and oxygenate, and analyze the samples within 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
iv. Notify the associate director in writing within one business day that the Arizona CBG does not comply with the requirements of this Article.

c. The oxygenate blender shall comply with subsection (I)(4)(b)(iii) until the associate director determines that the corrective action has remedied the noncompliance.

5. Recordkeeping and records retention.
a. An oxygenate blender shall maintain, for five years from the date of each sampling, records of the following:
i. Sample date,
ii. Identity of blend or product sampled,
iii. Container or other vessel sampled,
iv. Volume of final blend or shipment,
v. Oxygen content as determined under R3-7-759, and
vi. Results from all testing.
b. The associate director shall deem that Arizona CBG blended by an oxygenate blender and not tested and documented as required by this Section has an oxygen content that exceeds the standards specified in R3-7-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the associate director that the Arizona CBG meets the standards in R3-7-751.
c. Within 20 days of the associate director's written request, an oxygenate blender shall provide any records maintained by the oxygenate blender under this Section. If the oxygenate blender fails to provide records requested for a blend or shipment of Arizona CBG, the associate director shall deem that the blend or shipment of Arizona CBG violates R3-7-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the associate director that the Arizona CBG meets the standards and limits under R3-7-751.

6. Notification requirement. An oxygenate blender shall notify the associate director by fax or e-mail before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.

7. Quality assurance and quality control (QA/QC) program. An oxygenate blender that conducts sampling and testing under subsection (I) in the oxygenate blender's own laboratory shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the oxygenate blender's sampling and testing of Arizona CBG or AZRBOB. The oxygenate blender shall submit the QA/QC program to the associate director for approval at least three months before transporting Arizona CBG. The associate director shall approve a QA/QC program only if the associate director determines that the QA/QC program ensures that the oxygenate blender's sampling and testing produces data that are complete, accurate, and reproducible. Instead of developing a QA/QC program, an oxygenate blender may comply with the independent testing requirements of R3-7-752(F), except that, for sampling and testing conducted under subsection (I)(3), the minimum number of samples collected and tested by the independent laboratory shall be 10% of the number of samples required to be collected and tested under subsection (I).

8. An oxygenate blender that does not conduct laboratory sampling and testing required under subsection (I) in its own laboratory shall designate an independent laboratory, as described in R3-7-752(F), to conduct the sampling and testing required under subsection (I)(7).

9. Within 24 hours of the associate director's or designee's written request, an oxygenate blender shall submit a duplicate of any sample collected under subsection (I)(7).

J. Subsection (A)(1)(a) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Historical Note

New Section R3-7-755 recodified from Section R20-2-755 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks

A. A person shall not combine Arizona CBG supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person demonstrates to the associate director:
1. The blendstock added to the Arizona CBG meets all of the Arizona CBG standards regardless of the fuel properties and performance standards of the Arizona CBG to which the blendstock is added;
2. The person meets the requirements in this Article applicable to producers of Arizona CBG; and
3. The resulting fuel blend is not used within the CBG-covered area.

B. Notwithstanding subsection (A), a person may add nonoxygenate blendstock to a previously certified batch or mixture of certified batches of Arizona CBG that does not comply with one or more of the applicable per-gallon standards contained in R3-7-751(A) or (B) if the person obtains prior written approval from the associate director based on a demonstration that adding the blendstock will bring the previously certified Arizona CBG into compliance with the applicable per-gallon standards for Arizona CBG. The oxygenate blender or registered supplier shall certify the re-blended Arizona CBG to the Division.

Historical Note

New Section R3-7-756 recodified from Section R20-2-756 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-757. Product Transfer Documentation; Records Retention

A. If a person transfers custody or title to Arizona CBG or AZRBOB, other than when Arizona CBG is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following:

1. Volume of Arizona CBG or AZRBOB being transferred;
2. Location of the Arizona CBG or AZRBOB at the time of transfer;
3. Date of the transfer;
4. Product transfer document number;
5. Identification of the gasoline as Arizona CBG or AZRBOB;
6. Minimum octane rating of the Arizona CBG or AZRBOB;
7. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through March 31, the type and minimum quantity of oxygenate contained in the Arizona CBG;
8. If the product transferred is AZRBOB for which oxygenate blending is intended:
   a. Identification of the fuel as AZRBOB and a statement that the "AZRBOB does not comply with the standards for Arizona CBG without the addition of oxygenate";
   b. Oxygenate type or types and amount or range of amounts that the AZRBOB requires to meet the fuel properties or performance standards claimed by the registered supplier of the AZRBOB, and the applicable specifications for volume percent of oxygenate and weight percent oxygen content; and
   c. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless the other AZRBOB has the same requirements for oxygenate type or types and amount or range of amounts; and
9. The final destination:
   a. When a terminal is the transferor, the owner or the operator of the product transfer document the terminal name and address and the transporter name and address;
   b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
   c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.

B. To enable a transferor to comply fully with the requirement in subsection (A)(9), the transferee shall supply to the transferor information regarding the final destination.

C. A registered supplier, third-party terminal, or pipeline may comply with subsection (A) by using standardized product codes on pipeline tickets if the codes are specified in a manual distributed by the pipeline to transferees of the Arizona CBG or AZRBOB, and the manual includes all required information for the Arizona CBG or AZRBOB.

D. Any transferee in subsection (A), other than a registered supplier, oxygenate blender, third-party terminal, pipeline, motor fuel dispensing site, or fleet vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 24 months before the most recent transfer. The transferee shall maintain product transfer documents for the 30 days before the most recent transfer at the business address listed on the product transfer document. The transferee may maintain all remaining product transfer documents for the preceding 24 months elsewhere.

E. A motor fuel dispensing site or fleet vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG transferred during the 12 months before the most recent transfer. The motor fuel dispensing site or fleet vehicle fueling facility shall maintain product transfer documents for the three most recent transfers on the premises. The motor fuel dispensing site or fleet vehicle fueling facility may maintain the remaining product transfer documents for the preceding 12 months elsewhere.

F. A registered supplier, oxygenate blender, third-party terminal, or pipeline shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 60 months before the most recent transfer. The transferee shall maintain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 30 days preceding the most recent transfer at the business address listed on the product transfer document. The transferee may maintain all remaining product transfer documents for the preceding 60 months elsewhere.

G. When a person transfers custody or title of an oxygenate that is intended for use in AZRBOB or Arizona CBG, the person shall provide the transferee a document that prominently states that the oxygenate complies with the standards for an oxygenate intended for use in AZRBOB or Arizona CBG.

H. Upon request by the associate director or designee, a person shall present product transfer documents to the Division within two working days of the request. Legible photocopies of the product transfer documents are acceptable.

Historical Note

New Section R3-7-757 recodified from Section R20-2-757 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

R3-7-758. Repealed

Historical Note

Repealed Section R3-7-758 recodified Section R20-2-758 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-759. Testing Methodologies

A. Except as provided in subsection (C), a registered supplier or importer certifying Arizona CBG or AZRBOB as meeting the requirements of this Article shall use one of the methods listed in Table A. A copy of the EPA- or CARB-approved ASTM methods may be obtained at: ASTM International (formerly American Society for Testing and Materials), 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org. A copy of the CARB methods may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.

B. An oxygenate blender or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure the oxygenate content in accordance with the oxygenate blender's or third-party terminal's approved QA/QC program or in accordance with one of the methods listed in Table A.

C. Rather than using a method listed in Table A to certify Arizona CBG or AZRBOB, a registered supplier may use the CARBOB Model and use the fuel-quality measures calculated using the CARBOB Model for compliance and reporting purposes.

D. A test method that the Division determines is equivalent to those listed in Table A may be used to certify Arizona CBG or

AZRBOB. The Division has determined that test methods approved by either the EPA or CARB are equivalent test methods. To determine whether a proposed test method is equivalent to those listed in Table A, the Division shall thoroughly review data from both the proposed and designated test methods and assess whether the accuracy and precision of the proposed method is equal to or better than the accuracy and precision of the designated method and whether there is significant bias between the two methods. The Division shall approve a proposed test method only if the Division determines that the accuracy and precision of the proposed test method is equal to or better than the accuracy and precision of the designated method and receives the concurrence of the EPA Regional Administrator. A correlation equation may be required to align the two methods. If a correlation equation is required to align the two methods, the correlation equation becomes part of the equivalent method.

E. Subsections (C) and (D) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Historical Note

New Section R3-7-759 recodified from Section R20-2-759 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

Table A. Arizona Weights and Measures Services Division Test Methods for Arizona CBG and AZRBOB

Fuel Parameter	Units	EPA-approved Test Method	EPA-approved Reproducibility	CARB-approved Test Method	CARB-approved Reproducibility
Aromatics	V%	D5769-04			
	V%	D1319-02a (2003)[A]	1.65	D5580-00	1.4
Benzene	V%	D3606-99 (2007)	0.21	D5580-00	0.1409 $(X)^{1.133}$
Olefins	V%	D1319-02a (2003)	0.32 $(x)^{0.5}$	D6550-00 (2005) if correlated to D1319	0.32 $(X)^{0.5}$; Footnote 1
Oxygenates	W%	D5599-00	See test method	D4815-99 (2004)	See test method
	W%	D4815-99 (2004)[B]	See test method		
Vapor Pressure (Correlation Equation) Footnote 2	psi	D5191-01 (2007)	0.3	13 CCR Section 2297	0.21
Sulfur	wppm	D2622-98 (2005)		D5453-93	0.2217 $(x)^{0.92}$ wppm
				D2622-94 (modified)	10-30 wppm R=0.405 (x) > 30 wppm R =0.192 (x)
Distillation T50	deg F	D86-01 (2007b)	See test method	D86-99ae1	See test method
Distillation T90	deg F	D86-01 (2007b)	See test method	D86-99ae1	See test method

[A] A refinery or importer may determine aromatics content using ASTM D1319-02a (2003) if the result is correlated to ASTM D5769-98 (2004).
[B] A refinery or importer may determine oxygenate content using ASTM D4815-99 (2004) if the result is correlated to ASTM D5599-00 (2005).
Footnotes:
1. Replace the last sentence in ASTM D6550-00 (2005) Section 1.1 with the following: "The application range is from 0.3 to 25 mass percent total olefin, as defined in Section 2263(b), Title 13, California Code of Regulations. If olefin concentrations are not detected, substitute one-half of the detection limit."
2. When determining vapor pressure, the only correlation equation to be used is equation 1 in ASTM D5191-07, Section 14.2, ASTM equation ((.965X)-A).

Historical Note

New Article 7, Table A recodified from 20 A.A.C. 2, Article 7, Table A at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-760. Compliance Surveys

A. A registered supplier that elects to certify that Arizona CBG or AZRBOB meets an averaging standard under R3-7-751 shall ensure that compliance surveys are conducted in accordance with a compliance survey program plan approved by the associate director. The associate director shall approve a compliance survey program plan if it:

1. Consists of at least four VOC and NOx surveys conducted at least one per month between May 1 through September 15 of each year, and
2. Complies with subsection (J).

B. If a registered supplier fails to ensure that an approved compliance survey program is conducted, the associate director shall issue an order requiring the registered supplier to comply with all applicable fuel property and performance standards on a

per-gallon basis for six months or through the end of the survey period identified in subsection (A)(1), whichever is longer. Regardless of when a failure to survey occurs, the associate director's order shall require compliance with per-gallon standards from the beginning of the survey period during which the failure to survey occurs.

C. General compliance survey requirements. A registered supplier shall ensure that a compliance survey conforms to the following:
1. Consists of all samples that are collected under an approved survey program plan during any consecutive seven days and that are not excluded under subsection (C)(4);
2. Is representative of all Arizona CBG being dispensed in the CBG-covered area as provided in subsection (G);
3. Analyzes each sample included in the compliance survey for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and vapor pressure according to the test methods in R3-7-759. Vapor pressure is required to be analyzed only from May 1 through September 15;
4. Bases the results of the compliance survey upon an analysis of each sample collected during the course of the compliance survey, unless a sample does not comply with the applicable per gallon maximum or minimum fuel property standard being evaluated in addition to any reproducibility that applies to the fuel property standard; and
5. If a laboratory analyzes the compliance survey samples, the laboratory participates in a correlation program with the associate director to ensure the validity of analysis results.

D. If the associate director determines that a sample used in a compliance survey does not comply with R3-7-751 or another requirement under this Article, the associate director shall take enforcement action against the registered supplier.

E. A registered supplier shall comply with the following VOC and NOx compliance survey requirements:
1. For each compliance survey sample, determine the VOC and NOx emissions reduction percentage based upon the tested fuel properties for that sample using the methodology for calculating VOC and NOx emissions reductions at 40 CFR 80.45, as incorporated by reference in R3-7-702;
2. The CBG-covered area fails a VOC compliance survey if the VOC emissions reduction percentage average of all samples collected during the compliance survey is less than the per-gallon standard for VOC emissions reduction percentage in Table 1, column A.
3. The CBG-covered area fails a NOx compliance survey if the NOx emissions reduction percentage average of all samples collected during the compliance survey is less than the per-gallon standard for NOx emissions reduction percentage in Table 1, column A.

F. A registered supplier shall determine the result of the series of NOx compliance surveys conducted May 1 through September 15 as follows:
1. For each compliance survey sample, the NOx emissions reduction percentage is determined based upon the tested fuel properties for that sample using the methodology for calculating NOx emissions reduction at 40 CFR 80.45, as incorporated by reference in R3-7-702; and
2. The CBG-covered area fails the NOx series of compliance surveys conducted May 1 through September 15 if the NOx emissions reduction percentage average for all compliance survey samples collected during that time is less than the Federal Complex Model per-gallon standard for the NOx emissions reduction percentage in Table 1, column A.

G. General requirements for an independent surveyor conducting a compliance survey. A registered supplier may have the compliance surveys required by this Section conducted by an independent surveyor. The associate director shall approve a compliance survey program conducted by an independent surveyor if the compliance survey program:
1. Is designed and conducted by a surveyor that is independent of the registered supplier. To be considered independent:
   a. The surveyor shall not be an employee of any registered supplier,
   b. The surveyor shall not have an obligation to or interest in any registered supplier, and
   c. The registered supplier shall not have an obligation to or interest in the surveyor;
2. Includes enough samples to ensure that the average levels of oxygen, vapor pressure, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95 percent confidence level, with error of less than 0.1 psi for vapor pressure, 0.1 percent for oxygen (by weight), 0.5 percent for aromatic hydrocarbons (by volume), 0.5 percent for olefins (by volume), 5°F for T50 and T90, and 10 wppm for sulfur;
3. Requires that the surveyor not provide advance notice, except as provided in subsection (H), of the date or location of any survey sampling;
4. Requires that the surveyor provide a duplicate of any sample taken during the survey, with information regarding the name and address of the facility from and the date on which the sample was taken, upon request of the associate director, within 30 days following submission of the survey report required under subsection (G)(6);
5. Requires that the surveyor permit a Division official to monitor sample collection, transportation, storage, and analysis at any time;
6. Requires the surveyor to submit a report of each survey to the associate director within 30 days after sampling for the survey is completed that includes the following information:
   a. Name of the person conducting the survey;
   b. Attestation by an officer of the surveyor that the sampling and testing was conducted according to the compliance survey program plan and the results are accurate;
   c. Identification of the registered supplier for whom the compliance survey was conducted if the compliance survey was conducted for only one registered supplier;
   d. Identification of the area from which survey samples were selected;
   e. Dates on which the survey was conducted;
   f. Address of each facility at which a sample was collected, and the date of collection;
   g. Results of the analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable, for each survey conducted during the period identified in subsection (A)(1);
   h. Name and address of each laboratory at which samples were analyzed;
   i. Description of the method used to select the facilities from which a sample was collected;

j. Number of samples collected from each facility;
k. Justification for excluding a collected sample from the survey, if one was excluded; and
l. Average VOC and NOx emissions reduction percentage.

H. An independent surveyor shall begin each survey on a date selected by the associate director. The associate director shall notify the surveyor of the date selected at least 10 business days before the survey is to begin.

I. To obtain the associate director's approval of a compliance survey program plan, the person seeking approval shall:
1. Submit the plan to the associate director no later than January 1 to cover the survey period of May 1 through September 15 of each year, and
2. Have the plan signed by a corporate officer of the registered supplier or by an officer of the independent surveyor.

J. No later than April 1 of each year, a registered supplier that intends to meet the requirements in subsection (A) by contracting with an independent surveyor to conduct the compliance survey plan for the next summer and winter season shall enter into the contract and pay all of the money necessary to conduct the compliance survey plan. The registered supplier may pay the money necessary to conduct the compliance survey plan to the independent surveyor or to an escrow account with instructions to the escrow agent to release the money to the independent surveyor as the compliance survey plan is implemented. No later than April 15, the registered supplier shall submit to the associate director a copy of the contract with the independent surveyor, proof that the money necessary to conduct the compliance survey plan has been paid, and, if applicable, a copy of the escrow agreement.

Historical Note

New Section R3-7-760 recodified from Section R20-2-760 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-761. Liability for Noncompliant Arizona CBG or AZRBOB

A. Persons liable. If motor fuel designated as Arizona CBG or AZRBOB does not comply with R3-7-751, the following are liable for the violation:
1. Each person who owns, leases, operates, controls, or supervises a facility where the noncompliant Arizona CBG or AZRBOB is found;
2. Each registered supplier whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name, appears at a facility where the noncompliant Arizona CBG or AZRBOB is found; and
3. Each person who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline in a storage tank containing Arizona CBG or AZRBOB found to be noncompliant.

B. Defenses.
1. A person who is otherwise liable under subsection (A) is not liable if that person demonstrates:
   a. That the violation was not caused by the person or person's employee or agent;
   b. That product transfer documents account for all of the noncompliant Arizona CBG or AZRBOB and indicate that the Arizona CBG or AZRBOB complied with this Article; and
   c. That the person had a quality assurance sampling and testing program, as described in subsection (C) in effect at the time of the violation; except that any person who transfers Arizona CBG or AZRBOB, but does not assume title, may rely on the quality assurance program carried out by another person, including the person who owns the noncompliant Arizona CBG or AZRBOB, provided the quality assurance program is properly administered.
2. If a violation is found at a facility that operates under the corporate, trade, or brand name of a registered supplier, that registered supplier must show, in addition to the defense elements in subsection (B)(1), that the violation was caused by:
   a. A violation of law other than A.R.S. Title 3, Chapter 19, Article 6, this Article, or an act of sabotage or vandalism;
   b. A violation of a contract obligation imposed by the registered supplier designed to prevent noncompliance, despite periodic compliance sampling and testing by the registered supplier; or
   c. The action of any person having custody of Arizona CBG or AZRBOB not subject to a contract with the registered supplier but engaged by the registered supplier for transportation of Arizona CBG or AZRBOB, despite specification or inspection of procedures and equipment by the registered supplier designed to prevent violations.
3. To show that the violation was caused by any of the actions in subsection (B)(2), the person must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

C. Quality assurance sampling and testing program. To demonstrate an acceptable quality assurance program for Arizona CBG or AZRBOB, at all points in the gasoline distribution network, other than at a motor fuel dispensing site or fleet owner facility, a person shall present evidence:
1. Of a periodic sampling and testing program to determine compliance with the maximum or minimum standards in R3-7-751; and
2. That each time Arizona CBG or AZRBOB is noncompliant with one of the requirements in R3-7-751:
   a. The person immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing, transporting, or causing the transportation of the noncompliant Arizona CBG or AZRBOB; and
   b. The person remedies the violation as soon as practicable.

Historical Note

New Section R3-7-761 recodified from Section R20-2-761 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-762. Penalties

Any person who violates any provision of this Article is subject to the following:
1. Prosecution for a Class 2 misdemeanor under A.R.S. § 3-3473(B)(4);
2. Civil penalties in the amount of $500 per violation under A.R.S. § 3-3475; and
3. Stop-use, stop-sale, hold, and removal orders under A.R.S. § 3-3415(A)(2).

Historical Note

New Section R3-7-762 recodified from Section R20-2-762 at 22 A.A.R. 2786, effective August 15, 2016 (Supp.

16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Table 1. Type 1 Arizona CBG Standards

	Non-averaging Option	Averaging Option		
	A	B	C	D
Performance Standard/Fuel Property**	Per-Gallon (minimum)	Average	Minimum (per-gallon)	Maximum (per-gallon)
VOC Emission Reduction (%) May 1 through Sept. 15	27.5	29.0	25.0	N/A
NOx Emission Reduction (%) May 1 through Sept. 15	5.5	6.8	N/A	N/A
NOx Emission Reduction (%) Sept. 16 - October 31 and February 1 - April 30***	0.0	N/A	N/A	N/A
Oxygen content: fuel ethanol, (% by weight unless otherwise noted) November 1 - March 31*** April 1 - October 31	 N/A 0.0*	 N/A N/A	 N/A 0.0	 N/A 4.0
Oxygen content: other than fuel ethanol, (% by weight) November 1 - March 31*** April 1 - October 31	 N/A 0.0	 N/A N/A	 N/A 0.0	 N/A ****3.5

* Maximum oxygen content shall comply with the EPA oxygenate waiver requirements and with A.R.S. § 3-3491.
** Dates represent compliance dates for the owner of a motor fuel dispensing site or a fleet vehicle fueling facility.
*** A registered supplier shall certify all Arizona CBG as Type 2 Arizona CBG meeting the standards in Table 2 beginning November 1 through March 31.
****Unless prohibited by A.R.S. § 3-3491.

Historical Note

New Article 7, Table 1 recodified from 20 A.A.C. 2, Article 7, Table 1 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Table 1 amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

Table 2. Type 2 Arizona CBG Standards

	Averaging Option		Non-averaging Option	
	A	B	C	
Fuel Property	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard * (per gallon maximum)	Units of Standard
Sulfur Content	80	30	40	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume
90% Distillation Temperature (T90)	330	290	300	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200	210	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0	22.0	25.0	% by volume
Oxygen content: fuel ethanol** November 1 - March 31	10% fuel ethanol**	–	10% fuel ethanol**	% by volume
April 1 - October 31		–		
The maximum oxygen content EtOH year around		–	4.0	% by weight
Oxygen content: isobutanol** November 1 - March 31	12.5% isobutanol	–	12.5% isobutanol	% by volume
April 1 - October 31		–		
The maximum oxygen content year around		–	3.5	% by weight

* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R3-7-751(G), (H), and (I) for the use of the PM.
** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.
A registered supplier shall certify all Arizona CBG using fuel ethanol or isobutanol as the oxygenate beginning November 1 through March 31. Alternative oxygenate contents not less than 2.7% total oxygen may be used if approved by the associate director under A.R.S. § 3-3493(C).
NOTE: Dates represent compliance dates for the owner of a motor fuel dispensing site or fleet vehicle fuel facility.

Historical Note

New Article 7, Table 2 recodified from 20 A.A.C. 2, Article 7, Table 2 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3). Table 2 amended by final rulemaking at 24 A.A.R. 2666, effective November 10, 2018 (Supp. 18-3).

Table 3. Repealed

Historical Note

Repealed Table 3 recodified from repealed Table 3 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

ARTICLE 8. RESERVED

ARTICLE 9. GASOLINE VAPOR CONTROL FOR SITES WITH BOTH STAGE I AND STAGE II VAPOR RECOVERY SYSTEMS

R3-7-901. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Division. The documents incorporated by reference contain no later amendments or editions:

1. Appendix J.5 of Technical Guidance – Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Vol. II: Appendices, November 1991 edition (EPA450/391022b), published by the U.S. Environmental Protection Agency, Office of Air Quality, Planning and Standards, Research Triangle Park, North Carolina 27711.
2. *San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996, Third Revision, Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.
3. The following CARB test procedures:
   a. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.4, Determination of Dynamic Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   b. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.5, Determination (by Volume Meter) of Air to Liquid Volume Ratio of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   c. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2C, Determination of Spillage of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   d. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.6, Determination of Liquid Removal of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   e. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2B, Determination of Flow Versus Pressure for Equipment in Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   f. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   g. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
   h. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

Historical Note

New Section R3-7-901 recodified from Section R20-2-901 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-902. Exemptions

A. The owner or operator of a gasoline dispensing site that has decommissioned the site's stage II vapor recovery system in accordance with R3-7-913 or that is subject to A.R.S. § 3-3512, is exempt from the provisions of this Article but shall comply with the provisions of Article 10.

B. The owner or operator of a gasoline dispensing site that has a throughput that does not exceed the throughput specified in A.R.S. § 3-3515(B) may obtain an exemption by submitting a written request to the Division attesting that throughput at the gasoline dispensing site is not in excess of that specified in A.R.S. § 3-3515(B). By the 15th of each month, beginning the month after the Division approves the exemption, the person shall submit a written throughput report to the Division. If a person does not timely file a monthly throughput report or if a monthly throughput report reflects that the exemption limit is exceeded, the Division deems the exemption void.

C. To obtain an independent small business marketer exemption, a person shall derive at least 50 percent of the person's annual income from the sale of gasoline at each gasoline dispensing

site for which an exemption is requested. The person shall submit a written request for exemption to the Division. The Division shall determine the percentage of total annual income represented by the sale of gasoline on the basis of the person's state and federal gross income for the preceding year for income tax purposes. The following items are excluded from income computations:
1. Purchase and sale of diesel fuel, and
2. State lottery sales net commissions and incentives.

D. Motor raceways, motor vehicle proving grounds, and marine and aircraft fueling facilities are exempt from stage II vapor recovery requirements.

Historical Note
New Section R3-7-902 recodified from Section R20-2-902 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-903. Equipment and Installation

A. A person subject to A.R.S. § 3-3515 shall install, maintain, and operate a stage I and stage II vapor recovery system and component as specified in this Article until the stage II vapor recovery system is decommissioned in accordance with R3-7-913.

B. The Division shall reject a vapor recovery system or component from future installation if:
1. Federal regulations prohibit its use;
2. The vapor recovery system or component does not meet the manufacturer's specifications as certified by CARB using test methods approved in R3-7-901; or
3. The vapor recovery system or component fails greater than 20% of Division inspections for that system or component or the Division receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Division provides at least 30 days public notice of its proposed rejection.

C. The piping of both a stage I and stage II vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I and stage II vapor recovery system or component from the CARB-certified configuration without obtaining Division approval under R3-7-904.

D. If Division inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.

E. A stage I spill containment may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for draining entrapped liquid. A stage II vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

Historical Note
New Section R3-7-903 recodified from Section R20-2-903 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-904. Application Requirements and Process for Authority to Construct Plan Approval

A. A person shall not begin to construct a site requiring a vapor recovery system or to make a major modification of an existing vapor recovery system or component before obtaining approval of an authority to construct plan application. A major modification is:
1. Adding or replacing a gasoline storage tank that is equipped with a Division approved stage II vapor recovery system;
2. Adding or replacing underground piping, vapor piping within a dispenser, or a dispenser at an existing vapor recovery site unless the dispenser replacement is necessary due to unforeseen damage to the existing dispenser; or
3. Replacing a Division-approved stage II vapor recovery system of one certified configuration with an approved stage II vapor recovery system of a different certified configuration.

B. A person shall file with the Division a written change order to an authority to construct plan approval on a form provided by the Division if a modification of the approved vapor recovery system or component is needed after the Division issues an authority to construct plan approval. The person shall not make any modification until the Division approves the change order.

C. To obtain an authority to construct plan approval, a person shall submit to the Division, on a form provided by the Division, the following:
1. The name, address, and phone number of any owner, operator, and proposed contractor, if known;
2. The name of the stage I or stage II vapor recovery system or component to be installed along with the CARB certification for that system or component;
3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all equipment and piping detail; and
5. The application fee specified under R3-7-906.

D. After review and approval of the authority to construct plan, the Division shall issue the authority to construct plan approval and mail the plan approval to the address indicated on the application.
1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for Division review.
2. Construction of a stage II vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work done until an authority to construct plan approval is obtained.
3. An authority to construct plan approval is not transferable.

E. The Division shall deny an authority to construct plan for any of the following reasons:
1. Providing incomplete, false, or misleading information; or
2. Failing to meet the requirements stated in this Chapter.

F. If excavation is involved, the Division may visually inspect the stage II underground piping of a gasoline dispensing site before the pipeline is buried, for compliance with the authority to construct plan approval. A person who owns or operates a vapor recovery system or component shall give the Division notice by fax or e-mail at least two business days before the underground piping is complete. The Division shall require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.

G. After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for

up to 90 days before final approval, if an initial inspection is scheduled according to R3-7-905.

H. An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

Historical Note

New Section R3-7-904 recodified from Section R20-2-904 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-905. Initial Inspection and Testing

A. Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the Division with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval. The inspection shall be witnessed by the Division at a time approved by the Division and include any of the following relevant to the specific vapor recovery system installed:

1. A dynamic pressure performance test from each dispenser for each product grade to its associated underground storage tank;
2. A pressure decay test for each vapor control system including nozzles, underground storage tanks, and tank vents. This test shall be performed with caps removed from stage I fill and vapor risers. If the pressure decay test in R3-7-901(1) is used, the Division shall fail the vapor recovery system if gasoline storage tanks have less than 10 percent or greater than 60 percent vapor space. If the pressure decay test in R3-7-901(2) is used, the Division shall fail the vapor recovery system if gasoline storage tanks have less than 15 percent or more than 30,000 gallons vapor space. The Division shall compute combined tank vapor space for manifolded systems;
3. Communication from dispenser to tanks for each product, using the San Diego TP-96-1 and CARB TP-201.4 test procedures;
4. Air to liquid volume ratio by volume meter of a vapor recovery system, using CARB TP-201.5 or CARB-endorsed equivalent procedures to determine air to liquid (A/L) ratios;
5. Spillage of a stage II vapor recovery system, using the CARB TP-201.2C procedure;
6. Liquid removal of a stage II vapor recovery system, using the CARB TP-201.6 procedure;
7. Flow versus pressure for components in a stage II vapor recovery system, using the CARB TP-201.2B procedure; and
8. Procedures specified by a manufacturer for testing the vapor recovery system.

B. If there is a difference between a testing contractor's and the Division's test results, the Division's test results prevail.

C. If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).

D. A person who cancels an initial inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The Division shall take enforcement action if a person fails to comply with this Section.

E. A person shall notify the Division when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the Division approves the reinspection date and time.

F. If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Division shall fail the initial inspection of that site.

G. If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.

1. The Division shall take enforcement action if the person fails to timely reschedule the inspection.
2. The registered service agency shall notify the Division in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
3. The Division shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the inspection date and time.

Historical Note

New Section R3-7-905 recodified from Section R20-2-905 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-906. Fee

The authority to construct plan approval fee is $250.

Historical Note

New Section R3-7-906 recodified from Section R20-2-906 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-907. Operation

A. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall not transfer or permit the transfer of gasoline into any motor vehicle fuel tank unless stage II vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title 3, Chapter 19, Article 7, and this Article.

B. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall operate the stage II vapor recovery system and associated components in compliance with the CARB certification for that system and these rules.

C. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall inspect the system and its components daily. Daily inspections shall include all nozzles, hoses with connecting hardware, stage I fittings, and spill containment.

D. The owner or operator of a gasoline dispensing site shall immediately stop using a stage II vapor recovery system or component if one or more of the following system or component defects occur:

1. A faceplate or facecone of a balance system nozzle does not make a good seal with a vehicle fill tube, or the accumulated damage to the faceplate or facecone is 1/4 or more of its circumference. These conditions also apply to a vacuum assist system that has a nozzle with a bellows and faceplate that seal with a vehicle fill pipe;
2. When more than 1/4 of the cone is missing for vapor assist systems having bellowless nozzles with flexible vapor deflecting cones;
3. A nozzle bellows has a triangular tear measuring 1/2 inch or more to a side, a hole measuring 1/2 inch or more in diameter, or a slit or tear measuring one inch or more in length;
4. A nozzle bellows is loosely attached to the nozzle body, attached by means other than that approved by the manu-

facturer, or a vapor check valve is frozen in the open position due to impaired motion of the bellows;

5. Any nozzle liquid shut-off mechanism malfunctions in any manner, the spring or latching knurl for holding the nozzle in place during vehicle fueling is damaged or missing, or a nozzle is without a functioning hold-open latch;
6. Any nozzle with a defective vapor check valve, or hose having a disengaged breakaway, when all other nozzles are capable of delivering the same grade of fuel from the same turbine pump;
7. Any vacuum assist nozzle having less than the acceptable number of open vapor collection holes specified by CARB for the particular model of nozzle in service, the nozzle spout rocks or rotates more than 1/8 inch, the spout shows heavy wear with the tip damaged in a way that the largest axis exceeds .84 inch, or the plastic insert in the tip of the spout is loose;
8. Any nozzle with a dispensing rate greater than 10 gallons per minute when only one nozzle associated with the product supply pump is operating, or a flow restrictor is improperly installed, leaking, or non-CARB approved;
9. Any nozzle with a physically damaged breakaway or a breakaway showing evidence of product leakage, or a breakaway not approved for the installed system;
10. A dispenser mounted vacuum pump that is not functioning;
11. Any vapor recovery hose and, as applicable, the accompanying whip hose, that:
    a. Is crimped, kinked, flattened, or damaged in any manner that constricts the return flow of vapor;
    b. For a balance hose, has any slits or tears greater than 1/4 inch in length, perforations greater than 1/8 inch in diameter, or assist system hoses that are cut, torn, or badly worn so as to cause a possible fuel leak;
    c. Does not fully retract, for approved dispenser configurations using hose retractors, or a balance system hose that exceeds the 10-inch loop requirement where required, or for a hose length that allows a balance hose to touch the ground, or for a vacuum assist hose having more than 6 inches in contact with the ground;
    d. Does not swivel at the hose/nozzle connection; or
    e. Does not have a required internal liquid pick-up or the hose with liquid pick-up is improperly assembled for the pick-up to properly function;
12. Tank vent pipes that are not the proper height, or are not properly capped with approved pressure and vacuum vent valve settings, or where required, vent pipes that do not meet the CARB-specified paint color code for the installed system;
13. The stage I installation is not properly installed or maintained, in that:
    a. Spill containment buckets are cracked, rusted, the sidewalls are not attached or otherwise improperly installed, or spill containment buckets are not clean and empty of liquid, or there are non-functioning drain valves, or drain valves that do not seal;
    b. A fill adaptor collar or vapor poppet (drybreak) that is loose or damaged, or with a fill or vapor cap that is not installed, is missing, broken, or without gaskets;
    c. Coaxial stage I that is not equipped with a functioning CARB-approved poppeted fill tube, or the coaxial cap is not installed, is missing, broken, or without gaskets; or
    d. A fill tube is missing, not sealed, has holes, broken or damaged overfill preventors, or if the high point of the bottom opening is more than 6 inches above the tank bottom;
14. The tank rise cap with instrument lead wire for an electronic monitoring system is not tightly installed, or any other tank riser is not securely sealed and capped;
15. The under-dispenser vapor recovery piping is not securely intact or is crimped, does not slope to the underground vapor pipe riser, hoses used for connection are deteriorated or not approved for use with gasoline, resettable impact type shear valves are closed, or there is any other valve or restriction to impede the vapor path;
16. An above-ground storage tank that does not display a permanently attached UL approval plaque;
17. A vacuum assist system with an inoperative central vacuum unit;
18. A vacuum assist system with an inoperative vapor processing (burner) unit;
19. A vacuum assist system with a monitoring system certified by CARB or the authority to construct that is not operational or malfunctions; or
20. Any other component identified in the diagrams, exhibits, attachments or other documents that are certified by CARB or required by the authority to construct for that system is missing, disconnected, or malfunctioning.

E. The owner or operator of a gasoline dispensing site shall inspect for the presence and proper placement of public information signs required by A.R.S. § 3-3515(E) and this Article.

F. For a stage II vacuum assist vapor recovery system, the owner or operator of a gasoline dispensing site shall immediately place damaged or malfunctioning equipment out of service and shall notify the Division by fax or e-mail no more than one day after the malfunction of a central vacuum or processor unit. Once the equipment or system is repaired, the owner or operator shall provide written notice within five days of the repair to the Division.

G. For proper operation of a stage I system, under A.R.S. § 3-3512(C)(4), the owner or operator of a gasoline dispensing site shall recover vapors during pump-out from a gasoline storage tank to a mobile transporter.

H. The owner or operator of a gasoline dispensing site shall ensure that any underground tightness test is conducted in a manner that prevents gasoline vapors being emitted to the atmosphere.

Historical Note

New Section R3-7-907 recodified from Section R20-2-907 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-908. Training and Public Education

A. Each operator of a gasoline dispensing site using stage II vapor recovery shall obtain adequate training and written instructions to enable the system to be installed, operated and maintained properly in accordance with the manufacturer's specifications and CARB certification. The operator shall maintain documentation of this training onsite and make the documentation available to the Division on request.

B. In addition to the information required in A.R.S. § 3-3515(E), an operator of a gasoline dispensing site with stage II vapor recovery shall display a Division telephone number that the public can call to report nozzle or other equipment problems. The operator shall place the required information on each face of each gasoline dispenser. The headings shall be at least 3/8 inches and shall be readable from up to 3 feet away for decal

signs, and from up to 6 feet away for permanent (nondecal) signs. Decals shall be located on the upper 60% of each face of each dispenser.

Historical Note

New Section R3-7-908 recodified from Section R20-2-908 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-909. Recordkeeping and Reporting

A. The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain daily records of the inspections done under this Article.

B. The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage II equipment.

C. The owner or operator of a gasoline dispensing site that is exempt under A.R.S. § 3-3515(B) from requirements to install and operate stage II vapor recovery equipment, shall maintain a log at the site showing monthly throughputs. The owner or operator shall submit throughput records to the Division as required under R3-7-902(B). If any throughput requirement provided in A.R.S. § 3-3515(B) and this Article is exceeded for any month, the owner or operator shall notify the Division in writing within 30 days. The owner or operator shall within six months after the end of the month the throughput is exceeded, install and operate a stage II vapor recovery system conforming to this Article.

D. The owner or operator of a gasoline dispensing site shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the Division upon request.

Historical Note

New Section R3-7-909 recodified from Section R20-2-909 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-910. Annual Inspection and Testing

A. A person shall ensure that an annual inspection is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Division approves the inspection date and time.

B. The annual inspection shall include the tests defined in R3-7-905(A)(1) through (8) that pertain to the specific vapor recovery system installed.

C. If there is a difference between a testing contractor's and the Division's test results, the Division's test results prevail.

D. If a site fails to pass any of the tests required by subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all appropriate tests in subsection (B).

E. After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.

F. A registered service representative shall perform all tests according to Article 9 and any other vapor recovery procedure that the Division issues to registered service agencies.

G. A person who cancels a witnessed inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, of its approval of the inspection date and time. The Division shall take enforcement action if a person does not comply with this subsection.

Historical Note

New Section R3-7-910 recodified from Section R20-2-910 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-911. Compliance Inspections

The Division shall not announce when it plans to conduct a compliance inspection of a stage I or stage II vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title 3, Chapter 19, or this Article, the Division shall require the vapor recovery system or component to undergo an appropriate test as specified in R3-7-910.

Historical Note

New Section R3-7-911 recodified from Section R20-2-911 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-912. Enforcement

If the Division finds that a stage II vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title 3, Chapter 19, the Division shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 3, Chapter 19 and this Chapter before the vapor recovery system or component is placed in service.

Historical Note

New Section R3-7-912 recodified from Section R20-2-912 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-913. Stage II Decommissioning

A. The owner or operator of a gasoline dispensing site with a stage II vapor recovery system shall decommission the stage II vapor recovery system in accordance with the following schedule:

1. If the owner or operator holds a license issued by the Division numbered BMF 13676 or less, the owner or operator shall decommission the stage II vapor recovery system between October 1, 2016 and September 30, 2017; or
2. If the owner or operator holds a license issued by the Division numbered BMF 13677 or more, the owner or operator shall decommission the stage II vapor recovery system between October 1, 2017 and September 30, 2018.

B. Request for alternate decommissioning plan. The following owners or operators may submit an alternate decommissioning plan requesting to decommission the stage II vapor recovery systems at a time other than would be required under subsection (A)(1) or (A)(2) but no sooner than October 1, 2016 and no later than September 30, 2018. The owner or operator shall submit the alternate decommissioning plan to the Division for approval prior to decommissioning at an alternate time period.
1. An owner or operator that holds licenses issued by the Division for three or fewer gasoline dispensing sites if all the licenses are issued in the same business name and mailing address. The owner or operator shall ensure that the alternate decommissioning plan includes the information specified in subsections (C)(1) through (4); and
2. An owner or operator that holds licenses issued by the Division for four or more gasoline dispensing sites if all the licenses are issued in the same business name and mailing address. The owner or operator shall ensure that the alternate decommissioning plan includes the information specified in subsection (C).

C. An owner or operator that submits a request for approval of an alternate decommissioning plan shall include the following information as specified under subsection (B):
1. The business name and mailing address on all licenses;
2. The name and telephone number of an individual with whom the Division can communicate;
3. The license number and address of each gasoline dispensing site and a statement of whether the owner or operator proposes to decommission each vapor recovery system between October 1, 2016 and September 30, 2017, or October 1, 2017 and September 30, 2018;
4. A statement of whether all gasoline dispensers at the gasoline dispensing site will be replaced and if so, whether the owner or operator proposes to replace the gasoline dispensers between October 1, 2016 and September 30, 2017, or October 1, 2017 and September 30, 2018; and
5. If the owner or operator owns four or more gasoline dispensing sites, an alternate decommissioning plan that includes:
   a. The license numbers and addresses of 50 percent of the gasoline dispensing sites at which the vapor recovery systems will be decommissioned between October 1, 2016 and September 30, 2017; and
   b. The license numbers and addresses of the remaining 50 percent of the gasoline dispensing sites at which the vapor recovery systems will be decommissioned between October 1, 2017 and September 30, 2018.

D. The Division shall approve or reject, on a first-come-first-served basis, an alternate decommissioning plan within three months after the alternate decommissioning plan is submitted. The Division shall allow decommissioning of stage II vapor recovery equipment at the time gasoline dispensers are replaced as indicated on the request for approval under subsection (C)(4). The Division may reject an alternate decommissioning plan if the information required under subsection (B) is not provided or if the year requested for decommissioning already has more than 60 percent of all gasoline dispensing sites scheduled for decommissioning;

E. The owner or operator of a gasoline dispensing site that is exempt under R3-7-902 shall decommission the site any time between October 1, 2016, and September 30, 2018;

F. The owner or operator of a gasoline dispensing site shall ensure that a Notice of Intent, using a form or format provided by the Division, is submitted to the Division at least 10 days before the planned decommissioning and includes the following information:
1. Name of the owner or operator of the gasoline dispensing site,
2. Address of the gasoline dispensing site,
3. Name of the decommissioning contractor,
4. Decommissioning dates,
5. Name of the vapor testing registered service representative, and
6. A statement indicating whether all gasoline dispensers at the gasoline dispensing site are being replaced.

G. If any of the information provided under subsection (F) changes, the owner or operator shall ensure that the Division receives the changed information at least 24 hours before the scheduled start of decommissioning.

H. The owner or operator of a gasoline dispensing site shall ensure that all stage II vapor recovery systems are decommissioned according to the material incorporated by reference in R3-7-901(4) with the following exceptions:
1. Liquid shall be purged from the vapor piping following disconnection in section 14.6.6;
2. Vapor piping that is not disconnected from the tank top in accordance with section 14.6.7 shall be disconnected in the future if construction involving excavation that renders the piping accessible is performed; and
3. The pressure decay test conducted under section 14.6.12 shall meet the requirements in R3-7-1005(A)(1).

I. The decommissioning contractor shall:
1. Complete a Decommissioning Checklist using a form or format provided by the Division,
2. Provide a copy of the completed Decommissioning Checklist to the owner or operator of the gasoline dispensing site at the time of decommissioning, and
3. Submit a copy of the completed Decommissioning Checklist to the Division within 10 days after decommissioning of the stage II vapor recovery system is complete. Decommissioning of a stage II vapor recovery system is complete on the date and at the time when the gasoline dispensing site resumes sales of motor fuel following decommissioning.

J. A gasoline dispensing site with a stage II vapor recovery system that is decommissioned is exempt from the annual inspection and testing required under R3-7-910 but shall be subject to the initial inspection and testing prescribed under R3-7-1005 within 60 days after decommissioning is complete.

K. The requirements in Article 10 apply to all gasoline dispensing sites at which stage II vapor recovery systems have been decommissioned.

L. The Division shall place out-of-service a gasoline dispensing site at which a stage II vapor recovery system is not decommissioned according to this Section until the gasoline dispensing site is decommissioned and impose civil penalties under A.R.S. § 3-3475 on the owner or operator of the gasoline dispensing site.

Historical Note

New Section R3-7-913 recodified from Section R20-2-913 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

ARTICLE 10. STAGE I VAPOR RECOVERY

R3-7-1001. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Division. The documents incorporated by reference contain no later amendments or editions:
1. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8,

2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

2. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
3. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1D, Leak Rate of Drop Tube Overfill Protection Devices and Spill Container Drain Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
4. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
5. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.3, Determination of 2 Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, July 26, 2012 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
6. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.3C, Determination of Vapor Piping Connections to Underground Gasoline Storage Tanks (Tie-Tank Test), March 17, 1999 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

Historical Note

New Section R3-7-1001 recodified from Section R20-2-1001 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1002. Exemptions

A. The owner or operator of a gasoline dispensing site at which the site's stage II vapor recovery system has not been decommissioned in accordance with R3-7-913 is exempt from the provisions of this Article but shall comply with the provisions of Article 9.

B. An owner or operator of a gasoline dispensing site with a gasoline throughput that does not exceed that specified in A.R.S. § 3-3512(B) may file for an exemption from this Article. To obtain an exemption, the owner or operator of the gasoline dispensing site shall submit an annual throughput report to the Division, using a form prescribed by the Division, no later than March 30 of each year and attest to the throughput during each month of the previous calendar year. If the owner or operator fails to file an annual throughput report timely or if the annual throughput report indicates the exemption limit specified in A.R.S. § 3-3512(B) was exceeded, the Division shall deem the exemption void.

Historical Note

New Section R3-7-1002 recodified from Section R20-2-1002 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1003. Equipment and Installation

A. The Division shall reject a vapor recovery system or component from future installation if:
1. Federal regulations prohibit its use;
2. The vapor recovery system or component does not meet the manufacturer's specifications as certified by CARB using test methods approved in R3-7-1001; or
3. The vapor recovery system or component fails greater than 20% of Division inspections for that system or component or the Division receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Division provides at least 30 days public notice of its proposed rejection.

B. The piping of a stage I vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I vapor recovery system or component from the CARB-certified configuration without obtaining Division approval under R3-7-1004. All components installed with the stage I vapor recovery system shall be certified by CARB or approved by the Division as required under A.R.S. § 3-3512.

C. If Division inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.

D. A stage I liquid or vapor spill containment bucket may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for draining entrapped liquid.

E. A stage I vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

Historical Note

New Section R3-7-1003 recodified from Section R20-2-1003 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1004. Application Requirements and Process for Authority to Construct Plan Approval

A. A person shall not begin to construct a site requiring a stage I vapor recovery system or to make a major modification of an existing vapor recovery system before obtaining approval of an authority to construct plan application. A major modification is:
1. Adding or replacing a gasoline storage tank that is equipped with a Division approved stage I vapor recovery system;
2. Modifying, adding, or replacing underground vent piping; or
3. Conducting construction under R3-7-913(H)(2).

B. A person shall file with the Division a written change order, using a form provided by the Division, to obtain a modification of the approved vapor recovery system or component if a modification is needed after the Division issues an authority to construct plan approval. The person shall not make any modification until the Division approves the change order.

C. To obtain an authority to construct plan approval, a person shall submit to the Division, on a form provided by the Division, the following:
1. The name, address, and telephone number of any owner, operator, and proposed contractor, if known;
2. The name of the stage I vapor recovery system or component to be installed along with the CARB certification for that system or component;

3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all stage I vapor recovery equipment and stage I vapor recovery piping detail; and
5. The application fee specified under R3-7-1006.

D. A person shall ensure that an installed or modified stage I vapor recovery system meets the following requirements:
1. Has CARB-certified product and vapor adaptors that prevent loosening or over-tightening of the stage I product and vapor adaptors;
2. Consists of a two-point stage I system with separate fill and vapor connection points. Coaxial stage I vapor recovery systems shall not be used;
3. Has a submerged fill pipe that has the fill pipe's highest point of discharge no more than six inches from the tank bottom;
4. Has no tank containing motor fuel other than gasoline connected to the vapor piping;
5. Uses cement that is resistant to deterioration from exposure to water, hydrocarbons, and alcohol to join all pipes;
6. Has tank vent pipes that extend at least 12 feet above the elevation of the stage I fill points;
7. Has tank vent pipes with a minimum inside diameter of:
   a. Two inches if the pipe is not manifolded, or
   b. Three inches from the point of manifold if the pipe is manifolded;
8. Has pressure vacuum vent valves that are attached to the tank vent pipes by a threaded connection;
9. If a gasoline tank is installed in an enclosed vault, has an emergency vent in addition to the pressure vacuum vent valve required under subsection (D)(8);
10. Has risers into gasoline storage tanks that are capped with UL-approved caps;
11. Has lead wires for instrumentation that pass through a leak-tight grommet with a compression fitting suitable for exposure to gasoline vapors;
12. Has storage tank vent pipes and fill and vapor manhole tops that are painted a color that minimizes solar gain and has a reflective effectiveness of at least 55 percent. Reflectivity shall be determined by visually comparing the paint with paint-color cards obtained from a paint manufacturer that uses the Master Pallet Notation to specify the paint color (i.e. 58YY *88*/180 where the number in italics is the paint reflectivity). Examples of colors have a reflective effectiveness of at least 55 percent include, but are not limited to, yellow, light gray, aluminum, tan, red iron oxide, cream or pale blue, light green, glossy gray, light blue, light pink, light cream, white, silver, beige, tin plate, and mirrored finish. A manhole cover that is color coded for product identification is exempt from this subsection; and
13. Complies with other requirements outlined in the authority to construct permit.

E. After review and approval of the authority to construct plan, the Division shall issue the authority to construct plan approval and mail, fax, or e-mail the plan approval to the address indicated on the application.
1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for Division review.
2. Construction of a stage I vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work done until an authority to construct plan approval is obtained.
3. An authority to construct plan approval is not transferable.

F. The Division shall deny an authority to construct plan for any of the following reasons:
1. Providing incomplete, false, or misleading information; or
2. Failing to meet the requirements stated in this Chapter.

G. If excavation is involved, the Division may visually inspect the stage I underground piping of a gasoline dispensing site before the piping is buried for compliance with the authority to construct plan approval. The owner or operator of a vapor recovery system or component shall give the Division notice by fax or e-mail at least two business days before the underground piping is complete to schedule the inspection. The Division may require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.

H. After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for up to 90 days before final approval if an initial inspection is scheduled according to R3-7-1005.

I. An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

Historical Note

New Section R3-7-1004 recodified from Section R20-2-1004 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1005. Initial Inspection and Testing

A. Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the Division with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval and this subsection. The inspection shall be witnessed by the Division at a time approved by the Division and include the following tests:
1. A pressure decay test for each vapor control system including underground storage tanks and tank vents using CARB TP-201.3 test procedures. All test procedures pertaining to stage I vapor recovery systems shall be followed except the post-test procedures in section 8 and the calculations in section 9 of the CARB TP-201.3 test procedures. The compliance status of the site shall be determined by comparing the final five-minute pressure with the minimum allowable final pressure in Table 1. A calculated ullage exceeding that listed in Table 1 shall be rounded up to the next higher ullage volume in the table;
2. A test of each pressure vacuum vent valve using CARB TP-201.1E test procedures;
3. A Tie-Tank test using CARB TP-201.3C test procedure; and
4. Procedures specified by a manufacturer or CARB for testing the vapor recovery system.

B. If there is a difference between a testing contractor's test results and the Division's test results, the Division's test results prevail.

C. If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).

D. A person who cancels an initial inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The Division shall take enforcement action if a person fails to comply with this Section.

E. A person shall notify the Division when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the Division approves the reinspection date and time.

F. If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Division shall fail the initial inspection of that site.

G. If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.

1. The Division shall take enforcement action if the person fails to timely reschedule the inspection.
2. The registered service agency shall notify the Division in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
3. The Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the inspection date and time.

Historical Note

New Section R3-7-1005 recodified from Section R20-2-1005 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1006. Fee

The authority to construct plan approval fee is $250.

Historical Note

New Section R3-7-1006 recodified from Section R20-2-1006 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).

R3-7-1007. Operation

A. The owner or operator of a gasoline dispensing site with stage I vapor recovery shall not transfer or permit the transfer of gasoline into any gasoline storage tank subject to this Article unless stage I vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title 3, Chapter 19, Article 7, and this Article.

B. The owner or operator of a gasoline dispensing site with stage I vapor recovery shall operate the stage I vapor recovery system and associated components in compliance with the CARB certification or Division approval under A.R.S. § 3-3512 for that system and these rules.

C. The owner or operator of a gasoline dispensing site with stage I vapor recovery located in area A shall inspect the system and its components at least once every seven days. The inspections shall include all stage I fittings and spill containment.

D. The owner or operator of a gasoline dispensing site shall immediately stop using a stage I vapor recovery system or component if one or more of the following system or component defects occur:

1. Tank vent pipes are not the proper height or are not properly capped with approved pressure and vacuum vent valves;
2. Vent pipes do not meet the CARB-specified paint color code specified in R3-7-1004(D)(13);
3. The stage I vapor recovery system is not properly installed or maintained as evidenced by the following:
   a. Spill containment buckets are cracked, rusted, or not clean and empty of liquid; sidewalls are not attached or are otherwise improperly installed; and drain valves are non-functioning or do not seal;
   b. A fill adaptor collar or vapor poppet (drybreak) is loose, damaged, or has a fill or vapor cap that is not installed or is missing, broken, not securely attached, or missing gaskets;
   c. Coaxial stage I is not equipped with a functioning CARB-approved poppeted fill tube or the coaxial cap is not installed or is missing, broken, not securely attached, or missing gaskets; or
   d. A fill tube is missing, broken, or not sealed; has holes or damaged overfill prevention; or the high point of the bottom opening is more than six inches above the tank bottom;
4. The tank rise cap with instrument lead wire for an electronic monitoring system is not installed tightly or any other tank riser is not sealed and capped securely;
5. An above-ground storage tank does not display a permanently attached UL approval plaque; or
6. Any other component identified in the diagrams, exhibits, attachments, or other documents and certified by CARB or required by the authority to construct permit for that system is missing, disconnected, or malfunctioning.

E. For proper operation of a stage I system under A.R.S. § 3-3512(C)(4), the owner or operator of a gasoline dispensing site shall recover vapors during pump-out from a gasoline storage tank to a mobile transporter.

F. The owner or operator of a gasoline dispensing site shall ensure that any underground tightness test is conducted in a manner that prevents gasoline vapors being emitted to the atmosphere.

Historical Note

New Section R3-7-1007 recodified from Section R20-2-1007 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1008. Training and Public Education

Each owner or operator of a gasoline dispensing site using stage I vapor recovery shall obtain adequate training and written instructions to enable the system to be installed, operated, and maintained properly in accordance with the manufacturer's specifications and CARB certification. The owner or operator shall maintain documentation of this training onsite and make the documentation available to the Division on request.

Historical Note

New Section R3-7-1008 recodified from Section R20-2-1008 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1009. Recordkeeping and Reporting

A. The owner or operator of a gasoline dispensing site employing stage I vapor recovery in area A shall maintain records of the inspections done under R3-7-1007.

B. The owner or operator of a gasoline dispensing site employing stage I vapor recovery in area A shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage I equipment.

C. The owner or operator of a gasoline dispensing site that is exempt under A.R.S. § 3-3512(B) from requirements to install and operate stage I vapor recovery equipment shall maintain a log at the site showing monthly throughputs. The owner or operator shall make the log available to the Division within 24

hours after request. The owner or operator shall submit to the Division the throughput information required under R3-7-1002(B). If any throughput requirement provided in A.R.S. § 3-3512(B) and this Article is exceeded for any month, the owner or operator shall notify the Division in writing within 30 days. The owner or operator shall, within six months after the end of the month the throughput is exceeded, install and operate a stage I vapor recovery system conforming to this Article. If a stage I vapor recovery system is already installed, the owner or operator shall have the system tested under R3-7-1010 within 30 days after the end of the month in which the throughput was exceeded.

D. The owner or operator of a gasoline dispensing site that has decommissioned a stage II vapor recovery system under R3-7-913 shall maintain a copy of the decommissioning checklist required under R3-7-913(I) for three years.

E. Except as specified in subsection (D), the owner or operator of a gasoline dispensing site shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the Division upon request.

Historical Note

New Section R3-7-1009 recodified from Section R20-2-1009 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1010. Annual Testing and Inspection

A. A person shall ensure that an annual inspection is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Division approves the inspection date and time.

B. The annual inspection shall include the tests defined in R3-7-1005(A)(1) through (3) that pertain to the specific vapor recovery system installed.

C. To verify proper operation of a vapor recovery system, the Division may perform or may require registered service representatives to perform additional tests under R3-7-1005(A)(4) during the annual inspection and testing. The Division shall provide registered service agencies with six months' notice before requiring additional annual testing under R3-7-1005(A)(4).

D. If there is a difference between a testing contractor's test results and the Division's test results, the Division's test results prevail.

E. If a site fails to pass any of the tests required under subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all tests required under subsection (B).

F. After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.

G. A person shall notify the Division when a vapor recovery system or component is repaired after failing an annual inspection. A registered service representative shall not conduct a reinspection until the Division approves the reinspection date and time.

H. A registered service representative shall perform all tests according to this Article and any other vapor recovery procedure the Division issues to registered service agencies.

I. A person that cancels an annual inspection shall notify the Division by calling the Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Division shall notify the registered service agency within five business days, by fax or e-mail, of its approval of the inspection date and time. The Division shall take enforcement action if a person does not comply with this subsection.

J. Gasoline dispensing sites located in area B are exempt from the annual inspection and testing requirements of this Section.

Historical Note

New Section R3-7-1010 recodified from Section R20-2-1010 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1011. Compliance Inspections and Additional Test Methods

The Division shall not announce when it plans to conduct a compliance inspection of a stage I vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title 3, Chapter 19, or this Article, the Division shall require the vapor recovery system or component to undergo an appropriate test as specified in R3-7-1010.

Historical Note

New Section R3-7-1011 recodified from Section R20-2-1011 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1012. Enforcement

If the Division finds that a stage I vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title 3, Chapter 19, the Division shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 3, Chapter 19 and this Chapter before the vapor recovery system or component is placed in service.

Historical Note

New Section R3-7-1012 recodified from Section R20-2-1012 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

R3-7-1013. Stage II Vapor Recovery

If the Division identifies a gasoline dispensing site operating a stage II vapor recovery system within an ozone nonattainment area designated as moderate, serious, severe, or extreme by the EPA under section 107(d) of the Clean Air Act or in area A after September 30, 2018, the Division shall issue an administrative order and civil penalty under A.R.S. § 3-3475 and require that the stage II vapor recovery system be decommissioned within three months after identification. Each day the stage II vapor recovery system is not decommissioned after the time specified in the administrative order constitutes a separate violation for the purpose of calculating the civil penalty under A.R.S. § 3-3475.

Historical Note
New Section R3-7-1013 recodified from Section R20-2-1013 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3). Amended by final rulemaking at 23 A.A.R. 2280, effective October 2, 2017 (Supp. 17-3).

Table 1. Acceptability of Final System Pressure Results for Systems Tested Using TP-201.3

Ullage (gallons)	Minimum Pressure after Five Minutes (Inches Water Column)
500	0.73
550	0.80
600	0.87
650	0.93
700	0.98
750	1.03
800	1.07
850	1.11
900	1.15
950	1.18
1000	1.21
1200	1.32
1400	1.40
1600	1.46
1800	1.51
2000	1.56
2400	1.62
2600	1.65
2800	1.67
3000	1.69
3500	1.73
4000	1.76
4500	1.79
5000	1.81
6000	1.84
7000	1.86
8000	1.88
9000	1.89
10000	1.90
15000	1.93
20000	1.95
25000	1.96

Historical Note
Article 10, New Table 1 recodified from 20 A.A.C. 2, Article 10, Table 1 at 22 A.A.R. 2786, effective August 15, 2016 (Supp. 16-3).