# Appendix D: Previously Submitted Plans (Not For Approval)

# Exhibit D-I: The 2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program SIP Revision (Not for Approval).

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Janice K. Brewer
Governor

Henry R. Darwin
Director


August 7, 2013

Mr. Jared Blumenfeld, Regional Administrator
U.S. Environmental Protection Agency, Region IX
Mail Code ORA-1
75 Hawthorne Street
San Francisco, CA 94105

RE: 2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program

Dear Mr. Blumenfeld:

Consistent with the provisions of Arizona Revised Statutes §§ 49-104, 49-106, 49-404, 49-406 and 49-425 (Enclosure1) and the Code of Federal Regulations (CFR) Title 40, §§ 51.102 through 51.104, the Arizona Department of Environmental Quality (ADEQ) hereby adopts and submits to the U.S. Environmental Protection Agency (EPA) the *2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program* as a revision to the Arizona State Implementation Plan (SIP).

This SIP revision incorporates by reference statutes and rules previously submitted and approved by EPA, but subsequently updated through the legislative and administrative rulemaking processes. The document includes a history of Arizona's Cleaner Burning Gasoline (CBG) program, identification of the requested updates to the program, and discussion of the changes in statute and rule included for federal review with this submittal.

ADEQ requests that EPA approve this revision to the Arizona State Implementation Plan. Enclosure 2 contains the SIP Completeness Checklist; Enclosure 3 contains two hard copies and an electronic exact duplicate of the hard copies on CD; Enclosure 4 consists of certified copies of the statutes and rules requested for incorporation by reference; Enclosure 5 includes public hearing documentation for this SIP revision.

Sincerely,

Eric C. Massey, Director
Air Quality Division

cc: Michelle Wilson, Arizona Department of Weights and Measures
Lindy Bauer, Maricopa Association of Governments, w/o enclosures
Colleen McKaughan, EPA Region IX, w/o enclosures

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**ENCLOSURE 1**

**Arizona Revised Statues §§ 49-104, 49-106, 49-404, 49-406, and 49-425**

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**Arizona Revised Statutes**

The Arizona Revised Statutes have been updated with the 50th Legislature, 2nd Regular Session information.

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|---|---|---|
| ☐ | Title 1 | General Provisions |
| ☐ | Title 2 | THIS TITLE HAS BEEN REPEALED |
| ☐ | Title 3 | Agriculture |
| ☐ | Title 4 | Alcoholic Beverages |
| ☐ | Title 5 | Amusements and Sports |
| ☐ | Title 6 | Banks and Financial Institutions |
| ☐ | Title 7 | Bonds |
| ☐ | Title 8 | Children |
| ☐ | Title 9 | Cities and Towns |
| ☐ | Title 10 | Corporations and Associations |
| ☐ | Title 11 | Counties |
| ☐ | Title 12 | Courts and Civil Proceedings |
| ☐ | Title 13 | Criminal Code |
| ☐ | Title 14 | Trusts, Estates and Protective Proceedings |
| ☐ | Title 15 | Education |
| ☐ | Title 16 | Elections and Electors |
| ☐ | Title 17 | Game and Fish |
| ☐ | Title 18 | THIS TITLE HAS BEEN REPEALED |
| ☐ | Title 19 | Initiative, Referendum and Recall |
| ☐ | Title 20 | Insurance |
| ☐ | Title 21 | Juries |
| ☐ | Title 22 | Justices of the Peace and Other Courts Not of Record |
| ☐ | Title 23 | Labor |
| ☐ | Title 24 | THIS TITLE HAS BEEN REPEALED |
| ☐ | Title 25 | Marital and Domestic Relations |
| ☐ | Title 26 | Military Affairs and Emergency Management |
| ☐ | Title 27 | Minerals, Oil and Gas |
| ☐ | Title 28 | Transportation |
| ☐ | Title 29 | Partnership |
| ☐ | Title 30 | Power |
| ☐ | Title 31 | Prisons and Prisoners |
| ☐ | Title 32 | Professions and Occupations |
| ☐ | Title 33 | Property |

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|---|---|---|
| ☐ | Title 34 | Public Buildings and Improvements |
| ☐ | Title 35 | Public Finances |
| ☐ | Title 36 | Public Health and Safety |
| ☐ | Title 37 | Public Lands |
| ☐ | Title 38 | Public Officers and Employees |
| ☐ | Title 39 | Public Records, Printing and Notices |
| ☐ | Title 40 | Public Utilities and Carriers |
| ☐ | Title 41 | State Government |
| ☐ | Title 42 | Taxation |
| ☐ | Title 43 | Taxation of Income |
| ☐ | Title 44 | Trade and Commerce |
| ☐ | Title 45 | Waters |
| ☐ | Title 46 | Welfare |
| ☐ | Title 47 | Uniform Commercial Code |
| ☐ | Title 48 | Special Taxing Districts |
| ☐ | Title 49 | The Environment |

07 Arizona State Legislature.

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## 49-104. Powers and duties of the department and director

A. The department shall:
1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Assist the department of health services in recruiting and training state, local and district health department personnel.
15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic

competitiveness of this state and of the Arizona-Mexico region.
17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.
B. The department, through the director, shall:
1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.
4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies, including laboratories, in furthering any department program.
6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.
(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the

standards and rules has been demonstrated by approval of the design documents by the department.
12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.
13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:
(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.
(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.
(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.
(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.
14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:
(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.
(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After the effective date of this amendment to this section, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rule making process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.
15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and title 26, chapter 2,

article 3.
16. Approve remediation levels pursuant to article 4 of this chapter.
17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:
(a) The direct and indirect costs of the department's relevant duties, including employees salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.
(b) The availability of other funds for the duties performed.
(c) The impact of the fees on the parties subject to the fees.
(d) The fees charged for similar duties performed by the department, other agencies and the private sector.
C. The department may:
1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.
2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.
D. The director may:
1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

49-106. Statewide application of rules

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law

## 49-404. State implementation plan

A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.

B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.

C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective

## 49-406. Nonattainment area plan

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.

E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.

F. At a minimum, the memorandum of agreement shall contain:

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:

(a) Demographics.

(b) Transportation.
(c) Emissions inventories.
(d) Assumptions used in developing the model.
(e) Results of modeling done in support of the plan.
(f) Monitoring data.
G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:
1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
2. A program for the enforcement of the limitation or measure.
3. The level of personnel and funding allocated to the implementation of the measure.
H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.
I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.
J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

## 49-425. Rules; hearing

A. The director shall adopt such rules as he determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify, and amend reasonable standards for the quality of, and emissions into, the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions, and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.

B. No rule may be enacted or amended except after the director first holds a public hearing after twenty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.

C. The department shall enforce the rules adopted by the director.

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# ENCLOSURE 2

## SIP Completeness Checklist

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**STATE IMPLEMENTATION PLAN COMPLETENESS CHECKLIST**

**Submittal of**

***2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program***

40 CFR Part 51, Appendix V, *Criteria for Determining the Completeness of Plan Submissions*, contains the "minimum criteria for determining whether a State Implementation Plan submitted for consideration by EPA is an official submission for purposes of review under §51.103," *Submission of plans, preliminary review of plans*. Appendix V requires the following to be included in plan submissions for review by EPA:

1. **"A formal letter of submittal from the Governor or his designee, requesting EPA approval of the plan or revision thereof (hereafter ''the plan'')."** [Appendix V, 2.1(a)]

   See cover letter.

2. **"Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter ''document'') in final form. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date."** [Appendix V, 2.1(b)]

   See cover letter.

3. **"Evidence that the State has the necessary legal authority under State law to adopt and implement the plan."** [Appendix V, 2.1(c)]

   See Enclosure 1.

4. **"A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as, redline/strikethrough) to the existing approved plan, where applicable ..."** [Appendix V, 2.1(d)]

   See Enclosure 3.

5. **"Evidence that the State followed all of the procedural requirements of the State's laws and constitution in conducting and completing the adoption/issuance of the plan."** [Appendix V, 2.1(e)]

   See Enclosure 3

6. **"Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice."** [Appendix V, 2.1(f)]

   See Enclosure 5.

7. **"Certification that public hearing(s) were held in accordance with the information provided in**

**the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102."** [Appendix V, 2.1(g)]

See Enclosure 5.

8. **"Compilation of public comments and the State's response thereto."** [Appendix V, 2.1(h)]

   See Enclosure 5.

9. **"Identification of all regulated pollutants affected by the plan."** [Appendix V, 2.2(a)]

   $PM_{10}$, CO, and Ozone

10. **"Identification of the locations of affected sources including the EPA attainment/nonattainment designation of the locations and the status of the attainment plan for the affected areas(s)."** [Appendix V, 2.2 (b)]

    See Enclosure 3.

11. **"Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision."** [Appendix V, 2.2(c)]

    Not applicable for current submission.

12. **"The State's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented. For all requests to redesignate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act."** [Appendix V, 2.2(d)]

    See Enclosure 3.

13. **"Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis."** [Appendix V, 2.2(e)]

    Not applicable for current submission.

14. **"Evidence, where necessary, that emission limitations are based on continuous emission reduction technology."** [Appendix V, 2.2(f)]

    Not applicable for current submission.

15. **"Evidence that the plan contains emission limitations, work practice standards and**

**recordkeeping/reporting requirements, where necessary, to ensure emission levels."** [Appendix V, 2.2(g)]

Not applicable for current submission.

16. **"Compliance/enforcement strategies, including how compliance will be determined in practice."** [Appendix V, 2.2(h)]

    See Enclosure 3.

17. **"Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary."** [Appendix V, 2.2(i)]

    No known deviation from U.S. EPA policy.

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**ENCLOSURE 3**

**SIP Revision**

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ADEQ
Arizona Department
of Environmental Quality

***Final***

# *2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program*

**Air Quality Division**
**August 2013**

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# 2013 UPDATE TO THE ARIZONA STATE IMPLEMENTATION PLAN FOR THE CLEANER BURNING GASOLINE PROGRAM

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## EXECUTIVE SUMMARY

The Arizona Cleaner Burning Gasoline (CBG) program is a control measure introduced to reduce pollution from mobile sources in the Maricopa County metropolitan area and is relied on to aid the area in the reduction of ozone, carbon monoxide (CO), and particulate matter (PM) formation. This State Implementation Plan (SIP) revision provides an update of the Arizona CBG Program for federal approval and requests incorporation of Arizona's revised CBG related statutes and rules into the Arizona SIP.

The most recent Federal approval of Arizona CBG State Implementation Plan (SIP) elements occurred in 2004 and, since that action, Arizona statute and rules incorporated into the SIP were revised. Regulatory changes occurred through various legislative efforts and multiple rule revisions from the last federal approval. The legislative actions and rulemakings covered in this SIP update are:

- Laws 2003, Ch. 79, § 2 (SB 1307)
- Laws 2004, Ch. 293, § 5 (HB2207)
- Laws 2005, Ch. 104, § 7, subsections B through D (SB1275)
- Laws 2006, Ch. 303, § 1 (HB 2562)
- Laws 2007, Ch. 145, §§ 3 and 4, subsections B through D (SB 1455)
- Laws 2008, Ch. 291, § 5 (HB 2462)

- Final Rulemaking at 10 A.A.R. 1690, effective June 5, 2004
- Final Rulemaking at 12 A.A.R. 3722, effective September 12, 2006
- Final Rulemaking at 17 A.A.R. 190, effective March 12, 2011

Chapter 1.0 of the SIP Revision includes general discussion of the Arizona CBG program, as well as a detailed regulatory history of the program and other gasoline regulatory requirements in Arizona. Chapter 2.0 outlines the current Arizona CBG program elements, as approved by EPA in 2004. Chapter 3.0 contains a detailed explanation of the updates requested for SIP-incorporated statutes and rules from the previously approved iterations. And, Chapter 4.0 concludes the submission with an outline of the Arizona CBG program elements that are adopted and submitted for federal approval with this SIP revision.

ADEQ requests the current materials incorporated by reference in the Code of Federal Regulations be superseded and replaced with the statute and rule iterations included in this submission, as identified in Table 4.1: Arizona Cleaner Burning Gasoline Program, as Updated.

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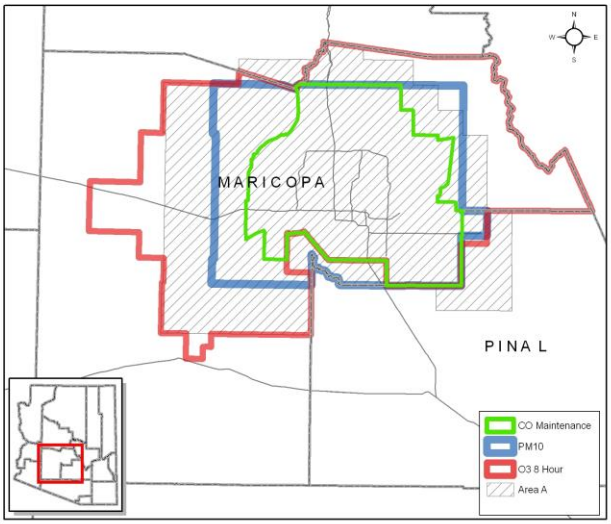
## 1.0. REGULATORY HISTORY OF ARIZONA FUEL REGULATIONS

### 1.1. Cleaner Burning Gasoline

The Arizona Cleaner Burning Gasoline (CBG) program includes gasoline related standards and control measures implemented by the State to reduce pollution from mobile sources in areas across the state (see Chapters 3.0 through 5.0 for specific element identification). Various elements of the CBG program were introduced and updated over the years to reduce ozone, particulate matter ($PM_{10}$), and carbon monoxide (CO) ambient pollutant concentrations in the greater Phoenix metropolitan area (i.e., Maricopa County area). Tailpipe emissions associated with vehicular travel is commonly identified as a factor contributing to nonattainment designations for all three pollutants, and the introduction of gasoline controls is one of many policies federal, state, and local governments adopted in ongoing efforts to reduce pollution and improve public health.

The Maricopa County ozone nonattainment and CO maintenance areas include large portions of Maricopa County. The $PM_{10}$ area also encompasses a large portion of Maricopa County as well as additional area in Pinal County. Collectively, under Arizona Revised Statutes (ARS) §49-541(1)(a),(b), and (c), the ozone, CO, and $PM_{10}$ areas are covered in part by the planning area, "Area A."[1] A map depicting each of the criteria pollutant boundaries and Area A is provided in Figure 1.1. The Arizona CBG program is a control measure for ozone, CO, and $PM_{10}$ and applies to gasoline sold within the boundaries of Maricopa County and any portion of a county within Area A, collectively referred to in Arizona rule as the "CBG-covered area."

***Figure 1.1: Maricopa Area Boundaries***




In general, the CBG program can be delineated into two central elements: 1) a summer cleaner burning fuel blend with a low Reid Vapor Pressure[2] (RVP) and, 2) wintertime clean burning fuel blend with a minimum oxygenate requirement. In addition to the minimum oxygenate requirements, the winter CBG includes requirements for the gasoline to meet the specifications for California Air Resources Board (CARB) Phase 2 reformulated gasoline[3]. The summer CBG allows refiners to meet either, the winter CARB Phase 2 requirements, or alternatively meet specific performance standards for reductions in volatile organic compound (VOC) and oxides of nitrogen (NOx) emissions - patterned after the federal Phase 2 reformulated gasoline program. Both the CARB Phase 2 and Federal Phase 2 reformulated gasoline programs provide requirements for gasoline formulations that provide air quality benefits. The summer fuel blend requirements aid areas in reducing precursor emissions that contribute to ozone and $PM_{10}$ concentrations, while the wintertime fuel blend aids in the reduction of CO and $PM_{10}$ emissions.

[1] The current boundaries of Area A were established by the Arizona Legislature in 2001 (Laws 2001, Ch. 371, §8).
[2] More information on gasoline volatility and Reid Vapor Pressure can be found at http://www.epa.gov/otaq/fuels/gasolinefuels/volatility/index.htm
[3] CARB Phase 2 gasoline includes a specific set of standards for sulfur, aromatics, olefins, and distillation, which combined produce emission reductions of CO, VOCs, NOx, and PM10.

Arizona CBG program controls were first introduced with a January 17, 1997 request from Arizona Governor Symington for the Maricopa County Ozone Nonattainment Area to opt-in to the federal reformulated gasoline (RFG) program under section §211(K)(6) of the Clean Air Act (CAA) and to establish a maximum summertime Reid Vapor Pressure (RVP) requirement, of 7.0 pounds per square inch (psi) for gasoline sold in the area.[4] The RVP is a property of a liquid fuel that defines its evaporation characteristics, EPA approved into the Arizona State Implementation Plan (SIP) the request to opt-in to the federal RFG program as well as the maximum 7.0 RVP requirement for the Maricopa County Ozone nonattainment area on June 3rd and June 11th, 1997 respectively (62 FR 30260 and 62 FR 31734).

Subsequent to the Arizona opt-in to the federal RFG program, under emergency legislative authority, the Arizona Department of Weights and Measures (ADWM), in coordination with the Arizona Department of Environmental Quality (ADEQ), developed a fuels program specifically tailored to Arizona. This first program development effort, the Arizona Interim CBG Rule, was adopted and submitted for EPA consideration September 15, 1997. Concurrent with the submission of the Arizona Interim CBG Rule, Arizona submitted a request to EPA to opt-out of the federal RFG program, given the Arizona CBG program was an area specific program developed to serve in a manner similar to that of the federal program. The 1997 submission of the Arizona interim CBG Rule included a request that the program be adopted as a control measure for both the Maricopa County ozone and $PM_{10}$ nonattainment areas. On February 10, 1998, EPA approved in a final rule the establishment of the Arizona CBG program and approved the Arizona Interim CBG rule into the Arizona SIP as a control measure for the Maricopa County ozone and $PM_{10}$ nonattainment areas (63 FR 6653). Following the approval of the Arizona interim CBG rule, on August 11, 1998 EPA approved Arizona's request to opt-out of the federal RFG program (63 FR 43044).

After the adoption, submission, and approval of the Arizona Interim CBG rule, ADWM and ADEQ began the development of a permanent CBG program for the state which, when promulgated, would supersede the interim rule. The CBG rules resulting from this effort as well as other materials were submitted as a series of four SIP submittals from February 1999 through September 2001 that updated the program for the Maricopa County ozone and $PM_{10}$ areas and incorporated winter season fuel regulation applicable to the Maricopa County CO area. EPA reviewed the Arizona submittals and, on March 4, 2004, approved updates to the Arizona SIP for the Maricopa County Ozone, $PM_{10}$, and CO nonattainment areas; including replacement of the interim rule with the permanent rule, an update of permissible gasoline supply types for the winter season, and the removal of a minimum summertime oxygen requirement (69 FR 10161). The 2004 EPA action superseded the incorporation by reference of the Arizona Interim CBG rule and is the most recent federal action on the Arizona CBG program. 69 FR 10161 identifies the current federally enforceable SIP elements of the Arizona CBG program, which are outlined in table format at Table 2.1, Arizona Cleaner Burning Gasoline Program, Statutory Provisions and Rules.

Following the 2004 EPA action on the Arizona CBG program, the state amended the CBG rule in 2006 and submitted a SIP revision to incorporate the change into the federally enforceable program on September 28, 2007. After extensive analysis of the emissions impact of the proposed update to the SIP and in consultation with EPA, on July 3, 2008, Arizona withdrew the request to update the CBG program with the 2006 iteration of the CBG rule.

[4] A detailed history of fuel related regulatory requirements prior to the implementation of Arizona's CBG program is available in the EPA August 2003 "Technical Support Document for Notice of Proposed Rulemaking on Arizona State Implementation Plan (SIP) Arizona Cleaner Burning Gasoline SIP Revisions," available at http://www.epa.gov/region09/air/phoenixcbg/tsd092003.pdf.

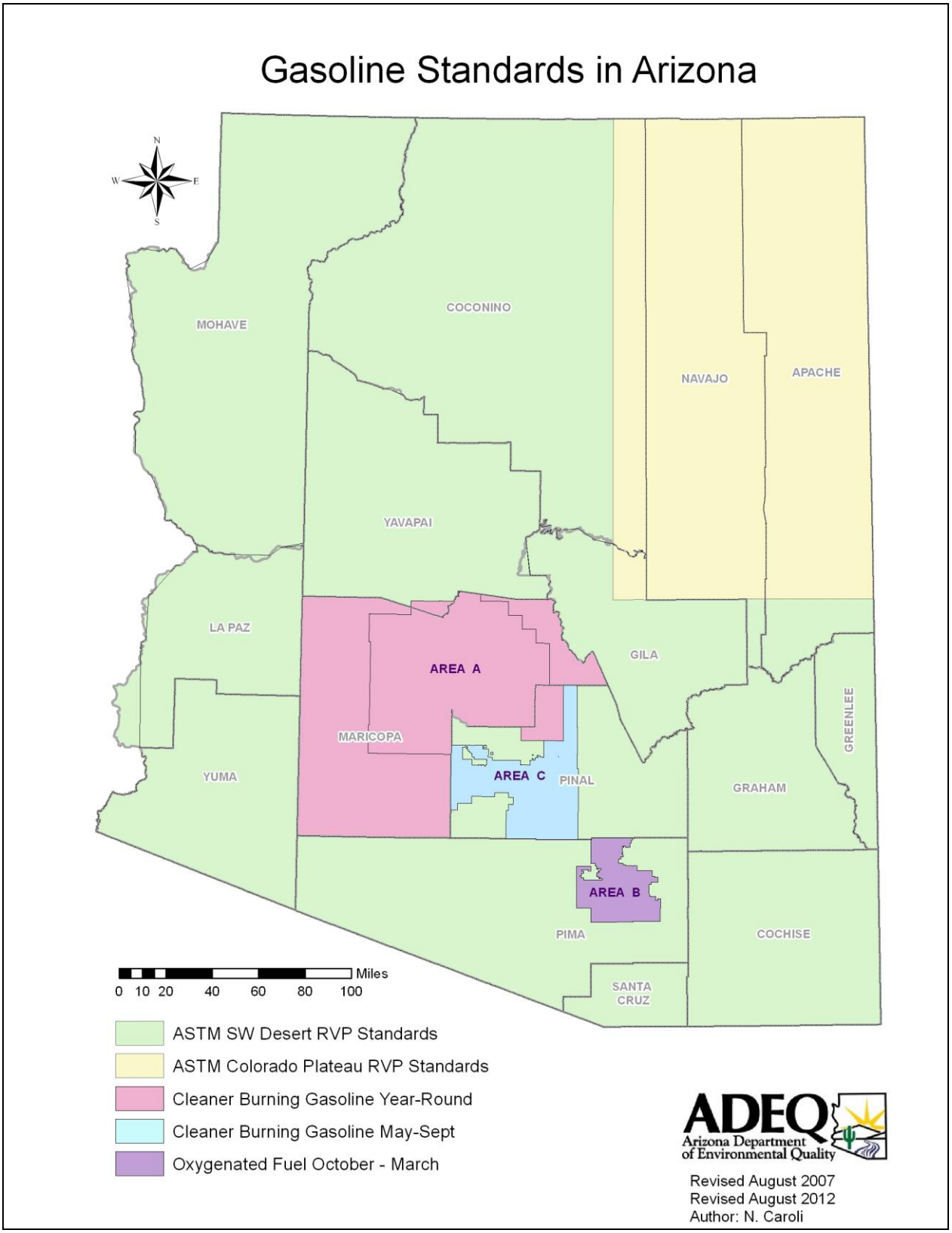
In 2011, ADWM revised the state CBG rule (Arizona Administrative Code (AAC) Title 20, Chapter 2, Article 7) in consultation with stakeholders, ADEQ and EPA. The recent changes to the rule revise certain provisions to conform to the federally enforceable SIP provisions from 2004 and update other portions of the rule to modernize the program to reflect current industry testing methods, practices and efficiencies suitable for Arizona's environment and industry. Discussion of the regulatory and potential emissions impact of each change included in this update to the Arizona SIP for the CBG program is discussed in greater detail in Chapter 3.0, SIP Elements for Incorporation & Regulatory Crosswalk.

### 1.2. Other Gasoline Requirements in Arizona

In addition to the CBG-Covered area, there are two additional areas within the state that incorporate gasoline controls to reduce pollution and improve public health in the area and Figure 1.2 shows the gasoline standards applicable throughout the State.

1. A.R.S. § 41-2124.01 (as revised by Laws 2007, Chapter 292) requires that "Area C," the western portion of Pinal County as defined in A.R.S. § 41-2121(3), use the same blend of CBG required in the CBG-covered area, i.e. Area A, in the summer season (May 1 to September 30). The requirement was implemented as a proactive effort to prevent ozone emissions and is not a State Implementation Plan incorporated control measure.
2. ARS 41-2025 requires all gasoline supplied or sold in Area B [i.e., Pima County areas outlined in A.R.S. § 49-541(2)] to have a minimum oxygen content of 1.8 percent by weight from September 30 through March 31 of each year. This requirement is an incorporated control measure for the Tucson CO planning area.

*Figure 1.2. Geographic Map Depicting Arizona Gasoline Standards*



## 2.0. SIP INCORPORATED PROGRAM ELEMENTS & UPDATED REGULATIONS

### 2.1. Federally Enforceable SIP Provisions

From the inception of the Arizona Cleaner Burning Gasoline Program, there have been several revisions to state statute and rule that were submitted and acted on by EPA. 40 CFR Part 52, Subpart D identifies the following Arizona gasoline regulations as incorporated in the Arizona Applicable SIP under items (112) and (113):

***Table 2.1.***
***Arizona Cleaner Burning Gasoline Program, Statutory Provisions and Rules***

| *SIP Incorporated Element* | *Description* | *State Effective Date* | *Federal Effective Date* |
|---|---|---|---|
| *Statutory Provisions* | | | |
| ARS 49-541(1)(a), (b), and (c) | Definition: "Area A" in (a) Maricopa County, (b) Pinal County, and (c) Yavapai County | Laws 2001, Ch. 371, § 8 | 04/05/04 69 FR 10161 |
| ARS 41-2124 | Area A; fuel reformulation; rules | Laws 2000, Ch. 405, § 21 | 04/05/04 69 FR 10161 |
| ARS 41-2123 | Area A; sale of gasoline; oxygen content | Laws 1999, Ch. 295, § 11 | 04/05/04 69 FR 10161 |
| ARS 41-2113(B)(4) | Violation; classification; jurisdiction | Laws 1998, Ch. 146, § 16 | 04/05/04 69 FR 10161 |
| ARS 41-2115 | Civil penalties | Laws 2000, Ch. 193, § 463 | 04/05/04 69 FR 10161 |
| ARS 41-2066(A) | Enforcement powers of the director and inspectors | Laws 2001, Ch. 164, § 3 | 04/05/04 69 FR 10161 |
| *Rules* | | | |
| R20-2-701 | Definitions | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-716 | Sampling and Access to Records | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-750 | Registration Relating to AZ CBG or AZRBOB | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-751 | Arizona CBG Requirements | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-752 | General Requirements for Registered Suppliers | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-753 | General Requirements for Pipelines and 3rd-Party Terminals | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-754 | Downstream Blending Exceptions for Transmix | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-755 | Additional Requirements for AZRBOB and Downstream Oxygenate Blending | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-756 | Downstream Blending of AZ CBG with Nonoxygenate Blendstocks | March 31, 2001 | 04/05/04 69 FR 10161 |

| ***Table 2.1.*** ***Arizona Cleaner Burning Gasoline Program, Statutory Provisions and Rules*** | | | |
|---|---|---|---|
| *SIP Incorporated Element* | *Description* | *State Effective Date* | *Federal Effective Date* |
| R20-2-757 | Product Transfer Documentation; Records Retention | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-758 | Adoption of Fuel Certification Models | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-759 | Testing Methodologies | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-760 | Compliance Surveys | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-761 | Liability for Noncompliant Arizona CBG or AZRBOB | March 31, 2001 | 04/05/04 69 FR 10161 |
| R20-2-762 | Penalties | March 31, 2001 | 04/05/04 69 FR 10161 |
| Title 20, Ch. 2, Art. 7, Table 1 | Type 1 Gasoline Standards | March 31, 2001 | 04/05/04 69 FR 10161 |
| Title 20, Ch. 2, Art. 7, Table 2 | Type 2 Gasoline Standards | March 31, 2001 | 04/05/04 69 FR 10161 |

## 3.0. SIP ELEMENTS FOR INCORPORATION & REGULATORY CROSSWALK

### 3.1. Updates to ADWM Statutes & Rules

Since the 2004 approval of CBG program elements into the Arizona SIP, there have been several revisions to the relevant Arizona statutes and rules. Table 3.1 identifies the statute and rule iterations included for EPA review and approval in this submission.

***Table 3.1.***
***Updates to the Arizona Cleaner Burning Gasoline Program, Statutory Provisions and Rules***[5]

| *SIP Incorporated Element* | *Description* | *Publication/Codification Date* |
|---|---|---|
| *Statutory Elements* | | |
| ARS 41-2124 | Area A; fuel reformulation; rules | Laws 2005, Ch. 104, § 3 |
| ARS 41-2115 | Civil penalties | Laws 2008, Ch. 291, § 5 |
| *Rule Elements* | | |
| R20-2-701 | Definitions | March 12, 2011 |
| R20-2-702 (A)(3) and (A)(8) – (A)(11) | Materials Incorporated by Reference | March 12, 2011 |
| R20-2-708(B) | Gasoline Ethanol Blends | March 12, 2011 |
| R20-2-716 | Sampling and Access to Records | September 12, 2006 |
| R20-2-749 | Definitions Applicable to Arizona CBG and AZRBOB | March 12, 2011 |
| R20-2-750 | Registration Relating to AZ CBG or AZRBOB | September 12, 2006 |
| R20-2-751 | Arizona CBG Requirements | March 12, 2011 |
| R20-2-752 | General Requirements for Registered Suppliers | March 12, 2011 |
| R20-2-753 | General Requirements for Pipelines and 3rd-Party Terminals | September 12, 2006 |
| R20-2-754 | Downstream Blending Exceptions for Transmix | March 12, 2011 |
| R20-2-755 | Additional Requirements for AZRBOB and Downstream Oxygenate Blending | March 12, 2011 |
| R20-2-756 | Downstream Blending of AZ CBG with Nonoxygenate Blendstocks | March 12, 2011 |
| R20-2-757 | Product Transfer Documentation; Records Retention | March 12, 2011 |
| ~~R20-2-758~~ | ~~Adoption of Fuel Certification Models~~ | ~~September 12, 2006~~ |
| R20-2-759 | Testing Methodologies | March 12, 2011 |
| R20-2-760 | Compliance Surveys | March 12, 2011 |

[5] ADWM has identified technical corrections required for R20-2-708(B), R20-2-751(A)(6)(f), R20-2-752(F)(4)(c), and R20-2-759, Table A. The technical corrections are discussed in greater detail in Section 3.3 of this document and ADEQ commits to submit the corrected rule for EPA review, following a rulemaking to address the necessary technical corrections by ADWM.

| ***Table 3.1.*** ***Updates to the Arizona Cleaner Burning Gasoline Program, Statutory Provisions and Rules***[5] | | |
|---|---|---|
| *SIP Incorporated Element* | *Description* | *Publication/Codification Date* |
| Title 20, Ch. 2, Art. 7, Table 1 | Type 1 Gasoline Standards | March 12, 2011 |
| Title 20, Ch. 2, Art. 7, Table 2 | Type 2 Gasoline Standards | March 31, 2001 |

### 3.2. Changes in Arizona Statute & Regulatory Crosswalk

*ARS § 41-2124: Area A; Fuel Reformulation; Rules*
Through a series of conditional enactment legislative changes to A.R.S. §41-2124, the statute was updated to allow for the shortening of the winter ethanol blending season and the sale of CARB reformulated gasoline (RFG) Phase 3[6] should EPA approve a SIP revision including these elements. The implementation of CARB Phase 3 RFG was not pursued because the Energy Policy Act of 2005 (EPAct) provided restrictions on state boutique fuel programs, limiting the State's ability to adopt new fuel programs.[7] In 2008, after indication from EPA that a shortened wintertime fuel season would not be approved, ADEQ withdrew the request for a shortened winter fuel season.

The following chaptered bills include changes to the language of A.R.S. § 41-2124 since the last incorporation of the statute into the Arizona Applicable SIP:

- Laws 2004, Ch. 293, § 5 (HB2207)[8]
- Laws 2005, Ch. 104, § 7, subsections B through D (SB1275)[9]
- Laws 2007, Ch. 145, §§ 3 and 4, subsections B through D (SB 1455)[10]

Under Laws 2004, Ch293, § 5 (HB2207), neither the sale of CARB Phase 3 (§ 1 of the statutory changes), or the shortening of the winter season (§ 2) were approved into the Arizona SIP, therefore, the actual applicable language in state statute remained the same.

Under Laws 2005, Ch. 104, § 7, subsections B through D (SB1275), only §3 of the act became effective. Section 3 removed the inclusion of methyl tertiary butyl ether (MTBE) in federal phase II RFG and CA Phase 2 RFG allowed for sale under ARS § 41-2124(A)(1) and (2). The remainder of the sections did not become effective given the failure to meet the conditions prescribed in Laws 2004, Ch293, § 5 (HB2207), which required EPA approval of the State Implementation Plan elements withdrawn by Arizona in 2008.

Under Laws 2007, Ch. 145, §§ 3 and 4, subsections B through D (SB 1455), the timeframe for conditional enactment of the changes included in Laws 2004, Ch. 293, § 5 (HB2207) and Laws 2005, Ch. 104, § 7,

[6] CARB Phase 3 reformulated gasoline is a fuel blend implemented by California to allow for the blending of ethanol while retaining the emissions benefit of CARB Phase 2.
[7] See http://www.gpo.gov/fdsys/pkg/FR-2006-12-28/pdf/E6-22313.pdf for information regarding the Boutique Fuels List under Section 1541(b) of the Energy Policy Act.
[8] Refer to Attachment 1 for the strikeout/underline text of HB2207.
[9] Refer to Attachment 2 for the strikeout/underline text of SB1275.
[10] Refer to Attachment 3 for the strikeout/underline text of SB1455.

subsections B through D (SB1275) was extended to November 2009. The conditional enactment language changes were not approved by EPA into the Arizona Applicable SIP by the date and, therefore, no additional changes to ARS § 41-2124 are in effect due to the 2007 legislation.

In 2012, ADEQ submitted to the Arizona legislature a letter documenting the failure to incorporate the shortening of the winter ethanol blending season and the sale of CARB reformulated gasoline (RFG) Phase 3 into the SIP and providing clarification on the version of statute actually in effect (attachment4). Arizona Legislative Council submitted the documentation supplied by ADEQ to their publisher and the conditionally enacted versions of A.R.S. §41-2124 (i.e. versions 2, 3, and 4) have been removed from Arizona Legislative publications. A.R.S. § 41-2124, as codified in Laws 2005, Ch. 104, § 3, is the effective version of the statute requested for SIP incorporation.

*ARS § 41-2115: Civil Penalties*
The following chaptered bills include changes to the language of ARS § 41-2115 since the last incorporation of the statute into the Arizona Applicable SIP:

- Laws 2003, Ch. 79, § 2 (SB 1307)[11]
- Laws 2006, Ch. 303, § 1 (HB 2562)[12]
- Laws 2008, Ch. 291, § 5 (HB 2462)[13]

This series of changes to ARS § 41-2115 improved the enforcement ability of the agency with respect to violation of CBG rules. In 2003, the statute was clarified regarding the applicability of violations to business locations and provided for doubling of the maximum civil penalties under certain circumstances. In 2006, the statute was modified to include the ability to double the maximum civil penalties imposed on a refiner, refinery, registered supplier or transmix facility for certain fuel quality and product transfer document violations. In 2008 the maximum civil penalty was increased for individual infractions from $500 to $1,000 and the maximum civil penalty that may be issued during a 30-day period was increased from $5,000 to $10,000.

### 3.3. Changes in Arizona Rule

This SIP revision incorporates rule changes made over the course several updates to the rule:

- Final Rulemaking at 10 A.A.R. 1690, effective June 5, 2004[14]
- Final Rulemaking at 12 A.A.R. 3722, effective September 12, 2006[15]
- Final Rulemaking at 17 A.A.R. 190, effective March 12, 2011[16]

The “crosswalk” explanation under each rule heading identifies significant regulatory changes in the rule from the previous federally approved iteration, as well as discussion of the potential SIP implications of the changes in rule.

[11] Refer to Attachment 5 for the strikeout/underline text of SB1307.
[12] Refer to Attachment 6 for the strikeout/underline text of HB2562.
[13] Refer to Attachment 7 for the strikeout/underline text of HB 2462.
[14] Refer to Attachment 8 for the strikeout/underline text of the 2004 rulemaking.
[15] Refer to Attachment 9 for the strikeout/underline text of the 2006 rulemaking.
[16] Refer to Attachment 10 for the strikeout/underline text of the 2011 rulemaking.

*R20-2-701, Definitions*
Following the March 31, 2001 SIP incorporated iteration of R20-2-701, the rule definitions were updated in 2006 and again in 2011. In 2011, certain definitions applicable to Arizona CBG and AZRBOB were moved from R20-2-701 to R20-2-749. There is no emission impact associated with the updated definitions in rule.

*R20-2-702, Materials Incorporated by Reference*
Materials incorporated by reference were updated in 2004, 2006, and 2011. In each of these revisions, materials incorporated by reference were updated to reflect updated ASTM test methods. In 2006, the fuel certification models adopted contained in R20-2-758 where moved to R20-2-702. Additionally, test methods for fuel ethanol used for blending with CBG were added in 2006 and 2011, respectively. See discussion under R20-2-759(C) for further information regarding test methods. These references are included in R20-2-702(A)(3) and R20-2-702(A)(8) through (A)(11).

*R20-2-708(B), Gasoline Ethanol Blends*
In 2011, R20-2-708(B) was amended to allow the vapor pressure specified by ASTM D4814 to be exceeded by not more than 1 psi for gasoline ethanol blends containing ethanol of at least 1.5 percent by weight and no more than 10 percent by volume during April and October within the CBG-covered area.[17] This change was implemented to ease requirements for blending higher volumes of ethanol during these time periods and to reflect federal requirements under Clean Air Act (CAA) § 211(h)(4). The Maricopa County area CO maintenance plan relies on a maximum vapor pressure of 9 psi as an emission reduction measure for the September 30 through March 31 time frame. The plan also relies on the sale of CBG with oxygenates from November 1 through March 31 for additional emission controls. The specific requirements for CBG are included in discussion under R20-2-751(A)(6)(f).

*R20-2-716, Sampling and Access to Records*
In 2006, additional language was added to the rule to clarify and strengthen the ADWM ability to collect motor fuel samples. Recordkeeping requirements were modified to clarify the types of facilities required to maintain records and the duration that records are required to be maintained.

*R20-2-749, Definitions Applicable to Arizona CBG and AZRBOB*
In the 2011 rulemaking, a new section, R20-2-749, was added to separate definitions specific to Arizona CBG and AZRBOB from the generally applicable definitions outlined in R20-2-701. The definition "Oxygenated Arizona CBG" was updated to allow a maximum oxygenate content of 4.0 weight percent in the CBG-covered area from November 1 through March 31; consistent with Sections R20-2-708, R20-2-751(A)(7)(b), Tables 1 and 2, and 40 CFR Part 80.45(c)[18]. Other definitions moved from R20-2-701 were updated for clarity. There is no emission impact associated with the updated definitions in rule.

*R20-2-750, Registration Relating to AZ CBG or AZRBOB*
In 2006, general language changes were incorporated into the rule. No substantive changes to the rule were made; the changes to the rule, however, are requested for incorporation into the SIP.

[17] A.R.S. §§ 41-2083(D) and 41-2122(A) limit the volatility of gasoline to 9 pounds psi from and after September 30 through March 31 of each year in a county with more than 1,200,000 persons and any portion of a county contained in Area A. ADWM is pursuing a technical correction to make the rule consistent with statutory requirements. ADEQ commits to submit the corrected rule for EPA review under separate cover.
[18] 62 FR 68206, December 31, 1997.

*R20-2-751, Arizona CBG Requirements*

In 2006, the rule was changed to incorporate language shortening the winter season and allowing sale of CARB Phase 3 RFG. In 2011, following the failure to incorporate these changes into the Arizona SIP, the references to CARB Phase 3 and the shortened winter season were removed from the rule.

Other changes to Section R20-2-751 include:

- R20-2-751(A)(6)(f) allows a one-pound psi vapor pressure waiver in the CBG-covered area during the months of April and October only (included in the 2011 rule). [19] The vapor pressure, and associated constraints outlined in R20-2-752(A)(6) were incorporated in Arizona rule to provide gasoline volatility requirements to reduce emissions during the winter and summer seasons. After corrected with the proposed ADWM rulemaking, the introduction of a one-pound psi waiver for the April time frame will provide for some flexibility during the "shoulder season," while not compromising the regulatory constraints implemented to control for ozone formation during the June 1 through September 30 "ozone season."
- R20-2-751(A)(7)(c) incorporated additional language to provide a cap on allowable limits of MTBE and other ethers and alcohols to the fuel in 2006, strengthening the rule by preventing wide-scale use of additives not approved for use by ADWM.
- Specifications for fuel ethanol as a blending component of AZRBOB and AZCBG were added in R20-2-751(C) in 2006. With the 2005 legislative removal of MTBE use in federal phase 2 RFG and CA phase 2 RFG, fuel ethanol became the prescribed blending component with AZRBOB and AZCBG. These specifications provide the standards that must be met for the ethanol used as a blending component.
- The language in R20-2-751(G) was modified to allow a registered supplier to certify AZRBOB or Arizona CBG using an equivalent test method that the department approves using criteria stated in R20-2-759 in 2006. This section was renumbered from R20-2-751(F) in 2011.
- New R20-2-751(F) was added in 2011 allowing production of Type 1 Arizona CBG from December 1 through March 31 as long as the Arizona CBG is not distributed to a motor fuel dispensing site within the CBG-covered area before April 1. This change allows fuel producers flexibility in production without effecting air quality by continuing to limit sale to previously approved time periods in the CBG covered area.
- R20-2-751(J) was modified in 2006 to allow the use of the California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB) Model as a substitute for a fuel ethanol hand blend. The CARBOB model is a set of equations which predict the properties of the finished gasoline following the addition of ethanol. The model uses the properties of the AZRBOB, the ethanol, and the ethanol content of the finished gasoline as inputs and the model calculates the properties of the finished gasoline (containing ethanol). The outputs from the CARBOB model are then used in the Predictive Model to verify compliance with the AZCBG standards.

  The model simplifies and streamlines the certification of Arizona CBG because it allows a registered supplier to certify the final Arizona CBG through the use of the model in lieu of hand-blending and testing the required fuel properties. Because the use of the model does not change any fuel standards, the underlying composition of the AZRBOB, or fuel parameter values reported to the EPA, there are no demonstrable emissions impacts associated with this change in the rule. This section was renumbered from R20-2-751(I) in 2011.

[19] R20-2-751(A)(6)(f) is subject to the same technical correction (removal of October one pound psi waiver) discussed in footnote 17.

*R20-2-752, General Requirements for Registered Suppliers*[20]
In 2006, R20-2-752(E) clarified and strengthened the requirements for the submittal of a Quality Assurance and Quality Control (QA/QC) program for registered suppliers.

*R20-2-753, General Requirements for Pipelines and 3rd-party Terminals*
In 2006, R20-2-753(G) clarified and strengthened the requirements for the submittal of a QA/QC program for pipelines and registered 3rd party terminals.

*R20-2-754, Downstream Blending Exceptions for Transmix*
In 2011, R20-2-754 was modified to allow third party terminals to blend transmix, in addition to pipelines. There is no emission impact associated with the update to the rule.

*R20-2-755, Additional Requirements for AZRBOB and Downstream Oxygenate Blending*
In 2006 R20-2-755(A)(1) was revised to allow the registered supplier to certify AZRBOB using the CARBOB model (see discussion regarding use of the CARBOB Model under R20-2-751). Fuel ethanol was specified as the oxygenate allowed for use (consistent with other fuel ethanol and oxygenate changes made to the rule in 2006).

In 2006 R20-2-755 (D) was revised to allow a registered supplier to contract with a third party to perform the required quality assurance sampling and testing of AZRBOB after the addition of fuel ethanol, subject to approval by the director. In 2006, the requirements for the third party testing program were added to the rule with the development of R20-2-755(E) through (H).

*R20-2-756, Downstream Blending of AZ CBG with Nonoxygenate Blendstocks*
In 2011, language was added to clarify that Arizona CBG combined with nonoxygenate blendstock cannot be used within the AZ CBG covered area.

*R20-2-757, Product Transfer Documentation; Records Retention*
In 2006 R20-2-757(A) clarified oxygenate is fuel ethanol and removed a requirement for product transfer documents to include the federal complex model VOC and NOX reduction percentage standard. The standards are included in R20-2-751(A) and republication on transfer documentation was deemed unnecessary.

- In 2011, R20-2-757(A)(9) was added to require the final destination to be included on Product Transfer Documents to strengthen the tracking of CBG to the final destination.
- In 2006 R20-2-757(E) included a new requirement for transfer of custody of fuel ethanol intended for use as blend component in AZRBOB or Arizona CBG to provide documentation that states the ethanol complies with the standards upon transfer of custody or title.

*R20-2-758, Adoption of Fuel Certification Models*
In 2006, this section was repealed, however the California Predictive Model and the Federal Complex Model were added to section R20-2-702, materials incorporated by reference, and incorporated for use in the rule under R20-2-751. See Final Rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Attachment 9) for the movement of the fuel certification models to materials incorporated by reference.

[20] R20-2-752(F)(4)(6) is subject to the proposed ADWM technical correction rule revision. The proposed language changes the required submission from the 15th day of January, April, July and October to "on, or before," the 15th day of those months.

*R20-2-759, Testing Methodologies*

- R20-2-759 (A) was modified in 2006 to allow the use of either EPA-approved or CARB-approved test methods. A new Table A was added listing all of the approved test methods. The test methods were updated as applicable. In 2011, the test methods listed in Table A were again revised to reflect updated versions of the applicable test methods. The test methods allowed under the approved SIP included both EPA-approved and CARB-approved test methods; as registered suppliers were allowed to use EPA-approved test methods to certify Type 1 CBG provided they were the only test methods used by the registered supplier to certify Arizona CBG or AZRBOB. There are no anticipated emissions impacts due to the use of either EPA-approved test methods or CARB-approved test methods since both were previously approved in the SIP. Allowing registered suppliers and laboratories to use the current fuel testing procedures ensures improved analysis, operations and quality control by the regulated parties.

  It should be noted that in 2006, Table A footnote 2 was added. The footnote states that the only correlation equation to be used when determining RVP is the CARB equation (RVP = (0.0972 X Ptot) – 0.715). As previously noted, ADEQ withdrew the 2006 submittal from EPA consideration. When the rule was updated in 2011 to remove modifications the footnote should have been updated; however, this footnote remained. In May 2012, the Department sent letters to all registered suppliers to confirm that they are required to continue to use the ASTM equation that has historically been used to certify Arizona CBG (see attachment 11). ADWM is undergoing a technical revision to the rule to correct this conflict and, in coordination with ADEQ, commits to the submission of corrected rule language following the completion of the State regulatory development process and finalization of the rule changes.

- R20-2-759(B) was modified in 2006 to clarify and update the requirements for oxygenate blenders and third-party terminals to measure fuel ethanol in accordance with the standards in Table A.

- R20-2-759(C) was updated in 2006 to allow the use of the CARBOB model for compliance and reporting purposes (see discussion regarding use of the CARBOB Model under R20-2-751).

- In 2006 R20-2-759(D) was added to allow the use of a test method that the department determines to be equivalent to test methods listed in Table A and outlines criteria to be used to evaluate the equivalency of test methods. In 2011, the department added a requirement that the concurrence of the EPA Regional Administrator be received in order to approve a proposed test method as equivalent to ensure the emissions benefit of SIP incorporated testing methods.

- In 2006 R20-2-759 (E) was added to state that the use of the CARBOB model and the use of approved equivalent test methods included in R20-2-759 (C) and (D) are not effective until the revised State Implementation Plan is approved by EPA.

*R20-2-760, Compliance Surveys*

Amendments were made in 2006 and 2011 to clarify and strengthen the requirements for Compliance Surveys. Compliance surveys demonstrate registered supplier adherence to ADWM laws and regulations.

*Title 20, Chapter 2, Article 7, Table 1, Type 1 Gasoline Standards*

In 2006, the dates referenced for sale of Type 1 AZ CBG were changed to reflect the proposed shortening of the winter season. In 2011, the rule was changed back to the previously approved winter season length.

*Title 20, Chapter 2, Article 7, Table 2, Type 2 Gasoline Standards*

In 2006, the dates referenced for sale of Type 2 AZ CBG were changed to reflect the proposed shortening of the winter season. In 2011, the rule was changed back to the previously approved winter season length.

The maximum oxygenate content was raised from 2.7 to 3.7 weight percent in 2006 and from 3.7 to 4.0 weight percent in 2011 to reflect the elimination of the use of MTBE and to be consistent with Sections R20-2-R20-2-708, R20-0-749, R20-2-751(A)(7)(b), Table 1, and 40 CFR Part 80.45(c).

## 4.0. CONCLUSION

### 4.1. Elements of the Updated Arizona CBG Program

Table 4.1 outlines in table format the Arizona CBG Program Applicable SIP elements following federal approval of the legislative and rule changes included in this revision. The statutes and rules are referenced by publication and state effective date. Those items that include changes from the previously approved SIP are highlighted yellow.

| ***Table 4.1***<br>***Arizona Cleaner Burning Gasoline Program, as Updated*** | | |
|---|---|---|
| *SIP Incorporated Element* | *Description* | *Publication/Codification Date* |
| *Statutory Elements* | | |
| ARS 49-541(1)(a), (b), and (c) | Definition: "Area A" in (a) Maricopa County, (b) Pinal County, and (c) Yavapai County | Laws 2001, Ch. 371, § 8[21] |
| ARS 41-2124 | Area A; fuel reformulation; rules | Laws 2005, Ch. 104, § 3 |
| ARS 41-2123 | Area A; sale of gasoline; oxygen content | Laws 1999, Ch. 295, § 11 |
| ARS 41-2113(B)(4) | Violation; classification; jurisdiction | Laws 1998, Ch. 146, § 16 |
| ARS 41-2115 | Civil penalties | Laws 2008, Ch. 291, § 5 |
| ARS 41-2066(A) | Enforcement powers of the director and inspectors | Laws 2001, Ch. 164, § 3 |
| *Rule Elements* | | |
| R20-2-701 | Definitions | March 12, 2011 |
| R20-2-702(A)(3) and R20-2-702(A)(8) – (A)(11) | Materials Incorporated by Reference | March 12, 2011 |
| R20-2-708(B) | Gasoline Ethanol Blends | March 12, 2011 |
| R20-2-716 | Sampling and Access to Records | September 12, 2006 |
| R20-2-749 | Definitions Applicable to Arizona CBG and AZRBOB | March 12, 2011 |
| R20-2-750 | Registration Relating to AZ CBG or AZRBOB | September 12, 2006 |
| R20-2-751 | Arizona CBG Requirements | March 12, 2011 |
| R20-2-752 | General Requirements for Registered Suppliers | March 12, 2011 |
| R20-2-753 | General Requirements for Pipelines and 3rd-Party Terminals | September 12, 2006 |
| R20-2-754 | Downstream Blending Exceptions for Transmix | March 12, 2011 |
| R20-2-755 | Additional Requirements for AZRBOB and Downstream Oxygenate Blending | March 12, 2011 |
| R20-2-756 | Downstream Blending of AZ CBG with | March 12, 2011 |

[21] ARS § 49-541 was revised in 2007 under SB 1531, chaptered in Laws 2007 Ch. 171, § 3, effective 09/17/2007, the SIP incorporated sections §§ 49-541(1)(a),(b), and (c), however were not revised in the legislative action.

| ***Table 4.1*** ***Arizona Cleaner Burning Gasoline Program, as Updated*** | | |
|---|---|---|
| *SIP Incorporated Element* | *Description* | *Publication/Codification Date* |
| | Nonoxygenate Blendstocks | |
| R20-2-757 | Product Transfer Documentation; Records Retention | March 12, 2011 |
| ~~R20-2-758~~ | ~~Adoption of Fuel Certification Models~~ | ~~September 12, 2006~~[22] |
| R20-2-759 | Testing Methodologies | March 12, 2011 |
| R20-2-760 | Compliance Surveys | March 12, 2011 |
| R20-2-761 | Liability for Noncompliant Arizona CBG or AZRBOB | March 31, 2001 |
| R20-2-762 | Penalties | March 31, 2001 |
| Title 20, Ch. 2, Art. 7, Table 1 | Type 1 Gasoline Standards | March 12, 2011 |
| Title 20, Ch. 2, Art. 7, Table 2 | Type 2 Gasoline Standards | March 31, 2001 |

[22] R20-2-758, Adoption of Fuel Certification Models was repealed; however the California Predictive Model and the Federal Complex Model were added to section R20-2-702, materials incorporated by reference. See Final Rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Attachment 9).

*Attachment 1*

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Senate Engrossed House Bill

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 293

# HOUSE BILL 2207

AN ACT

AMENDING SECTION 41-2124, ARIZONA REVISED STATUTES; MAKING AN APPROPRIATION; RELATING TO MOTOR FUEL; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2124, Arizona Revised Statutes, is amended to read:

41-2124. Area A; fuel reformulation; rules

A. ~~From and after May 1, 1999~~ 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, including methyl tertiary butyl ether, does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, subsections D and F.

2. California phase ~~2~~ 3 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~~ 2263, 2265 AND 2266.5, in effect on ~~January 1, 1997~~ MAY 1, 2003, ~~except that the minimum oxygen content standard, including methyl tertiary butyl ether, does not apply. The gasoline shall also meet the maximum~~ INCLUDING vapor pressure requirements ~~in section 41-2083, subsections D and F~~ CONTAINED IN SECTION 2262.4.

B. From and after November 1, 2000 through March 31, 2001 and from the period beginning November 1 through March 31 of each subsequent 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~~ 3 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~~ 2263, 2265 AND 2266.5, in effect on ~~January 1, 1997~~ MAY 1, 2003 and shall meet the maximum vapor pressure requirements in section 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123, subsection A, paragraph 1.

C. From November 1, 2000 through March 31, 2001 and for each winter season of November through March thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall

provide the results of this determination to the director of THE DEPARTMENT OF environmental quality. The director of THE DEPARTMENT OF environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007, or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. The petition shall:

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

2. Identify which oxygenate or oxygenates 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 per cent by weight oxygen content at reasonable cost.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

~~I. From and after November 1, 1999 through March 31, 2000, the fuels described in subsection A of this section shall meet the requirements of section 41-2123.~~

~~J.~~ I. The director of THE DEPARTMENT OF environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL ADOPT RULES TO IMPLEMENT THIS SECTION TO BE CONSISTENT WITH APPLICABLE FEDERAL AND CALIFORNIA STATE FUEL FORMULATION RULES TO THE EXTENT PRACTICABLE.

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

Sec. 2. Section 41-2124, Arizona Revised Statutes, is amended to read:

41-2124. Area A; fuel reformulation; rules

A. From and after May 1, 1999 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, including methyl tertiary butyl ether, does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, 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, including methyl tertiary butyl ether, does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, subsections D and F.

B. ~~From and after November 1, 2000 through March 31, 2001 and from the period~~ Beginning November 1 through ~~March~~ JANUARY 31 of each ~~subsequent~~ 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 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123, subsection A, paragraph 1.

C. ~~From~~ FOR November 1, 2000 through ~~March~~ JANUARY 31, 2001 and for each winter season of November through ~~March~~ JANUARY thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of THE DEPARTMENT OF environmental quality. The director of THE DEPARTMENT OF environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007, or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. The petition shall:

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

2. Identify which oxygenate or oxygenates 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 per cent by weight oxygen content at reasonable cost.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

~~I. From and after November 1, 1999 through March 31, 2000, the fuels described in subsection A of this section shall meet the requirements of section 41-2123.~~

~~J.~~ I. The director of THE DEPARTMENT OF environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY IN CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF WEIGHTS AND MEASURES SHALL ADOPT RULES TO IMPLEMENT THIS SECTION TO BE CONSISTENT WITH APPLICABLE FEDERAL AND CALIFORNIA STATE FUEL FORMULATION RULES TO THE EXTENT PRACTICABLE.

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

Sec. 3. Department of environmental quality; CARB fuel formulations; recommendations

A. The department of environmental quality shall in consultation with the department of weights and measures do the following regarding fuels sold in area A as defined in section 49-541, Arizona Revised Statutes:

1. Collect and analyze data on the removal of the months of February and March from the winter cleaner burning gasoline season under the state implementation plan and in accordance with section 211(m)(2) of the clean air act with respect to oxygenate requirements and section 110(1) of the clean air act with respect to the reid vapor pressure standard, based on whether the modeling indicates that these two gasoline standards are not needed during the months of February and March to attain the federal carbon monoxide standard. The information shall be collected during the first January and February immediately following the effective date of section 41-2124, Arizona Revised Statutes, as amended by section 2 of this act. The information collected shall be used to evaluate carbon monoxide emissions, ambient air quality and predicted air quality impacts using the most recent environmental protection agency models.

2. Cooperate with other interested parties in working to revise the current models used by the United States environmental protection agency to better estimate the impact of gasoline vapor pressure and oxygen content on winter season carbon monoxide emissions for late model vehicles.

3. As soon a practical, but not later than December 31, 2004, complete all necessary data collection and analysis to support the submission of a carbon monoxide state implementation plan amendment for area A addressing the removal of February and March from the period of required use of California phase 2 reformulated gasoline.

4. As soon as practical, but not later than June 31, 2005, complete all necessary data collection and analysis to support the submission of ozone and carbon monoxide state implementation plan revisions for area A addressing the use of California air resources board phase 3 gasoline.

5. The data collection and analysis shall include the estimated emissions and supply impacts as well as the ability of refineries to supply gasoline to area A associated with the adoption of California air resources board phase 3 gasoline standards for the period of November through March of each year, and California air resources board phase 3 gasoline and federal phase 2 reformulated gasoline standards for the period of April through October of each year.

B. On or before September 1, 2005, the department of environmental quality shall report on the activities prescribed by subsection A of this section.

C. The department of weights and measures in consultation with the department of environmental quality shall conduct at least one public workshop on the preliminary findings made by the department of environmental quality pursuant to subsection A of this section prior to submitting the report and state implementation plan revisions to the United States environmental protection agency.

Sec. 4. Appropriation; purpose

Notwithstanding section 49-551, Arizona Revised Statutes, the sum of $135,000 is appropriated in fiscal year 2004-2005 from the monies received by the air quality fund pursuant to section 49-543, Arizona Revised Statutes, to the department of environmental quality for the purposes of collecting and analyzing data in accordance with section 3 of this act relating to amendments to the state implementation plan. Any monies not spent by November 30, 2005 shall be returned to the air quality fund.

Sec. 5. Conditional enactment; notice

A. Section 41-2124, Arizona Revised Statutes, as amended by section 1 of this act, is not effective unless on or before November 1, 2007 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49-401.01, Arizona Revised Statutes, that incorporates the changes contained in section 1 of this act.

B. Section 41-2124, Arizona Revised Statutes, as amended by section 2 of this act, is not effective unless on or before November 1, 2007 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49-401.01, Arizona Revised Statutes, that incorporates the changes contained in section 2 of this act.

C. The director of the department of environmental quality shall promptly provide written notice to the director of the Arizona legislative council of the following:

1. The date of approval of a revision to the state implementation plan that incorporates the changes contained in section 1 of this act or the failure to incorporate those changes on or before November 1, 2007.

2. The date of approval of a revision to the state implementation plan that incorporates the changes contained in section 2 of this act or the failure to incorporate those changes on or before November 1, 2007.

APPROVED BY THE GOVERNOR JUNE 1, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 1, 2004.

*Attachment 2*

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PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

House Engrossed Senate Bill

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

# SENATE BILL 1275

AN ACT

AMENDING SECTIONS 41-2083 AND 41-2123, ARIZONA REVISED STATUTES; AMENDING SECTION 41-2124, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2000, CHAPTER 405, SECTION 21; AMENDING SECTION 41-2124, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 293, SECTION 1; AMENDING SECTION 41-2124, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 293, SECTION 2; AMENDING SECTION 41-2124, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 293, SECTIONS 1 AND 2; RELATING TO MOTOR FUEL; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2083, Arizona Revised Statutes, is amended to read:

41-2083. Standards for motor fuel; exceptions

A. Except as provided in subsections C, D, E, F, G, K, L, M and N 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 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.

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 director of the department of weights and measures 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 as defined in section 49-541 shall be 9.0 pounds per square inch from and after September 30 through ~~March~~ JANUARY 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 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 per cent 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 as defined in section 49-541 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 as defined by section 41-2121 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 as defined in section 49-541 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 as defined by section 41-2121 is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors 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 41-2123. In making this determination, the director of the department of weights and measures 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 41-2123.

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 director of the department of weights and measures 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 manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures 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 that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.

K. A person shall not sell or offer or expose for sale biodiesel that is not tested or does not meet the specifications established by ASTM D6751 or any blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D975 and that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.

L. A person ~~that~~ WHO blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the

fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:

1. The percentage of biodiesel in a final blend.

2. The volume of the finished product.

3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.

4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:

(a) Sulfur content.

(b) Aromatic hydrocarbon content.

(c) Cetane number.

(d) Specific gravity.

(e) American petroleum institute gravity.

(f) The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.

M. The report required by subsection L of this section shall be on a form prescribed by the director and shall contain a certification of truthfulness and accuracy of the data submitted and a statement of the supplier's consent permitting the department or its authorized agent to collect samples and access records as provided in rules adopted by the department. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.

N. A person shall label dispensers at which biodiesel is dispensed in such a manner as to notify other persons of the volume percentage of biodiesel in the finished product.

Sec. 2. Section 41-2123, Arizona Revised Statutes, is amended to read:

41-2123. Area A; sale of gasoline; oxygen content

A. From and after November 1 through ~~March~~ JANUARY 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:

1. Shall CONTAIN, for a gasoline-ethanol blend, ~~contain~~ not less than ten per cent 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~~

2. Shall CONTAIN, for a blend other than a gasoline-ethanol blend, ~~contain~~ not less than 2.7 per cent 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.

3. MAY CONTAIN, FOR A GASOLINE-ETHANOL BLEND, LESS THAN TEN PER CENT BY VOLUME OF ETHANOL ON APPROVAL BY THE DIRECTOR OF A PETITION FILED PURSUANT TO SECTION 41-2124, SUBSECTION D. THE APPROVAL APPLIES TO ALL REGISTERED SUPPLIERS AND OXYGENATE BLENDERS, AND FOR THE DURATION OF THAT APPROVAL, THE SUPPLY OR SALE OF GASOLINE-ETHANOL BLENDS THAT CONTAIN LESS THAN TEN PER CENT BY VOLUME OF ETHANOL IS NOT SUBJECT TO SUBSECTIONS B AND C OF THIS SECTION.

B. Notwithstanding subsection A of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors 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 41-2083. In making this determination, the director of the department of weights and measures 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 41-2083 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 manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures no later than sixty days before the first day of a gasoline control period.

Sec. 3. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2000, chapter 405, section 21, is amended to read:

41-2124. Area A; fuel reformulation; rules

A. From and after May 1, 1999, 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~~, including methyl tertiary butyl ether,~~ does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, 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~~, including methyl tertiary butyl ether,~~ does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, subsections D and F.

B. From and after November 1, 2000 through March 31, 2001 and from the period beginning November 1 through March 31 of each subsequent 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 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123, subsection A, paragraph 1.

C. From November 1, 2000 through March 31, 2001 and for each winter season of November through March thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of environmental quality. The director of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007~~,~~ or twenty-eight tons per day in 2009, the director of the department of environmental quality shall

immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 PER CENT BY VOLUME OF ETHANOL.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

~~I. From and after November 1, 1999 through March 31, 2000, the fuels described in subsection A of this section shall meet the requirements of section 41-2123.~~

~~J.~~ I. The director of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

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

Sec. 4. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, section 1, is amended to read:

41-2124. Area A; fuel reformulation; rules

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~~, including methyl tertiary butyl ether,~~ does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, subsections D and F.

2. California phase 3 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 2263, 2265 and 2266.5, in effect on May 1, 2003, including vapor pressure requirements contained in section 2262.4.

B. From and after November 1, 2000 through March 31, 2001 and from the period beginning November 1 through March 31 of each subsequent 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 3 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 2263, 2265 and 2266.5, in effect on May 1, 2003 and shall meet the maximum vapor pressure requirements in section 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123, subsection A, paragraph 1.

C. From November 1, 2000 through March 31, 2001 and for each winter season of November through March thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of the department of environmental quality. The director of the department of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than

ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007~~,~~ or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 PER CENT BY VOLUME OF ETHANOL.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt rules to implement this section to be consistent with applicable federal and California state fuel formulation rules to the extent practicable.

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

Sec. 5. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, section 2, is amended to read:

41-2124. Area A; fuel reformulation; rules

A. From and after May 1, 1999, 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~~, including methyl tertiary butyl ether,~~ does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, 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~~, including methyl tertiary butyl ether,~~ does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, subsections D and F.

B. Beginning November 1 through January 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 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123, subsection A, paragraph 1.

C. For November 1, 2000 through January 31, 2001 and for each winter season of November through January thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of the department of environmental quality. The director of the department of environmental

quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007~~,~~ or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 PER CENT BY VOLUME OF ETHANOL.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt rules to implement this section to be consistent with applicable federal and California state fuel formulation rules to the extent practicable.

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

Sec. 6. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, sections 1 and 2, is amended to read:

41-2124. Area A; fuel reformulation; rules

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~~, including methyl tertiary butyl ether,~~ does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 41-2083, subsections D and F.

2. California phase 3 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 2263, 2265 and 2266.5, in effect on May 1, 2003, including vapor pressure requirements contained in section 2262.4.

B. Beginning November 1 through January 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 3 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 2263, 2265 and 2266.5, in effect on May 1, 2003 and shall meet the maximum vapor pressure requirements in section 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of section 41-2123, subsection A, paragraph 1.

C. For November 1, 2000 through January 31, 2001 and for each winter season of November through January thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of the department of environmental quality. The director of the department of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007~~,~~ or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of section 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 PER CENT BY VOLUME OF ETHANOL.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt rules to implement this section to be consistent with applicable federal and California state fuel formulation rules to the extent practicable.

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

Sec. 7. Conditional enactment

A. Section 41-2083, Arizona Revised Statutes, as amended by section 1 of this act and section 41-2123, Arizona Revised Statutes, as amended by section 2 of this act, are not effective unless on or before November 1, 2007 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49-401.01, Arizona Revised Statutes, that incorporates the changes contained in sections 1 and 2 of this act.

B. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, section 1 and section 4 of this act, is not effective unless only the condition prescribed in Laws 2004, chapter 293, section 5, subsection A is met and notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection C.

C. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, section 2 and section 5 of this act, is not effective unless only the condition prescribed in Laws 2004, chapter 293, section 5, subsection B is met and notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection C.

D. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, sections 1 and 2 and section 6 of this act, is not effective unless the conditions prescribed in Laws 2004, chapter 293, section 5, subsections A and B are met and notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection C.

*Attachment 3*

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State of Arizona
Senate
Forty-eighth Legislature
First Regular Session
2007

# CHAPTER 145

# SENATE BILL 1455

AN ACT

AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2002, CHAPTER 104, SECTION 2; AMENDING SECTION 41-2083, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2005, CHAPTER 104, SECTION 1; AMENDING LAWS 2004, CHAPTER 293, SECTION 5; AMENDING LAWS 2005, CHAPTER 104, SECTION 7; RELATING TO LOW SULFUR DIESEL FUEL; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

UNOFFICIAL
Page and line numbering may not match official version

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2083, Arizona Revised Statutes, as amended by Laws 2002, chapter 104, section 2, is amended to read:

41-2083. Standards for motor fuel; exceptions

A. Except as provided in subsections C, D, E, F, G, K, L, M and N 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 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.

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 director of the department of weights and measures 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 as defined in section 49-541 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 as defined by section 41-2121 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 per cent 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 as defined in section 49-541 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 as defined by section 41-2121 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 as defined in section 49-541 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 as defined by section 41-2121 is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors 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 41-2123. In making this determination, the director of the department of weights and measures 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 41-2123.

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 director of the department of weights and measures 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 manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures 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 that contains sulfur in excess of:

1. FOR LOW SULFUR DIESEL FUEL, five hundred parts per million BY WEIGHT for use in area A as defined in section 49-541.

2. FOR ULTRA LOW SULFUR DIESEL FUEL, THE AMOUNT THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTION 80.520(a)(1).

K. A person shall not sell or offer or expose for sale biodiesel that is not tested or does not meet the specifications established by ASTM D6751 or any blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D975 and that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.

L. A person that blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:

1. The percentage of biodiesel in a final blend.

2. The volume of the finished product.

3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.

4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:

(a) Sulfur content.

(b) Aromatic hydrocarbon content.

(c) Cetane number.

(d) Specific gravity.

(e) American petroleum institute gravity.

(f) The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.

M. The report required by subsection L of this section shall be on a form prescribed by the director and shall contain a certification of truthfulness and accuracy of the data submitted and a statement of the supplier's consent permitting the department or its authorized agent to collect samples and access records as provided in rules adopted by the department. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.

N. A person shall label dispensers at which biodiesel is dispensed in such a manner as to notify other persons of the volume percentage of biodiesel in the finished product AND THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

O. A PERSON SHALL LABEL EACH DISPENSER AT WHICH ULTRA LOW SULFUR DIESEL FUEL IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

P. A PERSON SHALL LABEL EACH DISPENSER AT WHICH LOW SULFUR DIESEL FUEL IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

Q. IF ANY PERSON TRANSFERS CUSTODY OR TITLE OF A DIESEL FUEL OR DISTILLATE, EXCEPT IF THE DIESEL 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.

R. 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 Q OF THIS SECTION AS WELL AS THE

NAME AND ADDRESS OF THE FINAL DESTINATION FOR THE SHIPMENT, AS PRESCRIBED BY DEPARTMENT RULE, AND MUST ACCOMPANY THE SHIPMENT TO ITS FINAL DESTINATION.

Sec. 2. Section 41-2083, Arizona Revised Statutes, as amended by Laws 2005, chapter 104, section 1, is amended to read:

41-2083. Standards for motor fuel; exceptions

A. Except as provided in subsections C, D, E, F, G, K, L, M and N 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 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.

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 director of the department of weights and measures 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 as defined in section 49-541 shall be 9.0 pounds per square inch from and after September 30 through January 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 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 per cent 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 as defined in section 49-541 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 as defined by section 41-2121 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 as defined in section 49-541 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 as defined by section 41-2121 is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors 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 41-2123. In making this determination, the director of the department of weights and measures 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 41-2123.

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 director of the department of weights and measures 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 manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures 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 that contains sulfur in excess of:

1. FOR LOW SULFUR DIESEL FUEL, five hundred parts per million BY WEIGHT for use in area A as defined in section 49-541.

2. FOR ULTRA LOW SULFUR DIESEL FUEL, THE AMOUNT THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTION 80.520(a)(1).

K. A person shall not sell or offer or expose for sale biodiesel that is not tested or does not meet the specifications established by ASTM D6751 or any blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D975 and that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.

L. A person who blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:

1. The percentage of biodiesel in a final blend.

2. The volume of the finished product.

3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.

4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:

(a) Sulfur content.

(b) Aromatic hydrocarbon content.

(c) Cetane number.

(d) Specific gravity.

(e) American petroleum institute gravity.

(f) The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.

M. The report required by subsection L of this section shall be on a form prescribed by the director and shall contain a certification of truthfulness and accuracy of the data submitted and a statement of the supplier's consent permitting the department or its authorized agent to collect samples and access records as provided in rules adopted by the department. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.

N. A person shall label dispensers at which biodiesel is dispensed in such a manner as to notify other persons of the volume percentage of biodiesel in the finished product AND THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

O. A PERSON SHALL LABEL EACH DISPENSER AT WHICH ULTRA LOW SULFUR DIESEL FUEL IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

P. A PERSON SHALL LABEL EACH DISPENSER AT WHICH LOW SULFUR DIESEL FUEL IS DISPENSED IN A MANNER THAT CONFORMS WITH 40 CODE OF FEDERAL REGULATIONS SECTIONS 80.570, 80.571, 80.572, 80.573 AND 80.574 TO INFORM THE CUSTOMER OF THE SULFUR CONTENT OF THE DIESEL FUEL BEING DISPENSED.

Q. IF ANY PERSON TRANSFERS CUSTODY OR TITLE OF A DIESEL FUEL OR DISTILLATE, EXCEPT IF THE DIESEL 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.

R. 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 Q OF THIS SECTION AS WELL AS THE

NAME AND ADDRESS OF THE FINAL DESTINATION FOR THE SHIPMENT, AS PRESCRIBED BY DEPARTMENT RULE, AND MUST ACCOMPANY THE SHIPMENT TO ITS FINAL DESTINATION.

Sec. 3. Laws 2004, chapter 293, section 5 is amended to read:

Sec. 5. Conditional enactment; notice

A. Section 41-2124, Arizona Revised Statutes, as amended by LAWS 2004, CHAPTER 293, section 1 ~~of this act~~, is not effective unless on or before November 1, ~~2007~~ 2009 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49-401.01, Arizona Revised Statutes, that incorporates the changes contained in LAWS 2004, CHAPTER 293, section 1 ~~of this act~~.

B. Section 41-2124, Arizona Revised Statutes, as amended by LAWS 2004, CHAPTER 293, section 2 ~~of this act~~, is not effective unless on or before November 1, ~~2007~~ 2009 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49-401.01, Arizona Revised Statutes, that incorporates the changes contained in LAWS 2004, CHAPTER 293, section 2 ~~of this act~~.

C. The director of the department of environmental quality shall promptly provide written notice to the director of the Arizona legislative council of the following:

1. The date of approval of a revision to the state implementation plan that incorporates the changes contained in LAWS 2004, CHAPTER 293, section 1 ~~of this act~~ or the failure to incorporate those changes on or before November 1, ~~2007~~ 2009.

2. The date of approval of a revision to the state implementation plan that incorporates the changes contained in LAWS 2004, CHAPTER 293, section 2 ~~of this act~~ or the failure to incorporate those changes on or before November 1, ~~2007~~ 2009.

Sec. 4. Laws 2005, chapter 104, section 7 is amended to read:

Sec. 7. Conditional enactment

A. Section 41-2083, Arizona Revised Statutes, as amended by LAWS 2005, CHAPTER 104, section 1 ~~of this act~~ and section 41-2123, Arizona Revised Statutes, as amended by LAWS 2005, CHAPTER 104, section 2 ~~of this act~~, are not effective unless on or before November 1, 2007 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49-401.01, Arizona Revised Statutes, that incorporates the changes contained in LAWS 2005, CHAPTER 104, sections 1 and 2 ~~of this act~~.

B. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, section 1 and LAWS 2005, CHAPTER 104, section 4 ~~of this act~~, is not effective unless only the condition prescribed in Laws 2004, chapter 293, section 5, subsection A, AS AMENDED BY SECTION 3 OF THIS ACT, is met and notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection C, AS AMENDED BY SECTION 3 OF THIS ACT.

C. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, section 2 and LAWS 2005, CHAPTER 104, section 5 ~~of this act~~, is not effective unless only the condition prescribed in Laws 2004, chapter 293,

section 5, subsection B, AS AMENDED BY SECTION 3 OF THIS ACT, is met and notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection C, AS AMENDED BY SECTION 3 OF THIS ACT.

D. Section 41-2124, Arizona Revised Statutes, as amended by Laws 2004, chapter 293, sections 1 and 2 and LAWS 2005, CHAPTER 104, section 6 ~~of this act~~, is not effective unless the conditions prescribed in Laws 2004, chapter 293, section 5, subsections A and B, AS AMENDED BY SECTION 3 OF THIS ACT, are met and notice is provided pursuant to Laws 2004, chapter 293, section 5, subsection C, AS AMENDED BY SECTION 3 OF THIS ACT.

Sec. 5. Conditional enactment

Section 41-2083, Arizona Revised Statutes, as amended by Laws 2005, chapter 104, section 1 and section 2 of this act, is effective as prescribed in Laws 2005, chapter 104, section 7, as amended by this act.

APPROVED BY THE GOVERNOR APRIL 27, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 27, 2007.

*Attachment 4*

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Janice K. Brewer
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

Henry R. Darwin
Director

NOV 13 2012

Michael Braun
Executive Director, Arizona Legislative Council
1700 West Washington Street
Suite 100
Phoenix, AZ 85007

Re: ARS § 41-2124 (Area A; fuel reformulation; rules) and ARS § 41.2124.01 (Area C; fuel reformulation; rules) Conditional Enactment

Dear Mr. Braun,

The Arizona Department of Environmental Quality (ADEQ) respectfully requests your consideration of the following information regarding conditional enactment language passed in session law for both Arizona Revised Statutes (ARS) §§ 41-2124 and 41-2124.01.

The enacted versions of ARS §§ 41-2124 and 2124.01 were contingent on EPA approval, or the failure to approve, of two provisions into the Arizona State Implementation Plan (SIP) by November 1, 2007: (1), CARB phase 3 reformulated gasoline (RFG) for use in Area A (replacing CARB phase 2), and (2), the shortening of wintertime fuel shoulder season from March to January. Legislation amending the previous conditional enactment language passed in 2007 (SB1455), revising the date for EPA approval of the conditional provisions to November 1, 2009.

ADEQ adopted and submitted a SIP revision to EPA September 28, 2007 addressing both the proposed substitution of CARB phase 2 RFG with CARB phase 3 RFG and the shortened winter season. In a letter dated February 14, 2008, EPA indicated they would disapprove the SIP revision, as submitted, due to a predicted interference with attainment of the $PM_{10}$ National Ambient Air Quality Standard (NAAQS) in the Maricopa County nonattainment area. Due to the indicated denial of the SIP revision, on July 3, 2008, ADEQ submitted a letter to EPA withdrawing the SIP revision dated September 28, 2007.

This letter is to provide written notification of the failure to incorporate the previously identified provisions into the Arizona State Implementation Plan (SIP) by November 1, 2009, as required under Laws 2004, chapter 293, section 5, subsection C. Discussion of each of the effected statutes follows.

*ARS § 41-2124 (Area A; fuel reformulation; rules)*
Current publication of ARS § 41-2124 includes four versions of the statute due to conditional enactment language passed into law by the legislature and signed by the governor. The conditional enactment language regarding ARS § 41-2124, concerning both the substitution of CARB phase 2 RFG with CARB phase 3 RFG and the shortened winter season, is included in the chaptered bills listed below:

Laws 2004, Ch. 293, § 5 (HB2207)
Laws 2005, Ch. 104, § 7, subsections B through D (SB1275)
Laws 2007, Ch. 145, §§ 3 and 4, subsections B through D (SB1455)

**EPA did not approve either provision into the Arizona SIP by the specified date and, in the department's review of the published versions of ARS § 41-2124, the unlabeled version (i.e. not versions 2, 3 or 4) is the legally enacted version of the statute.**

*ARS § 41-2124.01 (Area C; fuel reformulation; rules)*
Current publication of ARS § 41-2124.01 includes two versions of the statute, also due to conditional enactment language. Although the same in topic, the session law regarding ARS § 41-2124.01 differs from that which pertains to ARS § 41.2124, provided above. The conditional enactment language regarding ARS § 41-2124.01, dependent on EPA approval of California phase 3 RFG and the shortening of the winter season, is included in the chaptered bills listed below:

Laws 2007, Ch. 145, § 4, subsections B through D (SB1455).
Laws 2007, Ch. 292, § 27, subsection B (SB1552).
Laws 2008, Ch. 77, § 3 (SB1095).

**EPA did not approve the provision into the Arizona SIP by the specified date and, in the department's review of the published versions of ARS § 41-2124.01, the unlabeled version (i.e. not version 2) is the legally enacted version of the statute.**

In light of the failure to incorporate the conditional provisions into the SIP by November 1, 2009, ADEQ respectfully requests the next edition of the Arizona Revised Statutes remove the conditional enactment language to a historical legislative note and retain in the body of the statutes only the versions actually in effect.

If you have any questions, or need additional information, please do not hesitate to contact me at (602) 771- 2379, Eric Massey, Air Quality Division Director at (602) 771-2308, or Diane L. Arnst, Air Quality Legal Support Section Manager, at (602) 771-2375.

Sincerely,

Henry R. Darwin
Director

*Attachment 5*

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Senate Engrossed

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 79

# SENATE BILL 1307

AN ACT

AMENDING SECTIONS 41-2092 AND 41-2115, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2092, Arizona Revised Statutes, is amended to read:

41-2092. Licensing fees; definitions

A. The following fees shall be paid to the department as license fees for devices used for commercial purposes:

Schedules of Fees

1. Weighing devices:

| | |
|---|---|
| 0 - 500 pounds capacity (or metric equivalent) $ | 12.00 |
| 501 - 2,000 pounds capacity | 18.00 |
| 2,001 - 7,500 pounds capacity | 36.00 |
| 7,501 - 20,000 pounds capacity | 80.00 |
| 20,001 - 60,000 pounds capacity | 120.00 |
| 60,001 pounds capacity and over | 180.00 |

2. Liquid metering devices (meters) other than for liquid petroleum gas and utility meters:

| | |
|---|---|
| maximum 12 gallons per minute and under | 12.00 |
| maximum 13 - 150 gallons per minute | 36.00 |
| maximum 151 - 500 gallons per minute | 90.00 |
| maximum 501 - 1,000 gallons per minute | 138.00 |
| maximum 1,001 gallons per minute and over | 168.00 |

3. Motor fuel devices (dispensers) other than for liquid petroleum gas (not including satellite hoses or nozzles):

| | Standard | Stage II |
|---|---|---|
| each meter | 15.00 | 30.00 |
| each blending valve | 15.00 | 30.00 |
| high volume (over 19 gallons per minute) diesel per hose and nozzle | | 15.00 |
| keylock, limited access, with accumulators, per hose and nozzle | | 22.50 |
| remote indicator and control unit (no hoses or nozzles) (accessory only) | | 22.50 |

4. Liquid measuring devices for liquid petroleum gas (meters):

| | |
|---|---|
| small bottle fill measuring devices | 24.00 |
| motor fuel measuring devices, uncompensated | 24.00 |
| motor fuel measuring devices, temperature compensating, including compressed natural gas filling devices | 48.00 |
| motor fuel measuring devices, keylocks | 48.00 |
| 3/4" and 1" meters, uncompensated | 48.00 |
| 1 1/4", 1/2" and 1 3/4" meters, uncompensated | 72.00 |
| 2" meters and larger, uncompensated | 72.00 |
| 3/4" and 1" meters, temperature compensating | 54.00 |
| 1 1/4", 1/2" and 1 3/4" meters, temperature | |

compensating 90.00
2" meters and larger, temperature compensating 96.00
5. Linear measuring devices:
all linear measuring mechanical devices 24.00
6. Time measuring devices:
all time measuring mechanical, electrical and electronic devices 24.00
7. Counting devices:
all mechanical and electronic counting devices 12.00

B. Testing, inspection, certification and calibration fees shall be paid pursuant to the fee schedule set forth in subsection A or the rules of the department. The department shall waive license fees for customer parking time measuring meters owned by municipalities.

C. Issuance or renewal of license as:

1. Public weighmaster 48.00
2. Registered service agency 24.00
3. Registered service representative 4.80

D. The fees set forth in this section are the maximum amounts that may be charged, but the director, at the director's discretion, may reduce the fees to any amount the director deems necessary.

E. The director may prorate the fees set forth in this section for partial year application.

F. If a person fails to pay a license, permit or certification fee on or before the date the fee is due, the department shall impose a penalty equal to twenty per cent of the fee. For each ~~month~~ THIRTY DAY PERIOD after the date the fee is due, the department shall impose an additional penalty equal to twenty per cent of the fee. If a person fails to pay a license, permit or certification fee AND ALL RELATED PENALTIES for ~~three months~~ NINETY DAYS after the fee is due, the department shall ~~automatically~~ cancel the license, permit or certification.

G. For the purposes of this section:

1. "Taxicab" means a motor vehicle that has a driver for hire, that has a seating capacity of less than seven passengers and that is not operated on a regular route.

2. "Time measuring devices" and "linear measuring devices" do not include odometers except when utilized as the device on which a charge is determined in the operation of a taxicab.

Sec. 2. Section 41-2115, Arizona Revised Statutes, is amended to read:

41-2115. Civil penalties

A. A person who violates this chapter, any rule of the department or any license requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any license requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with chapter 6, article 10 of this title. EXCEPT AS PRESCRIBED IN SUBSECTION B OF THIS SECTION, the civil penalty shall not exceed five hundred

dollars for each infraction nor more than five 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.

B. THE DIRECTOR MAY DOUBLE THE MAXIMUM CIVIL PENALTY IF ANY OF THE FOLLOWING APPLY:

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 STAGE II 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 PER CENT OR MORE AND AT LEAST ONE ERROR IS IN FAVOR OF THE RETAILER.

~~B.~~ C. 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.

APPROVED BY THE GOVERNOR APRIL 17, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2003.

*Attachment 6*

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Conference Engrossed

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

# CHAPTER 303

# HOUSE BILL 2562

AN ACT

AMENDING SECTION 41-2115, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF WEIGHTS AND MEASURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 41-2115, Arizona Revised Statutes, is amended to read:

41-2115. Civil penalties

A. A person who violates this chapter, any rule of the department or any license requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any license requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with chapter 6, article 10 of this title. Except as prescribed in subsection B of this section, the civil penalty shall not exceed five hundred dollars for each infraction nor more than five 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.

B. The director may double the maximum civil penalty if any of the following ~~apply~~ 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 stage II 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 per cent 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, 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.

C. 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.

APPROVED BY THE GOVERNOR MAY 30, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 30, 2006.

*Attachment 7*

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State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

# CHAPTER 291

# HOUSE BILL 2462

AN ACT

AMENDING SECTIONS 28-5801 AND 28-5808, ARIZONA REVISED STATUTES; AMENDING SECTION 38-891, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 234, SECTION 1; AMENDING SECTIONS 41-1517, 41-2115 AND 41-3505, ARIZONA REVISED STATUTES; AMENDING LAWS 2007, CHAPTER 260, SECTION 6; MAKING APPROPRIATIONS; RELATING TO BUDGET PROCEDURES FOR BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

UNOFFICIAL
Page and line numbering may not match official version

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 28-5801, Arizona Revised Statutes, is amended to read:

28-5801. Vehicle license tax rate

A. At the time of application for and before registration each year of a vehicle, the registering officer shall collect the vehicle license tax imposed by article IX, section 11, Constitution of Arizona. On the taxpayer's vehicle license tax bill, the registering officer shall provide the taxpayer with the following:

1. Information showing the amount of the vehicle license tax that each category of recipient will receive and the amount that is owed by the taxpayer.

2. The amount of vehicle license tax the taxpayer would pay pursuant to section 28-5805 if the taxpayer's motor vehicle was powered by alternative fuel.

B. Except as provided in subsections C and D of this section:

1. During the first twelve months of the life of a vehicle as determined by its initial registration, the vehicle license tax is based on each one hundred dollars in value, the value of the vehicle is sixty per cent of the manufacturer's base retail price of the vehicle and the vehicle license tax rate for each of the recipients is as follows:

(a) The rate for the Arizona highway user revenue fund is one dollar twenty-six cents.

(b) The rate for the county general fund is sixty-nine cents.

(c) The rate for counties for ~~the same use as highway user revenue fund monies~~ ANY PURPOSES RELATED TO TRANSPORTATION, AS DETERMINED BY THE BOARD OF SUPERVISORS, is sixteen cents.

(d) The rate for incorporated cities and towns is sixty-nine cents.

2. During each succeeding twelve month period, the vehicle license tax is based on each one hundred dollars in value, the value of the vehicle is 16.25 per cent less than the value for the preceding twelve month period and the vehicle license tax rate for each of the recipients is as follows:

(a) The rate for the Arizona highway user revenue fund is one dollar thirty cents.

(b) The rate for the county general fund is seventy-one cents.

(c) The rate for counties for the same use as highway user revenue fund monies is seventeen cents.

(d) The rate for incorporated cities and towns is seventy-one cents.

3. The minimum amount of the vehicle license tax computed under this section is ten dollars per year for each vehicle that is subject to the tax. If the product of all of the rates prescribed in paragraph 1 or 2 of this subsection is less than ten dollars, the vehicle license tax is ten dollars. The vehicle license tax collected pursuant to this paragraph shall be distributed to the recipients prescribed in this subsection based on the percentage of each recipient's rate to the sum of all of the rates.

C. The vehicle license tax is as follows for noncommercial trailers that are not travel trailers and that are less than six thousand pounds gross vehicle weight:

1. On initial registration, a one-time vehicle license tax of one hundred five dollars.

2. On renewal of registration, a one-time vehicle license tax of seventy dollars.

D. The vehicle license tax is as follows for a trailer or semitrailer that exceeds ten thousand pounds gross vehicle weight:

1. On initial registration, a one-time vehicle license tax of five hundred fifty-five dollars.

2. On renewal of registration or if previously registered in another state, a one-time vehicle license tax of:

(a) If the trailer's or semitrailer's model year is less than six years old, three hundred fifty-five dollars.

(b) If the trailer's or semitrailer's model year is at least six years old, one hundred dollars.

E. The vehicle license tax collected pursuant to subsection C or D of this section shall be distributed to the recipients prescribed in subsection B of this section based on the percentage of each recipient's rate to the sum of all of the rates.

F. For the purposes of subsection C of this section, "travel trailer" has the same meaning prescribed in section 28-2003.

Sec. 2. Section 28-5808, Arizona Revised Statutes, is amended to read:

28-5808. Vehicle license tax distribution

A. The director shall distribute monies collected by the director pursuant to section 28-5801, except monies deposited in the state general fund, on the first and fifteenth calendar day of each month as follows:

1. On the first calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, all of the Arizona highway user revenue fund monies received from the first through the fifteenth calendar day of the preceding month in the Arizona highway user revenue fund, except that on the first calendar day the director shall deposit, pursuant to sections 35-146 and 35-147, in the parity compensation fund established by section 41-1720, 1.51 per cent of the portion of vehicle license tax revenues that otherwise would be deposited in the state highway fund from the first through the fifteenth calendar day of the preceding month.

2. On the fifteenth calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, all of the Arizona highway user revenue fund monies received from the sixteenth through the last day of the preceding month in the Arizona highway user revenue fund, except that on the fifteenth calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, in the parity compensation fund established by section 41-1720, 1.51 per cent of the portion of vehicle license tax revenues that otherwise would be deposited in the state highway fund from the sixteenth through the last day of the preceding month. On the fifteenth calendar day, the director

shall distribute or deposit all other monies received during the entire preceding month as follows:

(a) The county general fund monies to the county general fund.

(b) The county ~~highway~~ TRANSPORTATION monies to the state treasurer to be apportioned among the counties for ~~the same use as highway user revenue fund monies~~ ANY PURPOSES RELATED TO TRANSPORTATION, AS DETERMINED BY THE BOARD OF SUPERVISORS, on the basis that the population of the unincorporated area of each county bears to the population of the unincorporated areas of all counties in this state.

(c) The incorporated cities and towns monies to the incorporated cities and towns of the county in proportion to the population of each.

3. The deposit of the monies in the parity compensation fund pursuant to paragraphs 1 and 2 of this subsection shall not impact the distribution of vehicle license tax revenues to the state general fund and to cities, towns and counties pursuant to this section.

B. The director shall distribute monies collected by the director pursuant to sections 28-5804, 28-5805, 28-5806 and 28-5810, except monies deposited in the state general fund, on the first and fifteenth calendar day of each month as follows:

1. On the first calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, 37.61 per cent of all monies received from the first through the fifteenth calendar day of the preceding month in the highway user revenue fund.

2. On the fifteenth calendar day, the director shall deposit, pursuant to sections 35-146 and 35-147, 37.61 per cent of all monies received from the sixteenth through the last day of the preceding month in the highway user revenue fund and distribute or deposit the following amounts as a percentage of all monies received pursuant to sections 28-5804, 28-5805, 28-5806 and 28-5810 during the entire preceding month as follows:

(a) 20.45 per cent to the county general fund.

(b) 4.91 per cent to the state treasurer to be apportioned among the counties for ~~the same use as highway user revenue fund monies~~ ANY PURPOSES RELATED TO TRANSPORTATION, AS DETERMINED BY THE BOARD OF SUPERVISORS, on the basis that the population of the unincorporated area of each county bears to the population of the unincorporated areas of all counties in this state.

(c) 20.45 per cent to the incorporated cities and towns of the county in proportion to the population of each.

(d) Except as provided in subsection C of this section, 1.64 per cent shall be deposited, pursuant to sections 35-146 and 35-147, in the state highway fund established by section 28-6991.

(e) 4.09 per cent in the state highway fund established by section 28-6991.

(f) 10.85 per cent shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund to aid school financial assistance.

C. Through September 30, 2003, if the department's authorized share of federal surface transportation program monies in each year is more than

forty-two million dollars, the director shall deposit each year in equal installments during the year an annual amount equal to the difference between this state's authorized share of federal surface transportation program monies and forty-two million dollars from the amount prescribed in subsection B, paragraph 2, subdivision (d) of this section in the local transportation assistance fund established by section 28-8101. Monies deposited in the local transportation assistance fund pursuant to this subsection shall be distributed to eligible cities, towns and counties as provided in section 28-8103. The amount distributed pursuant to this subsection shall not exceed the amount prescribed in subsection B, paragraph 2, subdivision (d) of this section.

D. For purposes of this section the population of a county, city or town shall be determined as provided by section 28-6532 or 42-5033.01. If an incorporated city or town has had no federal enumeration of population, the supervisors shall both:

1. Appoint a qualified person to take an accurate census of the incorporated city or town.

2. Certify the results to the county treasurer, and the incorporated city or town shall share in the distribution as provided by this section.

Sec. 3. Section 38-891, Arizona Revised Statutes, as amended by Laws 2008, chapter 234, section 1, is amended to read:

38-891. Employer and member contributions

A. As determined by actuarial valuations reported to the employers and the local boards by the fund manager, each employer shall make level per cent of salary contributions sufficient under the actuarial valuations to meet both the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability over, beginning July 1, 2005 a rolling period of at least twenty and not more than thirty years that is established by the fund manager taking into account the recommendation of the plan's actuary, except that, beginning with fiscal year 2006-2007, except as otherwise provided, the employer contribution rate shall not be less than six per cent of salary. For any employer whose actual contribution rate is less than six per cent of salary for fiscal year 2006-2007 and each year thereafter, that employer's contribution rate shall be at least five per cent and not more than the employer's actual contribution rate. An employer may pay a higher level per cent of salary thereby reducing its unfunded past service liability. All contributions made by the employers and all state taxes allocated to the fund shall be irrevocable and shall be used to pay benefits under the plan or to pay expenses of the plan and fund. The minimum employer contribution that is paid and that is in excess of the normal cost plus the actuarially determined amount required to amortize the unfunded accrued liability as calculated pursuant to this subsection shall be used to reduce future employer contribution increases and shall not be used to pay for an increase in benefits that are otherwise payable to members. The fund manager shall separately account for these monies in the fund. Forfeitures arising because of severance of employment before a member becomes eligible

for a pension or for any other reason shall be applied to reduce the cost to the employer, not to increase the benefits otherwise payable to members. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account contains excess valuation assets other than excess valuation assets that were in the employer's account as of fiscal year 2004-2005 and is more than one hundred per cent funded, the fund manager shall account for fifty per cent of the excess valuation assets in a stabilization reserve account. After the close of any fiscal year, if the plan's actuary determines that the actuarial valuation of an employer's account has a valuation asset deficiency and an unfunded actuarial accrued liability, the fund manager shall use any valuation assets in the stabilization reserve account for that employer, to the extent available, to limit the decline in that employer's funding ratio to not more than two per cent.

B. Except as provided by subsection H, each member shall contribute 7.96 per cent of the member's salary to the retirement plan. Member contributions shall be made by payroll deduction. Continuation of employment by the member constitutes consent and agreement to the deduction of the applicable member contribution. Payment of the member's salary less the deducted contributions constitutes full and complete discharge and satisfaction of all claims and demands of the member relating to salary for services rendered during the period covered by the payment.

C. Each participating employer shall cause the member contributions to be deducted from the salary of each member. The deducted member contributions shall be paid to the retirement plan within five working days and shall be credited to the member's individual account.

D. During a period when an employee is on industrial leave and the employee elects to continue contributions during the period of industrial leave, the employer and employee shall make contributions based on the salary the employee would have received in the employee's job classification if the employee was in normal employment status.

E. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a position within that department as a designated position if the position is filled by an employee who has at least five years of credited service under the plan, who is transferred to temporarily fill the position and who makes a written request to the local board to specify the position as a designated position within ninety days of being transferred. On the employee leaving the position, the position is no longer a designated position.

F. The local board of the state department of corrections or the local board of the department of juvenile corrections may specify a designated position within the department as a nondesignated position if the position is filled by an employee who has at least five years of credited service under the Arizona state retirement system and who makes a written request to the local board to specify the position as a nondesignated position within ninety

days of accepting the position. On the employee leaving the position, the position reverts to a designated position.

G. Beginning with fiscal year 2008-2009, if the aggregate computed employer contribution rate that is calculated pursuant to subsection A is less than six per cent of salary, beginning on July 1 of the following fiscal year the member contribution rate prescribed in subsection B OR H is permanently reduced by an amount that is equal to the difference between six per cent and the aggregate computed employer contribution rate. Notwithstanding this subsection, the member contribution rate shall not be less than 7.65 per cent of the member's salary.

H. Notwithstanding subsection B, except for a full-time dispatcher, ~~beginning on July 1, 2009,~~ a member shall contribute 8.41 per cent of the member's salary to the retirement plan. After the close of any fiscal year, if the plan's actuary determines that the aggregate ratio of the funding value of accrued assets to the accrued liabilities of the fund is at least one hundred per cent, from and after June 30 of the following year, except for a full-time dispatcher, a member shall contribute 7.96 per cent of the member's salary to the retirement plan. Additionally, the member's contribution to the retirement plan may also be permanently reduced pursuant to subsection G.

Sec. 4. Section 41-1517, Arizona Revised Statutes, is amended to read:

41-1517. Motion picture production tax incentives; duties; definitions

A. From and after December 31, 2005 through December 31, 2010, the department of commerce shall qualify motion picture production companies that produce one or more motion pictures in this state for motion picture production tax incentives, subject to the following requirements and conditions:

1. Except as provided in subsection K of this section, a motion picture production company must spend at least two hundred fifty thousand dollars toward production costs in this state producing each motion picture.

2. For the purpose of this section, production costs are limited to and subject to the following conditions:

(a) Salaries and other compensation for talent, management and labor paid to residents of this state, as defined by section 43-104.

(b) A story and scenario to be used for a motion picture.

(c) Set construction and operations, wardrobe, props, accessories and related services in this state. Expenses paid for construction contracts are limited to contractors who are licensed under title 32, chapter 10.

(d) Photography, sound synchronization, lighting and related costs incurred in this state.

(e) Editing and related services performed in this state.

(f) Rental of facilities and equipment in this state.

(g) Catered food, drink and condiment purchased in this state.

(h) Other direct in-state costs of producing the motion picture, pursuant to rules adopted by the department of revenue that follow generally accepted accounting standards for the motion picture industry.

(i) Payments for penalties and fines do not qualify as production costs.

(j) Expenses incurred before the date of notice of preapproval under subsection D of this section do not qualify as production costs.

3. A motion picture production company or its authorized payroll service company must employ residents of this state in its production activities as follows:

(a) In 2006, at least twenty-five per cent of full-time employees working in this state must be residents of this state.

(b) In 2007, at least thirty-five per cent of full-time employees working in this state must be residents of this state.

(c) In 2008 and every subsequent taxable year, at least fifty per cent of full-time employees working in this state must be residents of this state.

4. A motion picture production company must submit a completed application pursuant to subsection C of this section. An application is complete on receipt of all requested information.

5. A motion picture production company must include in the credits for each motion picture, other than a commercial advertisement or music video, an acknowledgement that the production was filmed in Arizona.

B. Only a motion picture production company that demonstrates that it has the lawful right to produce a particular production may apply for qualification under this section with respect to that production.

C. A motion picture production company initially applying for qualification under this section must report the following to the department of commerce on a form and in a manner prescribed by the department, with the cooperation of the department of revenue:

1. The name, address, telephone number and ~~web site~~ WEBSITE of the motion picture production company.

2. The name and address of an individual who will maintain records of expenditures in this state.

3. The projected first preproduction date and last production date in this state.

4. The production office address and office telephone number in this state.

5. The estimated total budget of the production.

6. The estimated total expenditures in this state.

7. The estimated total percentage of the production taking place in this state.

8. The estimated level of employment of residents of this state in the cast and crew.

9. A script, including a synopsis, the proposed director and a preliminary list of the cast and producer, except that, with respect to a

television series, other than a pilot production, in lieu of a script the applicant must include:

(a) A synopsis of the general nature of the series.

(b) A description of the characters and the intended nature of their interaction with each other.

(c) A description of the locations.

(d) A description of the sets.

(e) The intended distribution or broadcast medium with specific television channels, if known.

10. An affirmation signed by any person who will be credited on screen as the producer or producers of the motion picture, not including the executive producers, associate producers, assistant producers or line producers, that:

(a) The motion picture production company agrees to furnish records of expenditures in this state to the department of revenue on request.

(b) Any items purchased with a ~~certification~~ CERTIFICATE issued under section 42-5009, subsection H are intended for use by the applicant directly in motion picture production.

D. The department of commerce shall review all applications within thirty days after submission of a complete application pursuant to subsection C of this section to determine whether the motion picture production company satisfies all of the criteria provided in subsection A of this section and shall establish the process by which the department qualifies and preapproves a company for motion picture production tax incentives. This process shall preapprove a company for motion picture production tax incentives based on priority placement established by the date that such motion picture production company filed its initial application for qualification with the department.

E. The department of commerce may conduct a site visit to verify that production has begun. Within ninety days after the department preapproves the company's initial application, the company must submit notice to the department that production has begun and provide at least one of the following:

1. A copy of a contract, loan out agreement or deal memo with a cameraman and crew.

2. A copy of the crew call sheet for the first day of production.

3. Evidence that residents of this state have been paid a total of at least five thousand dollars for work on the preapproved motion picture.

4. A copy of a contract or agreement directly attributable to the preapproved motion picture.

F. Preapproval by the department of commerce under subsection D of this section lapses, the application is void and the amount of the preapproved incentives does not apply against the dollar limit prescribed by subsection J of this section if, within ninety days after the department preapproves the company, the company fails to provide documentation of either:

1. Its expenditure in this state of the lesser of:

(a) Ten per cent of the estimated total state budget of the production.

(b) Two hundred fifty thousand dollars.

2. A completion bond, equal to the estimated total budget of the production, for the production of the motion picture for which the company was preapproved. For the purposes of this paragraph, "completion bond" means an executed written contract, issued by an insurance company with an insurance industry rating of B+ or better by A.M. Best company guarantying to the financiers of the project that it will be completed according to the terms of the preapproved application submitted by the production company in its application.

G. The preapproved amount applies against the dollar limit prescribed by subsection J of this section for the year in which the application was submitted regardless of whether the initial preapproval period extends into the following year or years. Before the expiration of the initial preapproval or requalification period, a company may voluntarily relinquish unused credit amounts.

H. The department of commerce shall reallocate the amount of credits that is voluntarily relinquished under subsection G of this section, that ~~lapse~~ LAPSES under subsection F of this section or that ~~lapse~~ LAPSES under subsection O of this section. The reallocation shall be to other motion picture production companies that applied in the original credit year based on priority placement. The amount of the reallocated credits shall continue to apply against the dollar limit of the original credit year regardless of the year in which the reallocation occurs. If for any year an unused balance occurs in the income tax credits authorized under the dollar limit prescribed by subsection J of this section:

1. The balance shall be allocated to motion picture production companies that successfully appeal the denial of approval under this section or section 41-1517.01. Any amount of income tax credits due to successful appeals that are not paid from an unused balance in any year shall be paid against the dollar limit allowed by subsection J of this section in the following year.

2. Any remaining unused balance shall be reallocated for the purposes of this section in the following year.

I. Beginning with the tax credits allocated for 2006 pursuant to subsection J of this section, an approved credit offsets tax liability for the taxable year for which the credit was originally allocated or any subsequent taxable year within the applicable carryforward period pursuant to section 43-1075, subsection G or section 43-1163, subsection G. The credits must be claimed on a timely filed original income tax return, including extensions.

J. Subject to the requirements of section 41-1517.01 and subsections K and U of this section, the department of commerce shall not preapprove income tax credits exceeding a total of:

1. Thirty million dollars for 2006.
2. Forty million dollars for 2007.
3. Fifty million dollars for 2008.
4. Sixty million dollars for 2009.
5. From and after December 31, 2009, seventy million dollars for a single year.
6. Five million dollars for an individual motion picture application in 2007.
7. Seven million dollars for an individual motion picture application in 2008.
8. Eight million dollars for an individual motion picture application in 2009.
9. From and after December 31, 2009, nine million dollars for an individual motion picture application.

K. Beginning in 2008, the following provisions apply with respect to commercial advertisement and music video production:

1. Five per cent of the maximum dollar amount of income tax credits prescribed for any year by subsection J of this section is reserved for use with respect to commercial advertisement and music video production.

2. A commercial advertisement or music video production company may apply for qualification under subsection C of this section before the company reaches the minimum expenditure threshold requirements of subsection A, paragraph 1 of this section.

3. In lieu of a script under subsection C, paragraph 9 of this section, the applicant must submit a synopsis or storyboard that:

(a) Identifies the product, service, person or event for a commercial advertisement or the artist and song for a music video.

(b) Describes the general content or message to be conveyed.

(c) Describes the location or locations.

(d) Describes the sets.

(e) Describes the intended distribution or medium and specific channels, if known.

4. The department must review the completed application within fifteen business days.

5. Expenses incurred before the date of submission of a completed application under subsection C of this section do not qualify as production costs.

6. The department shall allocate the income tax credit incentives based on priority placement established by the date that the company files its application and based on the percentage of estimated total expenditures in this state allowed as a credit under section 43-1075 or 43-1163.

7. Within sixty days after applying with the department under subsection C of this section, a company that is preapproved for a specific production must notify and provide documentation of expenditures to the department of the total amount of eligible production costs associated with the production.

8. The company is not eligible for income tax credit incentives until the company's eligible production expenditures reach two hundred fifty thousand dollars in a period of twelve consecutive months. When the company reaches that threshold, the company may apply to the department for approval of the income tax credit incentives pursuant to subsection ~~P~~ O of this section. Applications for approval of income tax credit incentives may not be submitted by the same company more frequently than once a calendar month.

9. Notwithstanding any other provision of this section, the department of commerce shall adopt rules and prescribe forms and procedures as necessary for the purposes of this subsection.

L. Except for applications with respect to commercial advertisement and music video production under subsection K of this section, after October 31 of each year, if the department has preapproved the maximum calendar year tax credit amount pursuant to subsection J of this section, the department may accept initial applications for the next calendar year. The preapproval of any application pursuant to this subsection shall not be effective prior to the first business day of the following calendar year. The department may accept initial applications with respect to commercial advertisement and music video production under subsection K of this section only during the calendar year in which the credits would be allotted.

M. Subject to ~~the provisions of~~ subsection O of this section, the department of commerce shall deny an application submitted on completion of the production pursuant to subsection O of this section if it determines that:

1. The motion picture production company does not meet all of the established criteria provided in subsection A of this section.

2. The production would constitute an obscene motion picture film or obscene pictorial publication under title 12, chapter 7, article 1.1.

3. The production depicts sexual activity as defined in title 13, chapter 35.

4. The production would constitute sexual exploitation of a minor or commercial sexual exploitation of a minor under title 13, chapter 35.1.

N. On a determination by the department of commerce that a motion picture production company qualifies for motion picture production tax incentives, the department shall issue the company a written letter of qualification and transmit a copy of the letter to the department of revenue. Beginning from and after December 31, 2007, a letter of qualification is effective for twenty-four consecutive months as stated in the letter.

O. Upon completion of the motion picture production, a motion picture production company that qualifies for the motion picture tax incentives shall apply to the department in writing for approval of income tax credits, submit a viewable copy of the motion picture, EXCEPT AS PROVIDED IN SUBSECTION P OF THIS SECTION, and certify the total amount of eligible production costs associated with the project incurred from and after December 31, 2005. From and after June 30, 2006, the department shall provide approval to a motion picture production company that it has met the eligibility requirements of

this section and shall notify the department of revenue that the motion picture production company may claim the tax credits pursuant to sections 43-1075 and 43-1163. If the eligible production costs actually spent are less than the amount preapproved for income tax credits, the preapproved amount not incurred lapses and does not apply against the dollar limit prescribed by subsection J of this section for that year.

P. A motion picture production company may apply for postapproval of the production before a viewable copy of the production UNDER SUBSECTION O OF THIS SECTION is available. To do so, the company must submit with its application a letter of credit, payable to the department of revenue, providing that within two business days after the issuer receives a written determination from the department of commerce that the production fails to qualify for the tax credits the issuer will pay to the department of revenue the full face value of the income tax credits in the application. If the department of revenue draws on the letter of credit, the monies shall be transferred to and held in an interest bearing account pending the final outcome of an appeal, if any. The letter of credit may be released on the determination by the department of commerce that the completed production qualifies for the tax credits.

Q. If a preapproved motion picture production company fails to undertake production, as described in subsection F of this section, and also fails to voluntarily relinquish the unused credit amounts for reallocation by the department as provided by subsection G of this section within the ninety-day period, the company and all persons signing the application for preapproval are disqualified from receiving, or participating in any motion picture production company that applies for or receives, tax incentives pursuant to this section for three years after the original application.

R. The department of commerce, with the cooperation of the department of revenue, shall adopt rules and publish and prescribe forms and procedures as necessary to effectuate the purposes of this section.

S. Any information gathered from motion picture production companies for the purposes of this section, OR APPLICANTS FOR INFRASTRUCTURE INCENTIVES FOR THE PURPOSES OF SECTION 41-1517.01, shall be considered confidential taxpayer information and shall be disclosed only as provided in section 42-2003, subsection B, paragraph 12, except that the department shall publish the following information in its annual report:

1. The name of each motion picture production company and infrastructure applicant and the amount of income tax credits preapproved for each production and infrastructure project.

2. The amount of credits approved with respect to each production.

T. The department of commerce shall:

1. Keep annual records of the information provided on applications for motion picture production tax incentives. These records shall reflect a percentage comparison of the annual amount of monies exempted or credited to qualifying motion picture production companies to the estimated amount of

monies spent on in-state production costs by motion picture production companies.

2. Maintain annual data on growth in Arizona-based motion picture industry companies and motion picture industry employment and wages.

3. Not later than April 30 of each year, prepare and publish a report summarizing the information collected pursuant to this subsection. The department shall make copies of the annual report available to the public on request.

U. Subject to annual legislative authorization, the amount of ~~one hundred eighty~~ THREE HUNDRED THIRTY SEVEN thousand SEVEN HUNDRED dollars from the dollar amount of income tax credits under subsection J of this section is allocated each year to the department of commerce for up to ~~two~~ SIX full-time equivalent positions dedicated solely for the purposes of this section and section 41-1517.01. If the income tax credits terminate pursuant to subsection A of this section and section 41-1517.01, subsection A, the authorization under this subsection and any positions dedicated for those purposes also terminate.

V. For the purposes of this section:

1. "Commercial advertisement" means an advertising message designed for delivery through either:

(a) A motion picture film or video medium to attract the attention of consumers or influence consumers' feelings toward a particular product, service, event or cause.

(b) Still photography that is used in national or international print media to attract the attention of consumers or influence consumers' feelings toward a particular product, service event or cause.

2. "Motion picture" means a single medium or multimedia program, including a commercial advertisement, music video or television series, that:

(a) Is created by production activities conducted in whole or in part in this state.

(b) Can be viewed or reproduced.

(c) Is intended for commercial distribution or licensing in the delivery medium used.

Motion picture does not include any production featuring actual news, current events, weather, locally produced and locally broadcast television productions, financial market reports, concerts, Internet broadcasts, talk shows and interviews, game shows, sporting events, award or other gala events, a production whose sole purpose is fund-raising, a production used for corporate or organizational training or in-house corporate advertising or other similar production activities.

3. "Motion picture production company" or "production company" means any person primarily engaged in the business of producing motion pictures and that has a physical business office and bank account in this state.

4. "Motion picture production tax incentives" means the tax deductions for transaction privilege and use taxes listed in section 42-5009, subsection

H and the credit against income taxes provided under section 43-1075 or 43-1163.

5. "Music video" means a filmed or videotaped rendition of a song or songs, portraying musicians performing the song or other visual images set to the lyrics of the song.

6. "Television series" means a group of productions THAT IS created or adapted for television broadcast with a common series title, THAT IS related to each other in subject or theme, ~~which~~ THAT is produced seasonally for appearing at scheduled intervals, but subject to discretionary programming and scheduling decisions, and with or without a predetermined number of episodes. Television series includes a pilot production for the promotion or introduction of a television series.

Sec. 5. Section 41-2115, Arizona Revised Statutes, is amended to read:

41-2115. Civil penalties

A. A person who violates this chapter, any rule of the department or any license requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any license requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with chapter 6, article 10 of this title. Except as prescribed in subsection B of this section, the civil penalty shall not exceed ~~five hundred~~ ONE THOUSAND dollars for each infraction nor more than ~~five~~ 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.

B. The 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 stage II 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 per cent 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, 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.

C. 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.

Sec. 6. Section 41-3505, Arizona Revised Statutes, is amended to read:

41-3505. Information technology fund

A. The information technology fund is established for use by the agency and the committee. Monies in the fund are subject to legislative appropriation.

B. Beginning January 1, 1997, state service agencies subject to section 41-764, and, beginning July 1, 1997, all budget units and the legislative and judicial branches of state government, shall contribute a pro rata share of the overall cost of information technology services provided by the agency or committee. The pro rata share is payable by payroll fund source, and the resultant amount shall be deposited in the information technology fund. Beginning ~~January 1, 1997, for state service agencies subject to section 41-764 and beginning July 1, 1997~~ JULY 1, 2008, for all budget units and the legislative and judicial branches of state government, the pro rata share shall be ~~.15~~ .20 per cent of the total payroll. Total payroll includes all fund sources including the state general fund, federal monies, special revenue funds, intergovernmental revenue monies, trust funds and other payroll fund sources.

C. A claim for the pro rata share percentage payment shall be submitted according to the fund source, with the accompanying payroll, to the department of administration for deposit in the information technology fund.

D. Notwithstanding section 35-190, monies in the information technology fund do not revert to the state general fund at the end of each fiscal year.

Sec. 7. Laws 2007, chapter 260, section 6 is amended to read:

Sec. 6. Arizona twenty-first century competitive initiative fund; appropriations

A. The sum of $22,500,000 IS APPROPRIATED FROM THE STATE GENERAL FUND IN FISCAL YEAR 2008-2009, THE SUM OF $25,000,000 is appropriated from the state general fund in ~~each of the~~ fiscal ~~years 2007-2008 through 2010-2011~~ YEAR 2009-2010 AND THE SUM OF $27,500,000 IS APPROPRIATED FROM THE STATE GENERAL FUND IN FISCAL YEAR 2010-2011 for deposit into the Arizona twenty-first century competitive initiative fund established by section 41-1505.09, Arizona Revised Statutes, and the same amounts are appropriated from that fund to the commerce and economic development commission in each fiscal year for the purposes prescribed in Laws 2006, chapter 334.

B. In order to amend the existing memorandum of understanding or enter into a new memorandum of understanding with the commission pursuant to section 41-1505.09, Arizona Revised Statutes, a nonprofit corporation shall identify and document written agreements for private, ~~or~~ philanthropic OR GOVERNMENTAL investments, EXCEPT MONIES RECEIVED FOR AND BELONGING TO THE

STATE, either for specific grants or for general grant investment areas that are equivalent to ~~$25,000,000~~ $22,500,000 or more in ~~each of the~~ fiscal ~~years 2007-2008,~~ YEAR 2008-2009, $25,000,000 IN FISCAL YEAR 2009-2010 and $27,500,000 IN FISCAL YEAR 2010-2011. Unless prohibited by the organization's governing documents, the private, ~~or~~ philanthropic OR GOVERNMENTAL investments shall be cash OR AUDITABLE CASH EQUIVALENT contributions to the nonprofit. State funds shall be drawn down incrementally as ~~the~~ EACH cash OR CASH EQUIVALENT match is received OR OTHERWISE SECURED AS PART OF THE COST SHARE FOR A WRITTEN GRANT AGREEMENT by the nonprofit and documented by the commission.

C. CONTRIBUTIONS FROM GOVERNMENT ENTITIES OR ANY AUDITABLE CASH EQUIVALENT CONTRIBUTIONS SHALL NOT CONSTITUTE MORE THAN FIFTY PER CENT OF THE MATCH REQUIRED BY SUBSECTION B OF THIS SECTION.

~~C.~~ D. The appropriations made in subsection A of this section are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to the lapsing of appropriations.

Sec. 8. Information technology retirement appropriations; lapsing extension; retroactivity

A. Notwithstanding any other law, the amounts appropriated to the information technology plan line item for the Arizona state retirement system for fiscal year 2004-2005 by Laws 2003, chapter 262, section 88, as amended by Laws 2005, chapter 331, section 12, and exempted from lapsing by Laws 2006, chapter 316, section 6 and Laws 2007, chapter 259, section 17, and for fiscal year 2005-2006 by Laws 2005, chapter 286, section 87, as exempted from lapsing by Laws 2006, chapter 316, section 6 and Laws 2007, chapter 259, section 17, are exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations, through June 30, 2009.

B. This section is effective retroactively to from and after June 30, 2008.

Sec. 9. Delayed implementation; professional employer organization registration; retroactivity

A. Notwithstanding any other law, the secretary of state shall not implement title 23, chapter 3, article 4, Arizona Revised Statutes, relating to professional employer organization registration, or any rules adopted pursuant to title 23, chapter 3, article 4, Arizona Revised Statutes, until July 1, 2010.

B. This section is effective retroactively to from and after February 29, 2008.

Sec. 10. Unrestricted federal monies; retroactivity

A. Any unrestricted federal monies received from May 1, 2008 through June 30, 2009 shall be deposited in the state general fund. The monies shall be used for the payment of essential governmental services.

B. This section is effective retroactively to from and after April 30, 2008.

Sec. 11. Authorization

Pursuant to section 41-1517, subsection U, Arizona Revised Statutes, as amended by this act, the department of commerce is authorized to use $337,700 in fiscal year 2008-2009 for up to six full-time equivalent positions.

Sec. 12. Fees for providing services; increases; fiscal year 2008-2009; intent; appropriations; exemption from rule making

A. Notwithstanding any other law, the director of each of the following agencies may raise fees in fiscal year 2008-2009 for services it provides:

1. Department of public safety.
2. Department of agriculture.
3. Department of environmental quality.
4. Department of health services.
5. State land department.
6. Radiation regulatory agency.

B. It is the intent of the legislature that the additional revenue generated by the fee increases shall not exceed the amounts listed below:

1. Department of public safety - $7,800,300.
2. Department of agriculture - $1,100,000.
3. Department of environmental quality - $600,000.
4. Department of health services - $600,000.
5. State land department - $600,000.
6. Radiation regulatory agency - $400,000.

C. Monies generated from any fees raised pursuant to subsection A are appropriated to the respective agencies.

D. The agencies described in subsection A are exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of raising fees pursuant to this section for a period of one year from the effective date of this act.

Sec. 13. Calculation adjustments; fiscal year 2008-2009 closing state general fund balance; supplemental continuing appropriations

Notwithstanding any other law, for purposes of calculating the state general fund balance at the close of fiscal year 2008-2009, any monies appropriated from the state general fund that are exempted from lapsing pursuant to section 35-190, Arizona Revised Statutes, and that remain unexpended and unencumbered at the close of fiscal year 2008-2009 shall be included in the closing balance as if the appropriations had lapsed or otherwise reverted to the state general fund.

Sec. 14. Counties; revenue sources; expenditure limitation

A. Notwithstanding any other law, a county may meet any statutory funding requirements of section 12 of this act, relating to fees for providing services, from any source of county revenue designated by the county, including funds of any countywide special taxing district in which the board of supervisors serves as the board of directors.

B. County contributions that are made pursuant to section 12 of this act, relating to fees for providing services, are excluded from the county expenditure limitations.

Sec. 15. Exemption from rule making

The department of weights and measures is exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of raising civil penalties pursuant to section 41-2115, Arizona Revised Statutes, as amended by this act, for a period of one year from the effective date of this act.

Sec. 16. Declaration of emergency; limitation

Notwithstanding section 35-192, Arizona Revised Statutes, or any other law, the aggregate amount of all liabilities incurred during a declaration of emergency shall not exceed three million five hundred thousand dollars in fiscal year 2008-2009.

Sec. 17. Retroactivity

Section 41-3505, Arizona Revised Statutes, as amended by this act, applies retroactively to from and after June 30, 2008.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.

*Attachment 8*

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of the method or method alteration.

3. Before approving a new alternate method or method alteration that is not required or authorized by ~~an~~ the EPA ~~or~~ , ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8, the Department may require that the method or method alteration be performed by a laboratory designated by the Department to verify that, using the parameter for which its use is intended, the method or method alteration produces data that comply with subsection (B)(2)(d)(iv).
4. The Department may approve a new alternate method or method alteration that is not required or authorized by ~~an~~ the EPA ~~or~~ , ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8 if the Department determines that use of the method or method alteration is justified as described in subsection (B)(2)(d).

# NOTICE OF FINAL RULEMAKING

## TITLE 20. COMMERCE, BANKING, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

## PREAMBLE

**1.**

| **Sections Affected** | **Rulemaking Action** |
|---|---|
| R20-2-101 | Amend |
| R20-2-102 | Amend |
| R20-2-103 | Amend |
| R20-2-104 | Amend |
| R20-2-105 | Repeal |
| R20-2-106 | Repeal |
| R20-2-107 | Repeal |
| R20-2-110 | Amend |
| R20-2-201 | Amend |
| R20-2-202 | Repeal |
| R20-2-203 | Amend |
| R20-2-205 | New Section |
| R20-2-301 | Repeal |
| R20-2-302 | Amend |
| Article 4 | New Article |
| R20-2-402 | New Section |
| R20-2-501 | Amend |
| R20-2-502 | Amend |
| R20-2-505 | Amend |
| R20-2-601 | Amend |
| R20-2-602 | Amend |
| R20-2-604 | Amend |
| R20-2-605 | New Section |
| R20-2-702 | Amend |
| R20-2-704 | Amend |
| R20-2-705 | Amend |
| R20-2-714 | Amend |
| R20-2-715 | Amend |
| R20-2-717 | New Section |
| R20-2-901 | Amend |
| R20-2-902 | Amend |
| R20-2-903 | Amend |
| R20-2-904 | Amend |
| R20-2-905 | Amend |
| R20-2-906 | Amend |
| R20-2-910 | Amend |
| R20-2-911 | Amend |
| R20-2-912 | Amend |

**2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-2065(A)(4)

Implementing statutes: A.R.S. §§ 41-2051, 41-2064, 41-2065(A)(4), (14), (16), (25), 41-2065(D), 41-2066, 41-2067, 41-2083(C), 41-2122(A), (B), and (D), 41-2091, 41-2092, 41-2093, 41-2094, 41-2111, 41-2112, 41-2113, 41-2132, and 41-2134.

**3. The effective date of the rules:**

The rules will be effective 60 days after they are date-stamped by the Secretary of State.

**4. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 5020, December 6, 2002

Notice of Rulemaking Docket Opening: 9 A.A.R. 2283, July 3, 2003

Notice of Proposed Rulemaking: 9 A.A.R. 3017, July 11, 2003

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

| | |
|---|---|
| Name: | Dennis Ehrhart, Assistant Director for Compliance |
| Address: | 4425 W. Olive Ave, Suite 134<br>Glendale, AZ 85302-3844 |
| Telephone: | (602) 255-5211 |
| Fax: | (602) 255-1950 |

**6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The Department's five-year rule review was approved by the Governor's Regulatory Review Council on June 4, 2002. The rule amendments stated in the five-year review are incorporated in this rule package. The Department has worked with all of its regulated industries and their representatives since May 2000 on this rule package. After many reviews, comments, and meetings, the Department has arrived at the current rule language.

In Article 1, the Certification Fees language is repealed because it duplicates statutory language, and language regarding the effective dates of license and licensing fees is added. In response to substantial input from the regulated industries about the current enforcement action rules being too broad and vague, the administrative enforcement action rules are being repealed and the Department's progressive enforcement action is being described in more detail.

In Article 2, a rule is added requiring taxicab licensees to display their licenses. Some rules are clarified, such as the requirements for packaging and weighing packaged goods and commodities in Article 3. In Article 4, a rule is added for inspection procedures for price posting. These rules mirror current Department practice.

Some rules in Articles 6 and 9 are amended to reflect the trend toward an industry-driven self-regulating process for inspections and testing. A rule is being added to Article 7 to clarify that if a gasoline station owner equips a gas dispenser with a hold open latch, it must operate according to manufacturer's specifications. Many existing rules are amended to update or add materials incorporated by reference and to conform to legislative changes.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

For all rule amendments, there is minimal or no impact because the rules clarify or incorporate procedures already in place. Many changes codify national standards. This provides for uniformity across state lines, which is a benefit to the regulated industry and consumers. The rules spell out civil penalty criteria.

An impact pertains to the price and grade posting of gasoline products by service stations. Because of the potential cost to station owners to comply with these rules, the Department is delaying implementation of the requirement until June 5, 2004; however, the requirement is currently in rule and the amendment to the rule conforms to national standards and reduces the impact to some service station owners. This change is necessary to aid consumers in comparing prices for equivalent products. Any impact is outweighed by the reduction in consumer confusion and the reduction in misleading advertising.

In summary, there should be only minimal overall impact. Economic impact is far outweighed by the consumer protection provided by regulatory standards. Many of the rules provide a favorable impact to the regulated industry.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

R20-2-401 has been removed and will be re-noticed. Effective date will change to June 5, 2004. R20-2-704 effective date also changes to June 5, 2004. In response to a stakeholder comment (see item 11) in regard to major modification, R20-2-904(A)(1) and (2) have been amended to strike "Repairing" and insert "Adding." Clarification in R20-2-601 that Registered Service Agencies and Registered Service Representatives shall have knowledge of NIST Handbook 112 and equipment shall be operated in accordance with NIST Handbook 112. Table 1 regarding civil penalties was removed and replaced with a narrative explanation of violations and corresponding enforcement actions. Authority to Construct "Permit" changed to "Plan Approval." R20-2-904(B) "Written Amendment" changed to "Change Order." Edition dates of a NIST Handbook incorporated by reference is a later version due to the length of time elapsed to complete rulemaking.

**11. A summary of the comments made regarding the rule and the agency response to them:**

A letter from Conoco-Phillips dated August 11, 2003, RE: R20-2-904(A)(1) and (2). The recommendation is an attempt to align R20-2-101(18) to the requirement within R20-2-904(A) relating to when an Authority to Construct is to be submitted. The Department has made changes requested.

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

As required by A.R.S. 41-2083(C), the director of the Department of Environmental Quality was involved in the stakeholder process.

**13. Incorporations by reference and their location in the rules:**

R20-2-101(12) incorporates 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 Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2003 edition).

R20-2-101(13) incorporates the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2002 edition).

R20-2-101(14) incorporates the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2003 edition).

R20-2-101(15) incorporates 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 Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (January 2003 edition).

R20-2-605 incorporates the following CARB Executive Orders:

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- 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.

- California Air Resources Board Executive Order G-70-196, *Certification of the Saber Technologies, LLC SaberVac VR Phase II Vapor Recovery System*, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

R20-2-702 incorporates the following materials:

ASTM D 975-98b: *Standard Specification for Diesel Fuel Oils,* published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, 2001, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

ASTM D 4814-00: *Standard Specification for Automotive Spark-Ignition Engine Fuel*, published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.02, 2001, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

R20-2-901 incorporates the following materials:

*San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996, Third Revision, Air Pollution Central District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

**14. Was this rule previously made as an emergency rule?**

No

**15. The full text of the rules follows:**

## TITLE 20. COMMERCE, BANKING, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

## ARTICLE 1. ADMINISTRATION AND PROCEDURES

Section
R20-2-101. Definitions
R20-2-102. Metrology Laboratory Testing and Calibration Fees

R20-2-103. ~~Certification Fees~~ Licensing and Fees
R20-2-104. Administrative Enforcement Action ~~Regarding Commercial Devices~~
R20-2-105. ~~Administrative Enforcement Action Regarding Short Quantity Commodities~~ Repealed
R20-2-106. ~~Administrative Enforcement Action Regarding Liquid Fuels~~ Repealed
R20-2-107. ~~Administrative Enforcement Action Regarding Vapor Recovery Systems~~ Repealed
R20-2-110. Motion for Rehearing or Review

**ARTICLE 2. COMMERCIAL DEVICES**

Section
R20-2-201. Licensing Process
R20-2-202. ~~Handbook 44~~ Repealed
R20-2-203. Approval, Installation, and Sale of Devices
R20-2-205. Taxi Cab License Display

**ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE**

Section
R20-2-301. ~~Application~~ Repealed
R20-2-302. Handbook 130 and Handbook 133

**ARTICLE 4. ~~REPEALED~~ PRICE VERIFICATION AND PRICE POSTING**

Section
R20-2-402. Price-posting Inspection Procedure and Violation Exceptions

**ARTICLE 5. PUBLIC WEIGHMASTERS**

Section
R20-2-501. Qualifications; License and Renewal Application Process
R20-2-502. Duties
R20-2-505. Weight Certificates

**ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES**

Section
R20-2-601. Qualifications; License and Renewal Application Process~~; and Reciprocal Agreements~~
R20-2-602. Duties
R20-2-604. Prohibited Acts
R20-2-605. Material Incorporated by Reference

**ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS**

Section
R20-2-702. Material Incorporated by Reference
R20-2-704. Price and Grade Posting on External Signs
R20-2-705. Price, Octane, and Lead Substitute Notification on Dispensers
R20-2-714. Requirements for Gasoline Products Outside the ~~CBG Covered~~ CBG-covered Area
R20-2-715. Motor Fuel Quality Testing Methods and Requirements
R20-2-717. ~~Renumbered~~ Hold Open Latch Exception

**ARTICLE 9. GASOLINE VAPOR CONTROL**

Section
R20-2-901. Material Incorporated by Reference
R20-2-902. Exemptions
R20-2-903. Equipment and Installation
R20-2-904. Application Requirements and Process for Authority to Construct Plan Approval
R20-2-905. Initial Inspection and Testing
R20-2-906. Fees
R20-2-910. Annual ~~Tests~~ Inspection and Testing
R20-2-911. Compliance Inspections
R20-2-912. Enforcement

## ARTICLE 1. ADMINISTRATION AND PROCEDURES

**R20-2-101. Definitions**

The definitions in A.R.S. §§ 41-2051, 41-2065, 41-2085, 41-2121, and 41-2131 and the following definitions apply to this Chapter:

1. No change
2. "Administrative order" means ~~a DWM-53~~ a corrective action notice that the Department issues for a violation of A.R.S. Title 41, Chapter 15, 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 Department that the weight, measure, fuel quality, or price posting complies with the requirements of A.R.S. Title 41, Chapter 15, 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 Department that the weight, measure, fuel, vapor recovery system, or component complies with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
   d. Stop performing weighmaster, deputy weighmaster, registered service agency, or registered service representative licensed duties until the person provides documentation to the Department that the person is complying with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
   e. Maintain labeling, policies, and cash register indicator displays according to A.R.S. Title 41, Chapter 15, and this Chapter;
   f. Stop constructing or modifying a vapor recovery system until the person complies with A.R.S. Title 41, Chapter 15, and this Chapter;
   g. Excavate a vapor recovery site according to R20-2-104(L);
   h. Comply with scheduling a test according to R20-2-104(L); or
   i. Retake a competency examination under A.R.S. § 41-2094.
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change

~~10. "DWM-53" means a Department form that orders the stop- sale, stop-use, hold, or removal of commodities, devices, vapor recovery systems and components, and liquid fuels.~~

10. ~~11.~~ No change

11. ~~12.~~ No change

12. ~~13.~~ "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 Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-~~9328~~ 0001 (~~1999~~ 2003 edition), incorporated by reference and on file with the Department ~~and the Secretary of State~~. ~~The~~ This incorporation by reference contains no future editions or amendments.

13. "Handbook 112" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2002 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.

14. "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 Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-~~9328~~ 0001 (~~1999~~ 2003 edition), incorporated by reference and on file with the Department ~~and the Secretary of State~~. This incorporation by reference contains no future editions or amendments.

15. "Handbook 133" means the United States Department of Commerce, Technology Administration~~:~~,
   ~~a. National Bureau of Standards (NBS) Handbook 133, 3rd edition, entitled Checking the Net Contents of Packaged Goods, including supplements 1, 2, and 3 issued September 1988; and~~
   ~~b. National Institute of Standards and Technology (NIST) Handbook 133, 3rd edition, entitled Checking The Net Contents of Packaged Goods, including supplement 4 issued October 1994.~~
   ~~c. These publications are incorporated by reference, are on file with the Secretary of State, and are published by the Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.~~ National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-

0001 (January 2003 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions and amendments.

16. ~~"Hold order" means a Department administrative order requiring an owner, operator, distributor, manufacturer, licensee, or consignee to keep any commercial device, commodity, or liquid fuel, under its control and stored at its expense, pending further Department action, because it does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules.~~ "NCWM" means the National Conference on Weights and Measures.
17. No change
18. No change
19. No change
20. No change
21. "NIST" means the National Institute of Standards and ~~technology~~ Technology.

~~22. "Off sale" means that a commodity has been removed from commercial sale.~~

~~23.~~ 22. No change

~~24.~~ 23. "Out-of-service tag" means a red rejection tag that signifies that a commercial device does not meet the requirements of A.R.S. Title 41, Chapter 15, ~~or these rules, and that the owner or operator shall not use the device commercially until repaired~~ Handbook 44, or this Chapter.

24. "Person" as defined in A.R.S. § 41-2051, 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.
25. No change
26. No change
27. No change

~~28. "Removal order" means a Department administrative order requiring the owner, operator, distributor, manufacturer, licensee, or consignee to remove from use or sale, and dispose of a commercial device, commodity, liquid fuel, or vapor recovery component because it does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules.~~

~~29.~~ 28. No change

~~30.~~ 29. No change

~~31.~~ 30. No change

~~32. "Stop-sale order" means a Department administrative order requiring the owner, operator, distributor, manufacturer, licensee, or consignee to stop selling a commodity or liquid fuel, because it does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules.~~

~~33.~~ 31. "Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that ~~an owner or operator shall not sell or use~~ a commercial device, including a vapor recovery system or vapor recovery component, or a commodity~~,~~ or liquid fuel, ~~because it~~ does not meet the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter ~~these rules~~.

~~34. "Stop-use order" means a Department administrative order requiring the owner, operator, distributor, manufacturer, licensee, or consignee to prohibit the use of any commercial device, commodity, liquid fuel, or vapor recovery system, including any of its components, until the weight, measure, fuel, or vapor recovery system complies with the requirements of A.R.S. Title 41, Chapter 15, and these rules.~~

~~35.~~ 32. No change

~~36.~~ 33. No change

~~37. "Unlicensed device tag" means an orange tag that signifies that an owner or operator shall not use the commercial device until all licensing requirements of A.R.S. Title 41, Chapter 15, and these rules are met.~~

~~38.~~ 34. "Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with ~~the requirements of~~ A.R.S. Title 41, Chapter 15, Handbook 44, CARB Executive Orders, or ~~these rules~~ this Chapter~~, and the device may only be used within the period specified on the tag for repair, but not thereafter unless the device is in compliance with A.R.S. Title 41, Chapter 15, and these rules~~.

~~39.~~ 35. No change

**R20-2-102. Metrology Laboratory Testing and Calibration Fees**

**A.** ~~The Department shall charge $40.00 an hour, with a minimum charge of $24.00, for work performed by the Department's Metrology Laboratory.~~ The Department's Metrology Laboratory charges the following fees for services:

1. $24.00 for the first hour, or fraction of an hour; and
2. $40.00 an hour, or fraction of an hour, after the first hour.

**B.** No change

**R20-2-103. ~~Certification Fees~~ Licensing and Fees**

~~The fee for testing and certification of noncommercial devices and portable batch plant devices shall be the same as the fee for licensing commercial devices listed in A.R.S. § 41-2092.~~

**A.** A license is effective on the first day of the month following the date that the license application is filed with the Depart-

ment. 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 the Department does not receive the payment by the due date. The Department shall not process a license or renewal application for which payment is delinquent.

**C.** The Department shall prorate a license renewal fee if the licensee's first renewal is fewer than 12 months from the date that license is issued.

**D.** The Department shall issue a full refund to a licensee for a license renewal fee only if the licensee provides written notice to the Department before the renewal fee due date that the renewal is not needed.

**R20-2-104. Administrative Enforcement Action ~~Regarding Commercial Devices~~**

~~**A.** Warning tag.~~

~~1. The Department shall attach a warning tag to a commercial device if the device:~~

~~a. Does not comply with the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, or these rules; and~~

~~b. Use of the device may harm the public.~~

~~2. The tag shall be affixed to the device in public view.~~

~~3. The tag shall contain the following information:~~

~~a. A notice that the device has been examined by the Department and has failed to comply with A.R.S. Title 41, Chapter 15, Handbook 44, or these rules;~~

~~b. The name of the business, location, and fee code;~~

~~c. A notice that it is unlawful to remove the tag;~~

~~d. The date;~~

~~e. A notice of the time allowed for repair; and~~

~~f. A notice that if the device is not repaired within the time allowed, it shall be placed out of service by the Department.~~

~~4. A person shall not remove a warning tag without authorization from the Department.~~

~~**B.** Out-of-service tag.~~

~~1. The Department shall attach an out-of-service tag to a commercial device if the device:~~

~~a. Does not comply with A.R.S. Title 41, Chapter 15, Handbook 44, or these rules;~~

~~b. Use of the device may harm the public; or~~

~~c. The device has not been repaired as required in subsection (A).~~

~~2. The tag shall be affixed to the device in public view.~~

~~3. The tag shall contain the following information:~~

~~a. A notice that the device has been examined by the Department and has failed to comply with A.R.S. Title 41, Chapter 15, Handbook 44, or these rules;~~

~~b. A notice that a person shall not use the device until repaired;~~

~~c. The name of the business, location, and fee code;~~

~~d. A notice that it is unlawful to remove the tag;~~

~~e. The date; and~~

~~f. A notice that failure to repair the device may subject it to seizure.~~

~~4. A person shall not remove an out-of-service tag without authorization from the Department.~~

~~**C.** Unlicensed-device tag.~~

~~1. The Department shall attach an unlicensed-device tag to a commercial device if a valid license has not been procured for the device.~~

~~2. The tag shall be affixed to the device in public view.~~

~~3. The tag shall contain the following information:~~

~~a. A notice that the device is unlicensed, and~~

~~b. A notice that a person shall not use the device for commercial purposes.~~

~~4. A person shall not remove an unlicensed-device tag without authorization from the Department.~~

**A.** The Department shall take progressive enforcement action for a violation of A.R.S. Title 41, Chapter 15, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.

**B.** The Department shall provide a copy of its inspection report to the person who owns or operates a location that the Department inspects. The report shall include the inspection results, violations, and enforcement action.

**C.** The person who owns or operates a location inspected by the Department may request a hearing under R20-2-109 to dispute the inspection results, violation, or enforcement action.

**D.** The Department 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. § 41-2115 (B).

**F.** Commercial device.

1. The Department shall place out of service an unlicensed commercial device that it determines has been in use for more than 30 days.

2. The Department shall 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 Department authority.
3. The Department 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 Handbook 44 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 41, Chapter 15, Handbook 44, and this Chapter.
4. The Department shall issue a warning tag when a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the public. The Department 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 41, Chapter 15, Handbook 44, and this Chapter.
5. The Department shall issue an out-of-service tag if a commercial device does not have a non-tampering seal affixed.
6. The Department shall issue an out-of-service tag if a Department inspector cannot conduct an inspection of a commercial device because of a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
7. The Department shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero.
8. The Department 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 Department 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.
9. The Department shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The Department 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.
10. In addition to any enforcement action under subsections (F)(1) through (F)(9):
    a. If the Department finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title 41, Chapter 15, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
       i. The Department shall impose a $300 civil penalty on the person who owns or operates the commercial device; and
       ii. The Department shall impose a $500 civil penalty on the person who owns or operates the commercial device for each reinspection until the commercial device is in compliance.
    b. If the Department 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 Department shall issue an administrative order to the person at the conclusion of the inspection and impose a $300 civil penalty; and
       ii. The Department shall issue an administrative order to the person and impose a $500 civil penalty at each reinspection until the person complies with Handbook 44 and this Chapter.

**G.** Public and deputy weighmaster.
1. The Department shall issue an administrative order if a public weighmaster's:
   a. Weigh tickets are not in numbered sequence or are missing,
   b. Seal or press is not readable, or
   c. Records are not maintained according to R20-2-505.
2. The Department shall issue an administrative order and impose a $500 civil penalty on a public weighmaster if:
   a. The public weighmaster's weigh tickets contain inaccurate information,
   b. The public weighmaster violates an administrative order, or
   c. The public weighmaster misuses a seal or press or has an unauthorized seal or press.
3. The Department shall confiscate a seal or press if a public weighmaster violates an administrative order issued to the public weighmaster.
4. The Department 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 Department shall issue an administrative order to a person who performs public weighmaster duties without a license.
6. If a public weighmaster permits an unlicensed person to perform deputy weighmaster duties, the Department shall:
   a. Impose a $300 civil penalty on the public weighmaster for the first time the public weighmaster permits an unli-

censed person to perform deputy weighmaster duties;
b. Impose a $500 civil penalty on a public weighmaster for the second time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties; and
c. Confiscate the public weighmaster's records, equipment, and devices if the public weighmaster permits an unlicensed person to perform deputy weighmaster duties more than twice.

**H.** Package.
1. The Department 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 Department shall impose a $500 civil penalty 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 Department shall issue a stop-sale, stop-use tag to a person who fails a price verification reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
a. The Department shall impose a $100 civil penalty per violation on a person who fails a reinspection if the Department finds more than one item at more than its posted price.
b. The Department shall impose a $200 civil penalty per violation on a person who fails a second reinspection. The Department shall increase the per violation civil penalty imposed by $100 for each subsequent reinspection until the violation is corrected.
3. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is $100 more than the civil penalty that the Department previously imposed against this person.
4. The Department shall issue a warning to a person who does not have a written price-error policy. The Department shall impose a $500 civil penalty if the person does not have a written price-error policy upon reinspection.
5. The Department shall issue a warning to a person who does not have a price display visible to the public at a check-out location. The Department shall issue an out-of-service tag if the person does not have a price display visible to the public 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 Department shall issue a stop-sale, stop-use tag to a person who fails a price posting reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
3. The Department shall impose a $50 civil penalty for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.
4. The Department shall impose a $100 civil penalty for each inspected lot not priced if a person fails a second reinspection.
5. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is $100 more than the civil penalty that the Department previously imposed against this person.

**K.** Fuel quality and labeling.
1. The Department shall issue a warning tag to a person whose fuel dispenser labeling violates A.R.S. Title 41, Chapter 15, or this Chapter. The Department 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 Department shall issue an administrative order to a person whose fuel storage tank labeling or external street signage violates A.R.S. Title 41, Chapter 15, or this Chapter. The Department shall impose a $300 civil penalty if the person does not correct the labeling or signage violation within the time specified in the administrative order.
3. The Department shall issue an administrative order and impose a $500 per octane level civil penalty 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
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 Department shall issue an administrative order to a person who does not provide requested product transfer documentation within 24 hours of the Department's request. The Department shall impose a $300 civil penalty on a person who provides the requested documentation between 24 and 72 hours. The Department shall impose a $500 civil penalty on a person who does not provide the requested documentation within 72 hours.

**L.** Vapor recovery.

1. The Department shall issue an administrative order to stop construction at a vapor recovery site and impose a $500 civil penalty 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 41, Chapter 15, and this Chapter; and
      ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.
2. The Department shall issue an administrative order requiring a person to excavate a vapor recovery site if the person covers a vapor recovery component before a Department pre-burial inspection and shall impose a $500 civil penalty if the excavated system does not pass required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.
3. The Department shall issue an administrative order if a person fails to schedule an initial test date within 90 days of opening a vapor recovery site or an annual test date within the person's designated test month for that year. The Department shall issue a stop-sale, stop-use tag if the person does not comply with the administrative order.
4. The Department shall impose a $100 civil penalty on a person who does not have an authority to construct plan approval available for inspection at the constructionsite during normal business hours.
5. The Department shall issue a warning tag to a person whose vapor recovery system labeling does not comply with the authority to construct plan approval. The Department shall issue a stop-sale, stop-use tag and impose a $500 civil penalty on a person who does not correct a labeling violation within the time specified on a warning tag.
6. The Department shall issue a stop-sale, stop-use tag to a person whose vapor recovery system fails a test under R20-2-905 or R20-2-910. If the test failure is isolated to a system component, the Department's stop-sale, stop-use tag shall pertain to that component so the rest of the system may operate.
7. The Department shall impose a $500 civil penalty and issue another stop-sale, stop-use tag to a person who violates a stop-sale, stop-use tag. The Department shall impose a $500 civil penalty and revoke, suspend, or refuse to renew a commercial device license if a person removes a stop-sale, stop-use tag without approval.

**M.** Registered service agency and registered service representative.

1. If a registered service agency submits to the Department an inaccurate or incomplete placed-in-service or test report, the Department shall:
   a. Return the inaccurate or incomplete placed-in-service or test report to the agency for correction, and
   b. Impose a $50 civil penalty on the agency each time the agency resubmits a placed-in-service or test report without making all needed corrections.
2. The Department shall impose a $300 civil penalty 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 Department shall:
   a. Issue an administrative order,
   b. Impose a $500 civil penalty 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 Department shall issue an administrative order to an unlicensed person who performs the duties of a registered service representative. The Department shall impose a $300 civil penalty on the registered service agency for which the unlicensed individual works.
5. The Department shall issue an administrative order if a registered service representative places a commercial device

into service without Department authorization. The Department shall impose a $500 civil penalty on the registered service agency whose representative places a commercial device into service without Department authorization.

6. The Department shall impose a $500 civil penalty on a registered service agency whose registered service representative uses a metrology standard or vapor recovery air-to-liquid (A/L) ratio testing equipment that is not certified according to this Chapter. The Department shall confiscate a metrology standard or A/L ratio testing equipment if a registered service representative uses the uncertified standard or equipment after the registered service agency is penalized. The Department shall return the standard or equipment when it is properly certified.
7. The Department 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 41, Chapter 15, and this Chapter:
   a. Notify the Department 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 Department shall impose a $300 civil penalty on a vapor recovery registered service agency that violates subsection (M)(7) 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 Department shall:
   a. Impose a $300.00 civil penalty on the registered service agency for the first violation, and
   b. Impose a $500 civil penalty 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 41, Chapter 15, 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 R20-2-910;
    b. Notify the Department of the secured, non-compliant vapor recovery system or component before leaving the vapor recovery site; and
    c. Notify the Department of the time of the test required by R20-2-910 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 (M)(10)(c), the Department shall:
    a. Impose a $300 civil penalty 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).

**R20-2-105. ~~Administrative Enforcement Action Regarding Short-Quantity Commodities~~ Repealed**

~~**A.** The Department shall order the hold, stop-sale, stop-use, or removal of any commodity that is short of the quantity stated or improperly labeled by issuing a DWM-53 to the seller.~~

~~**B.** A stop-sale or stop-use tag shall be issued by the Department to those commodities for which the Department has issued a DWM-53.~~

~~1. The tag shall be displayed in public view.~~
~~2. The tag shall contain the following information:~~
~~a. A notice of the order;~~
~~b. A notice that a person shall not remove the tag or dispose of the commodity without authorization from the Department;~~
~~c. The location and identification of the commodity;~~
~~d. A description of the violation;~~
~~e. The name of the Department employee who affixed the tag; and~~
~~f. The date.~~

~~**C.** Any, wholesaler, or retailer shall not sell any commodity for which a DWM-53 has been issued without the Department's written authorization to:~~

~~1. Separate the goods that are at or more than their represented quantity from the tagged lot and return those goods for sale.~~
~~2. Sell the commodity provided it can be brought up to the represented quantity.~~
~~3. Relabel the commodity at its actual quantity.~~
~~4. Place a notice on the commodity of the violation and adjust the price accordingly.~~

~~**D.** The Department may provide written authorization of the disposition of a tagged commodity provided it does not conflict with A.R.S. Title 41, Chapter 15, or these rules.~~

~~**E.** Any disposition authorized by the Department shall be recorded on the DWM-53.~~

**R20-2-106. ~~Administrative Enforcement Action Regarding Liquid Fuels~~ Repealed**

~~**A.** If the Department finds that a liquid fuel fails to meet the requirements of A.R.S. Title 41, Chapter 15, or these rules, the Department shall order the hold, stop-sale, or stop-use of the liquid fuel by issuing a DWM-53.~~

~~**B.** A stop-sale, stop-use tag may be affixed by the Department to a storage vessel containing the liquid fuel.~~

~~1. The Department shall attach the tag to the storage tank fill cap and dispenser where the liquid fuel is stored and dispensed.~~

~~2. The tag shall contain the following information:~~

~~a. A notice that the liquid fuel has been prohibited from sale or use;~~

~~b. A notice that the liquid fuel is not to be disposed of without written authorization from the Department;~~

~~c. The location and identification of the liquid fuel;~~

~~d. The brand name of the fuel;~~

~~e. The number of containers;~~

~~f. A description of the violation;~~

~~g. The name of the Department employee who affixed the tag; and~~

~~h. The date.~~

~~**C.** A person shall not sell or use liquid fuel that has been issued a DWM-53 except under the following circumstances:~~

~~1. The Department may authorize the , wholesaler, or retailer to sell the liquid fuel provided it can be brought up to:~~

~~a. Represented quality and~~

~~b. Specifications in A.R.S. Title 41, Chapter 15, and these rules.~~

~~2. The Department may provide written authorization of the disposition of liquid fuel issued a DWM-53 provided the disposition does not conflict with A.R.S. Title 41, Chapter 15, or these rules.~~

~~**D.** The Department shall record the disposition of a non-compliant commodity on the DWM-53. The Department may authorize liquid fuel for which a DWM-53 has been issued to be removed:~~

~~1. To a facility capable of reblending or refining,~~

~~2. To another area within the state if specifications of that area can be met, or~~

~~3. Outside the state.~~

**R20-2-107. ~~Administrative Enforcement Action Regarding Vapor Recovery Systems~~ Repealed**

~~**A.** Stop-Sale, Stop-Use Tag~~

~~1. If the Department finds that a vapor recovery system or any component fails to meet the requirements set forth in A.R.S. Title 41, Chapter 15, or these rules, the Department shall order the stop-sale, stop-use of the vapor recovery system by issuing a DWM-53.~~

~~2. A stop-sale, stop-use tag may be affixed by the Department to a vapor recovery system.~~

~~a. The Department shall attach the tag to the noncompliant component in public view.~~

~~b. The tag shall contain the following information:~~

~~i. A notice that the vapor recovery system has been prohibited from use.~~

~~ii. The location and identification of the vapor recovery system.~~

~~iii. A notice that it is unlawful to remove the tag without Department authorization.~~

~~iv. A description of the violation.~~

~~v. The name of the Department employee who affixed the tag.~~

~~vi. The date.~~

~~3. A person shall not use a vapor recovery system issued a DWM-53 to dispense liquid fuel for commercial purposes.~~

~~**B.** Warning Tag.~~

~~1. The Department shall attach a warning tag to a vapor recovery system or any of its components if the system or components:~~

~~a. Do not comply with the requirements of A.R.S. Title 41, Chapter 15, CARB certifications that apply to the system, or these rules; and~~

~~b. The use of the vapor recovery system will not harm the public.~~

~~2. The Department shall affix the tag to the noncompliant component in public view.~~

~~3. The tag shall contain the following information:~~

~~a. Notice that the Department has examined the system and the system fails to comply with Title 41, Chapter 15, CARB certifications that apply to the system, or these rules;~~

~~b. The name of the business and location;~~

~~c. A notice that it is unlawful to remove the tag without Department authorization;~~

~~d. The date;~~

~~e. A notice of the time allowed for the repair; and~~

~~f. A notice that if the system is not repaired within the required time, the Department shall issue a stop-sale, stop-use tag.~~

**R20-2-110. Motion for Rehearing or Review**

**A.** No change

**B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Department. A response may be filed within ~~10~~ 15 days after service of the motion or amended motion by any other party. The Department may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.

**C.** No change

**D.** No change

**E.** No change

**F.** When a motion for rehearing or review is based upon affidavits, ~~they~~ the moving party shall ~~be served~~ serve the affidavits with the motion. An opposing party ~~shall have~~ has ~~10~~ 15 days from the date of service to serve opposing affidavits. The Department may extend the period to respond up to 20 days for good cause ~~shown up to 20 days~~, or by written stipulation of the parties. If the Department permits reply affidavits, ~~they shall be served within 5~~ the replying party has five days in which to serve them.

## ARTICLE 2. COMMERCIAL DEVICES

**R20-2-201. Licensing Process**

~~An owner of a device may~~ 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 Department. The application shall be on a form supplied by the Department~~. The application form~~ that includes: ~~may require~~:

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. ~~The device~~ A description of the commercial device; and
4. The applicant's signature.

**R20-2-202. ~~Handbook 44~~ Repealed**

~~As required by A.R.S. § 41-2064, all commercial devices shall comply with the specifications, tolerances, and other technical requirements set forth in Handbook 44, except as otherwise stated in these rules.~~

**R20-2-203. Approval, Installation, and Sale of Devices**

**A.** ~~All~~ A commercial ~~devices~~ device installed or placed in use after January 1, 1975, shall be prototype-approved by ~~NIST~~ NCWM or have a certificate of approval from the California Type Evaluation Program.

1. If a commercial device has been continuously licensed since January 1, 1975, the commercial device is exempt from NCWM or California Type Evaluation Program prototype approval. ~~All devices installed before January 1, 1975, are exempt from NIST 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 Department inspection, the Department shall revoke the commercial device license and a person shall not use the device commercially.

~~**B.** The owner of a device installed for commercial purposes shall report its use to the Department within 7 days of its use.~~

~~**C.**~~**B.** The seller of ~~any~~ a commercial device that ~~has been~~ is remanufactured for the purpose of commercial sale shall ~~not sell the device unless it is marked as having been~~ mark the commercial device as remanufactured.

**R20-2-205. Taxi Cab License Display**

A taxicab device licensee shall post the device license on the outside of the rear window of the taxicab.

## ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

**R20-2-301. ~~Application~~ Repealed**

~~**A.** This Article shall apply to consumer and nonconsumer packages that are produced, kept, offered, or exposed for sale.~~

~~**B.** This Article shall not apply to:~~

1. ~~Shipping containers or wrapping used solely for the transportation of any commodities in bulk or in quantity, but in no event shall this exclusion apply to packages of consumer or nonconsumer commodities, as defined in Handbook 130;~~
2. ~~Auxiliary containers or outer wrappings used to deliver packages of commodities to retail customers if the containers or wrappings bear no printed matter pertaining to any particular commodity;~~
3. ~~Containers used for retail displays if the container itself is not intended to be sold;~~
4. ~~Commodities offered for sale in variable weights and sizes, weighed or measured at the time of sale, if the method of sale is posted near the commodity being sold;~~
5. ~~Open carriers and transparent wrappers used for containers if the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by Handbook 130; or~~
6. ~~Inner wrappings not intended for sale to customers.~~

**R20-2-302. Handbook 130 and Handbook 133**

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

## ARTICLE 4. ~~REPEALED~~ PRICE VERIFICATION AND PRICE POSTING

**R20-2-402. ~~Repealed~~ Price-posting Inspection Procedure and Violation Exceptions**

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

**B.** If the Department finds an alleged price-posting violation involving an item used during its price-verification inspection, the Department 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, or
2. Less than 98 percent of the prices of inspected items are posted accurately.

**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 at the farthest left side of all items with the same price for up to 3 feet of shelf space. The price for commodities with the same uniform price code may be more than three feet from the price posted if they are all displayed in the same location;
3. A price posted above the highest item in a vertical location is the price of all items in that location;
4. A storage area that is posted as a storage area for which a customer should ask for assistance;
5. A restocking area that is posted as a restocking area for which a customer should ask for assistance;
6. 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;
7. 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. A service counter is not an advertising display;
8. A menu-type sign at a point of display that lists the name and price of every item at the point of display in text at least 3/8" high;
9. 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;
10. 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; and
11. 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.

## ARTICLE 5. PUBLIC WEIGHMASTERS

**R20-2-501. Qualifications; License and Renewal Application Process**

**A.** In addition to the requirements of A.R.S. 41-2093, to be ~~A~~ a public weighmaster or a deputy public weighmaster, a person shall ~~have the following minimum qualifications~~:

1. Be ~~a person~~ at least 18 years old~~;~~ ,
2. Be able to operate a scale accurately~~;~~ , and

3. Be able to execute weight certificates properly.

**B.** ~~A deputy public weighmaster shall have the same minimum qualifications as a public weighmaster. A public weighmaster who designates a deputy public weighmaster shall notify the Department in writing within 5 days of designating a deputy.~~ A ~~deputy~~ person shall not perform the duties of a public weighmaster or deputy public weighmaster until the ~~deputy has passed~~ person passes the written weighmaster ~~exam~~ examination administered by the Department. A person may not take the examination more than two times in six months.

**C.** ~~An individual~~ A person that ~~meeting~~ meets the qualifications for public weighmaster or deputy public weighmaster~~, as set forth in this Section,~~ may apply for a license on a form supplied by the Department.

1. The application form ~~may require~~ includes:
   a. The applicant's name, address, and telephone number;
   b. A ~~representation~~ statement by the applicant that the applicant knows and understands ~~all applicable weights and measures~~ weighmaster laws and rules;
   ~~c. The name, address, and telephone number for each location of the applicant's business;~~
   ~~d.~~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:
   ~~e.~~a. The name of each deputy public weighmaster;
   ~~f.~~b. The name and address of the scale~~ owner~~; and
   ~~g.~~c. The scale description~~;~~.
   ~~h. The applicant's signature.~~

~~2.~~3. ~~Applicants~~ An applicant may be required to submit evidence of ~~their~~ qualifications and shall be examined regarding ~~their~~ competence or qualifications.

**D.** Before the Department issues or renews ~~any license or renewal of~~ a public weighmaster or deputy public weighmaster license, the applicant shall pay ~~any~~ the required fees and provide ~~any~~ information required ~~by the Department in A.R.S. § Title 41, Chapter 15, or this Article~~ in A.R.S. § Title 41, Chapter 15, and this Chapter

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

**R20-2-502. Duties**

A public weighmaster shall:

1. Be ~~available at the scale location and~~ responsible for ~~its~~ the daily operation and maintenance of the licensed scale used when performing weighmaster duties~~, unless specifically exempted in writing by the Department~~;
2. Use scales according to applicable laws and rules; and
3. Be responsible for all acts performed by any deputy public weighmaster designated by the weighmaster.

**R20-2-505. Weight Certificates**

**A.** No change
**B.** No change
**C.** No change
**D.** No change
**E.** No change
**F.** A weight certificate shall state:

1. The date of issuance;
   ~~2. The kind of property, produce, commodity, or article weighed;~~
   ~~3.~~2. The name of the declared owner, agent, or consignee of the material weighed;
   ~~4.~~3. The accurate weight of the material weighed or counted;
   ~~5.~~4. The means by which the material is being transported at the time it is weighed or counted;
   ~~6.~~5. An identification number of the transporting unit, including a license number; and
   ~~7.~~6. The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE. This is to certify that the ~~following~~ described merchandise was weighed, counted, or measured by a public or deputy weighmaster, and when properly signed and sealed, ~~shall be~~ is prima facie evidence of the accuracy of the weight, count, or measure shown as prescribed by law."

**G.** No change

## ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

**R20-2-601. Qualifications; License and Renewal Application Process~~; and Reciprocal Agreements~~**

**A.** Registered ~~Service Agency~~ service agency

1. ~~The Department shall accept applications for licensure of an agency that provides~~ To obtain a license as a registered service agency, an applicant shall provide evidence that:
   a. The applicant's registered service ~~representatives have~~ representative has a thorough knowledge of all appropri-

ate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter;

b. The applicant provided its representative with a copy of the portions of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter relating to registered service representative duties;

~~b.~~ c. The applicant:

i. ~~possesses~~ Possesses the necessary certified standards and testing equipment to service commercial devices; and

ii. Possesses the necessary test equipment calibrated annually by the equipment manufacturer to perform an air to liquid (A/L) test of a vapor recovery system or vapor recovery component properly; or

iii. ~~that the applicant has~~ 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. ~~It~~ The applicant shall ensure that its registered service representative ~~will operate~~ operates the equipment ~~in accordance with appropriate laws~~ according to A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter.

2. The Department ~~may require an applicant to:~~ shall not issue a registered service agency license until at least one of the applicant's employees passes a registered service representative competency exam.

~~a. Submit evidence or references concerning qualifications; and~~

~~b. Have at least 1 of its representatives pass a competency examination, before issuing a license.~~

3. ~~The application forms for registered service agencies may require the following information~~ An applicant for a registered service agency license shall submit an application form, obtained from the Department that provides:

a. Name, address, telephone number, electronic mail address, and facsimile ~~numbers~~ number;

b. ~~Previous and current license~~ 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. ~~Signatures of the applicant's agent or its representatives~~ Applicant's signature.

**B.** Registered ~~Service Representative~~ service representative

1. ~~The Department shall accept an application for licensure of a representative that provides~~ 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 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter;

b. The applicant possesses the necessary training or experience regarding appropriate standards and testing equipment to service ~~devices~~ the specific commercial device, vapor recovery system, or vapor recovery system component indicated on the application; ~~and~~

c. The applicant will operate ~~in accordance with~~ according to appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders; and this Chapter; and

~~2. The Department shall may require an applicant to submit evidence or references concerning qualifications.~~

~~3~~d. The applicant ~~shall pass~~ has passed a competency examination ~~before being issued a license~~. An applicant shall bring a copy of Handbook 44 and Handbook 112 to the examination site. An applicant for a vapor recovery registered service representative license shall complete the Department's training class before taking the competency examination.

~~4~~2. ~~The application forms for a registered service representatives may require the following information~~ An applicant for a registered service representative license shall submit an application on a form obtained from the Department that provides:

a. Name, address, telephone number, and facsimile ~~numbers~~ number;

b. ~~Previous and current license~~ License information from other states;

c. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;

d. ~~Experience~~ Work experience with other registered service agencies in Arizona or other states;

e. License and disciplinary history; and

f. ~~Signature~~ Applicant's signature.

~~C. The Department shall accept the certification of standards and testing equipment from any state that has standards traceable to NIST, unless the Department finds that a laboratory's standards or testing equipment are not traceable to NIST.~~

**C.** To renew a vapor recovery registered service representative license, an applicant shall:

1. Complete the Department's training class, and

2. Take and pass a written vapor recovery examination, administered by the Department.

**D.** An applicant may not take a registered service representative examination more than two times in six months.
**E.** An applicant shall complete an examination within the time specified.
**F.** The Department does not charge a fee to process a change in business name or address.

**R20-2-602. Duties**

**A.** Registered ~~Service Agency~~ service agency
1. A registered service agency shall ~~maintain~~:
   a. Maintain all equipment ~~in accordance with~~ 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 and manufacturer specifications.
2. ~~When using a "placed-in-service report", a~~ When a registered service agency restores or newly places in service a commercial device, the registered service agency shall ~~use~~ complete a placed-in-service report form prescribed by the Department.
   a. ~~A~~ The registered service agency shall ~~fill out a~~ complete the placed-in-service report in triplicate~~.~~;
   b. Within ~~7~~ seven calendar days after ~~a~~ the commercial device is restored to service or newly ~~placed in service~~ placed in service, ~~a~~ the registered service agency shall mail the original of the properly completed and signed placed-in-service report to the Department~~.~~;
   c. ~~A~~ The registered service agency shall give a ~~duplicate~~ copy of the placed-in-service report to the person who owns or ~~operator of~~ operates the commercial device~~.~~;
   d. ~~A~~ The registered service agency shall retain a ~~triplicate~~ copy of the placed-in-service report or any required vapor recovery report for one year~~.~~;
   e. ~~A~~ The registered service agency shall ~~assure~~ ensure that the placed-in-service report contains the assigned license number of the registered service representative who ~~completed~~ completes the report~~.~~;
   f. ~~A~~ 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~~ placed in service~~.~~;
   g. ~~A~~ 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
   h. The registered service agency shall ensure that the placed-in-service report includes the license number of the registered service representative who installs or repairs the commercial device.

~~4.~~3. A registered service agency shall have all equipment used for commercial device certification and A/L testing certified annually by the manufacturer.

~~5.~~4. A registered service agency shall not use new equipment for commercial device certification until it is certified by a NIST-traceable laboratory. ~~A registered service agency shall report any newly acquired equipment or changes in certified equipment to the Department within 10 days of the acquisition or change.~~

~~6.~~5. A registered service agency shall ~~assure~~ ensure that ~~no~~ employees do not perform registered service representative duties ~~before being~~ 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 Department to record vapor recovery test results and violations. The registered service agency shall submit to the Department the summary test report within 24 hours following the test. All other forms relating to the test shall be mailed within seven days after completion of the test.

7. A registered service agency shall ensure that its registered service representative provides a copy of the Regulatory Bill of Rights, defined in A.R.S. § 41-1001.01, to the owner or operator of a vapor recovery system before beginning a vapor recovery test that is not witnessed by the Department.

8. A registered service agency shall ensure that its registered service representative provides a vapor recovery system owner or operator with written test preparation instructions, approved by the Department, at least 10 business days before an initial or annual test.

**B. Registered ~~Service Representative~~ service representative**

~~1. A registered service representative shall use standards traceable to NIST.~~

~~2. A registered service representative who calibrates any metering device shall use a certified prover to run a 1-minute, uninterrupted, normal test draft, with the following capacity:~~
   ~~a. Wholesale devices - 50 gallons.~~
   ~~b. Retail motor fuel meters - 5 gallons.~~

1.~~3.~~ A registered service representative shall ~~also~~:
   a. Install only commercial devices that meet the requirements of ~~Article 2~~ 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 sys-

tem or component to ensure that the requirements of A.R.S. Title 41, Chapter 15, this Chapter, Handbook 44, Handbook 112, and CARB Executive Orders are met;

~~b.~~d. Report to the user equipment or commercial devices that do not conform to NIST standards ~~to the user~~; and

~~c.~~e. Complete placed-in-service reports accurately.

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 R20-2-910. The registered service representative shall notify the Department of the stop-sale, stop-use 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 Department can witness the test.

**R20-2-604. 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 ~~agent~~ agency or registered service representative license issued by the Department;
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 ~~unlicensed device~~ stop-sale, stop-use tag except as authorized in this Chapter, or by the Department.

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

1. Fraudulently complete or file a placed-in-service ~~Report~~ report;
2. Delegate licensed authority or responsibility to an unlicensed person;
3. Perform ~~any~~ a function without certified equipment;
4. Install or place in service ~~any~~ a commercial device before satisfying all of the statutory and rule requirements; ~~or~~
5. ~~Leave any location where a device was found not in compliance, without 1st tagging the device with an out-of-service, warning, or unlicensed-device tag.~~ Fail to report a commercial device to the Department within two business days of finding that device is out of compliance;
6. Install, calibrate, or repair a commercial device without placing a sequentially numbered decal or label on the device as prescribed by the 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.

**R20-2-605. 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 SaberVac VR Phase II Vapor Recovery System*, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

### R20-2-702. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Department ~~and the Secretary of State~~. ~~These~~ The documents ~~incorporations~~ incorporated by reference contain no future editions or amendments.

1. 16 CFR 306 - ~~Automotive Fuel Ratings, Certification and Posting~~ *Automotive Fuel Ratings, Certification and Posting*, January 1, 1998 Edition ~~edition~~, Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, D.C. 20402-9328.
2. ASTM D 975-98b ~~D 975-97~~, ~~Specification for Diesel Fuel Oils, Petroleum Products, Lubricants, and Fossil Fuels~~ *Standard Specification for Diesel Fuel Oils*, published in ASTM Annual Book of Standards, ~~Volume 05.01~~, Petroleum Products, ~~and~~ Lubricants, and Fossil Fuels,~~(I): D56-D2596~~, ~~1998 edition,~~ Volume 05.01, 2001, American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, PA 19103-1187.~~ 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
3. ASTM D 4814-00 ~~D 4814-97b~~, ~~Specification for Automotive Spark-Ignition Engine Fuel, Petroleum Products, Lubricants, and Fossil Fuels~~ *Standard Specification for Automotive Spark-Ignition Engine Fuel*, published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume ~~05.03~~ 05.02, 2001, ~~Petroleum Products and Lubricants (III)~~: ~~D 4636 -latest; Catalysts~~, ~~1998 edition~~. American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, PA 19103-1187~~100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
4. Waiver Requests under Section 211(f) of the Clean Air Act, ~~40 CFR 211, Regulation of Fuels (January 28, 1992~~ (August 22, 1995 edition), United States Environmental Protection Agency, ~~Fuels Section (EN-397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street SW,~~ Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code 6406J, Washington, D.C. 20460. ~~Section 211(f) of the Clean Air Act allows a fuel or fuel additive manufacturer to apply to the Environmental Protection Agency's administrator to waive the prohibitions of certain paragraphs of Section 211(f)(4). A list of the administrator's rulings on all waiver requests is available from the Environmental Protection Agency.~~

### R20-2-704. Price and Grade Posting on External Signs

**A.** ~~An owner or operator of~~ A person who owns or operates a service station that has ~~a prominently displayed~~ an external sign

shall ensure that the sign:

1. Identifies whether the ~~type of sale is cash, credit, or debit if the~~ price ~~for payment~~ differs depending on whether the payment is cash, credit, or debit;
2. Identifies the self-service and full-service prices, if different;
3. ~~Identifies the grade of motor fuel as:~~
   a. ~~Unleaded, or UNL, regular or REG for unleaded gasoline with an octane of at least 87;~~
   b. ~~Midgrade, or MID for midgrade, extra, or plus for gasoline with an octane of at least 88;~~
   c. ~~Premium, or PREM, for super, high performance, or premium for gasoline with an octane of at least 90; and~~
   d. ~~No. 1 diesel, #1 diesel, No. 2 diesel, or #2 diesel;~~

~~4.~~3. Discloses the full price of motor fuel ~~price~~ 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;

~~5.~~4. ~~Lettering~~ Displays lettering at a height ~~is~~ of at least 1/5 of the letter height of the motor fuel price displayed on the external sign or 2 ½", whichever is larger, and is visible from the road~~.~~;

~~6.~~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 ~~(5)~~ (A)(4)~~.~~;

6. Describes diesel fuel as No. 1 diesel, #1 diesel, No. 2 diesel, #2 diesel, or biodiesel~~.~~; and
7. Identifies the unit of measure of the price, if it is other than per gallon.

**B.** Effective June 5, 2004, if a sign uses the following terms to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index:

| | 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 |

**R20-2-705. Price, Octane, and Lead ~~Substitute~~ -substitute Notification on Dispensers**

**A.** A service station owner or operator shall ensure that information regarding pricing, ~~and~~ motor fuel grade ~~information~~, octane rating, and ~~any~~ lead-substitute addition displayed on a service station motor fuel dispenser:

1. Is clean, legible, and visible at all times;
2. Is displayed electronically or with a sign or label on the upper ~~60%~~ 60 percent of each face of ~~each~~ the dispenser;
3. Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes;
4. Displays the highest price of motor fuel sold from the dispenser if the dispenser is capable of dispensing and computing the price of multiple grades of motor fuel~~.~~;
5. ~~If~~ Displays a discount, ~~is~~ if offered, ~~the discount shall be displayed~~ in letters at least 1/4" in height on each face of ~~each~~ the dispenser and ~~be~~ next to the undiscounted price;
6. Displays both a cash and credit price on a~~n electronic~~ a dispenser that is capable of electronically displaying both cash and credit prices~~.~~;
7. Posts both a cash and credit price on each face of ~~each electronic~~ a dispenser that is preset by the cashier if the dispenser is unable to display electronically and simultaneously both cash and credit prices~~.~~;
8. Posts a price-per-gallon sign next to or on a non-price computing dispenser for a retail-only sale of liquefied petroleum gas used as an alternative motor fuel; and
9. ~~Identifies the motor fuel grade as:~~
   a. ~~Unleaded or UNL regular or REG for unleaded gasoline with an octane of at least 87;~~
   b. ~~Midgrade or MID for midgrade, extra, or plus for gasoline with an octane of at least 88;~~
   c. ~~Premium or PREM for super, high performance, or premium for gasoline with an octane of at least 90; and~~
   d. ~~No. 1 diesel, #1 diesel, No. 2 diesel, or #2 diesel.~~

   Complies with the requirements of R20-2-704(A)(1), (A)(2), (A)(3), (A)(5), (A)(6), and (A)(7).

**B.** ~~An owner or operator of~~ A person who owns or operates a service station shall ensure that:

1. The octane rating of each grade of gasoline is displayed on the upper 60 percent ~~60%~~ of each face of each dispenser, as prescribed by 16 CFR 306; and
2. The signs required by Handbook 130, for gasoline dispensers that dispense gasoline with lead substitute, ~~is~~ are displayed on the upper ~~60%~~ 60 percent of each face of each dispenser in letters at least 1/4" in height.

**R20-2-714. Requirements for Gasoline Products Outside the ~~CBG Covered~~ CBG-covered Area**

**A.** A person who owns or operates a service station ~~owner or operator~~ shall ensure that gasoline and gasoline-oxygenate blends offered for sale at a service ~~stations~~ station outside the ~~CBG covered~~ CBG-covered area meet all the ASTM D 4814-00 ~~4814-97b~~ requirements except:

1. The minimum vapor pressure shall be 6.4 pounds per square inch;
2. From May 1 through September 30, maximum vapor pressure shall be 9.0 pounds per square inch;
3. For gasoline blends, the vapor pressure may be one ~~1~~ pound per square inch greater than the vapor pressures estab-

lished by ASTM D 4814-00 ~~4814-97b~~ during:

a. May 1 through September 15, if the base fuel meets the requirements of ASTM D 4814-00 ~~4814-97b~~, the volatility requirements of subsection (A)(2), and the final gasoline-ethanol blend contains at least nine percent ~~9%~~ ethanol by volume but does not exceed EPA waivers; and

b. September 16 through April 30, if the base fuel meets the requirements of ASTM D 4814-00 ~~4814-97b~~ and the final gasoline-ethanol blend contains at least 1.5 percent ~~1.5%~~ ethanol by weight and does not exceed EPA waivers.

**B.** No change

**C.** No change

**R20-2-715. Motor Fuel Quality Testing Methods and Requirements**

**A.** ~~A~~ Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing a gasoline ~~blends~~ blend shall use the ~~test methods for gasoline blends established by~~ methodologies and meet the test requirements of ASTM D 4814-00 ~~4814-97b~~.

**B.** ~~A~~ Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the ~~test methods established by~~ methodologies and meet the test requirements of ASTM D 975-98b ~~975-97~~.

**R20-2-717. Hold-open Latch Exception ~~Renumbered~~**

If a service station owner or operator has a motor fuel nozzle equipped with a hold-open latch, the latch shall operate according to the manufacturer's specifications.

## ARTICLE 9. GASOLINE VAPOR CONTROL

**R20-2-901. Material Incorporated by Reference**

The following documents are incorporated by reference~~,~~ and on file with the ~~Secretary of State,~~ Department. ~~and do not include any~~ The documents incorporated by reference contain no later amendments or editions:

1. No change
2. ~~Arizona Department of Weights and Measures Vapor Recovery Test Procedure TP-WM1, Determination of Vapor Piping Connections to Underground Gasoline Storage Tanks Tie-Tank Test), April 1998, Arizona Department of Weights and Measures, 9545 E. Doubletree Ranch Road, Scottsdale, Arizona 85258.~~ *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. No change

**R20-2-902. Exemptions**

**A.** ~~The owner or operator of a site applying for~~ To obtain an exemption from this Article, a person shall ~~demonstrate to~~ submit a written request to the ~~Department's satisfaction that there has not been a monthly~~ Department and attest that gasoline throughput at the gasoline dispensing site is not in excess of that specified in A.R.S. § 41-2132(C) ~~for any month for the 2-year period before the date of the application for exemption~~. By the 15th of each month, beginning the month after the Department approves the exemption, the person shall submit a written throughput report to the Department. 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 Department deems the exemption void.

**B.** ~~A candidate for~~ To obtain an independent small business marketer exemption, a person shall derive at least ~~50%~~ 50 percent of the person's annual income from the sale of gasoline at each gasoline dispensing site ~~that is being considered for this exemption~~ for which an exemption is requested. The person shall submit a written request for exemption to the Department. The Department shall determine the percentage of total annual income represented by the sale of gasoline on the basis of ~~an or operator's~~ 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~~ diesel fuel, and
2. State lottery sales net commissions and incentives.

**C.** Motor raceways, motor vehicle proving grounds, and marine and aircraft fueling facilities are exempt from stage II vapor recovery requirements.

**R20-2-903. Equipment and Installation**

**A.** The Department 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 R20-2-901; or
3. The vapor recovery system or component fails greater than 20% of Department inspections for that system or component or the Department receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Department provides at least 30 days public notice of its proposed rejection.

**B.**~~**A.**~~The piping of both a stage I and stage II vapor recovery ~~systems~~ system shall be designed and constructed as certified by CARB for that specific vapor recovery system. ~~An owner or operator~~ A person shall not alter a stage I and stage II vapor recovery ~~systems~~ system ~~and associated~~ or ~~components~~ component from ~~their~~ the CARB-certified configuration without obtaining Department approval under ~~the Authority to Construct in~~ R20-2-904.

**C.**~~**B.**~~~~The fittings, assemblies, and components of both stage I and stage II vapor recovery systems shall be certified by CARB.~~ If Department inspection or test data ~~reveals~~ reveal a deficiency in ~~fittings~~ a fitting, ~~assemblies~~ assembly, or ~~components~~ component that cannot be permanently corrected, the deficient ~~fittings~~ fitting, ~~assemblies~~ assembly, ~~and~~ or ~~components~~ component shall not be used in Arizona.

**D.**~~**C.**~~A ~~Stage~~ stage I spill ~~containments~~ containment may have a plugged ~~drains in place of~~ drain rather than a drain ~~valves~~ valve if a hand-operated ~~pumps are~~ pump is kept onsite for draining entrapped liquid. ~~All Stage~~ A stage II vapor recovery ~~systems~~ system shall have pressure/vacuum (P/V) threaded valves ~~values~~ on top of the vent lines for gasoline storage tanks.

**R20-2-904. 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 Department 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 Department-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 Department a written change order to an authority to construct plan approval on a form provided by the Department if a modification of the approved vapor recovery system or component is needed after the Department issues an authority to construct plan approval. The person shall not make any modification until the Department approves the change order.

~~**A.**~~**C.**~~Prior to the installation, replacement, modification, or initial operation of a stage I or stage II vapor recovery system, the owner or operator of the gasoline dispensing site~~ To obtain an authority to construct plan approval, a person shall submit to the Department, on a form provided by the Department, ~~a complete application as defined in R20-2-108 for Authority to Construct with~~ the following ~~information~~:
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 ~~specific~~ CARB certification for that system or component;
3. The street address of the site where construction or ~~operation~~ major modification will take place with an estimated timetable for construction or ~~commencement of the operation~~ 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. ~~For nonattainment area stage II vapor recovery systems, an~~ An application fee.

~~**B.**~~**D.**After review and ~~determination that the~~ approval of the authority to construct plan ~~is in compliance~~, the Department shall issue the ~~Authority~~ authority to ~~Construct~~ construct plan approval and mail the plan approval ~~form in duplicate~~ to the address indicated on the application.
1. A copy of the ~~Authority~~ authority to ~~Construct~~ construct plan approval shall be ~~posted~~ maintained at the facility during construction so that it is accessible for Department review.
2. Construction of a stage II vapor recovery ~~equipment~~ system or component at a site not having an approved ~~Authority~~ authority to ~~Construct~~ construct plan, shall be stopped and no further installation work shall be done until an ~~Authority~~ authority to ~~Construct~~ construct plan approval is obtained ~~is approved, unless the Authority to Construct is approved within 7 days~~.
3. An authority to construct plan approval is not transferable.

~~**C.**~~**E.**The Department ~~may~~ shall deny an ~~Authority~~ authority to ~~Construct~~ construct plan for any of the following reasons:
1. Providing incomplete, false, or misleading information~~,~~;or
2. ~~Failure~~ Failing to meet the requirements stated in this ~~Article~~ Chapter.

~~**D.**~~**F.**If excavation is involved, the Department may visually inspect the stage II underground piping of a gasoline dispensing ~~sites~~ site ~~that have been issued an Authority to Construct,~~ before the pipeline is buried, for compliance with ~~submitted~~ the authority to construct ~~plans~~ plan approval ~~and conditions contained in the Authority to Construct~~. ~~The owner or operator of a gasoline dispensing site~~ A person who owns or operates a vapor recovery system or component shall give the Department notice by facsimile at least ~~2~~ two business days ~~notice by facsimile of the time when~~ before the underground piping ~~will be~~ is complete. The Department ~~may~~ shall require the owner or operator to excavate all piping not inspected before burial if the owner or operator does ~~has~~ not ~~given~~ give the required ~~2~~ two business days' ~~prior~~ notice.

~~**E.**~~**G.**After construction is complete, a person who has ~~Upon completion of construction, a gasoline dispensing site with~~ a valid

~~Authority~~ authority to ~~Construct~~ construct plan approval may dispense gasoline for up to 90 days before final approval, if an initial ~~providing~~ ~~a final~~ inspection ~~has been~~ is scheduled ~~in accordance with~~ according to R20-2-905.

~~F.~~**H.** An ~~Authority~~ authority to ~~Construct~~ construct plan approval expires ~~1~~ one year from the date of ~~issuance~~ issue or the completion of construction, whichever is sooner.

**R20-2-905. 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, ~~the owner or operator~~ a person shall provide the Department with a written certification of completion by the contractor and ~~arrange~~ ~~scheduling of~~ schedule an inspection that ~~shall include~~ includes tests and acceptance criteria specified in the ~~Authority~~ authority to ~~Construct~~ construct plan approval. The inspection shall be witnessed by the Department at a time approved by the Department and include any of the following ~~as they pertain~~ 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 ~~procedure~~ 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 R20-2-901(1) is used, the ~~The~~ Department ~~may~~ shall fail the ~~pressure decay test at a~~ ~~gasoline dispensing site~~ vapor recovery system if gasoline storage tanks have less than 10 percent ~~10%~~ or greater than 60 percent ~~60%~~ vapor space. If the pressure decay test in R20-2-901(2) is used, the Department shall fail the vapor recovery system if gasoline storage tanks have less than 15 percent or more than 30,000 gallons vapor space. The Department shall compute combined tank vapor space for manifolded systems;
3. ~~Determination of communication~~ Communication from dispenser to tanks for each product, using the ~~Department's~~ San Diego TP-96-1 and CARB TP-201.4 test ~~procedure~~ procedures;
4. ~~Determination, by volume meter, of air~~ Air to liquid volume ratio by volume meter of a vapor recovery ~~systems~~ system, using CARB TP-201.5 or CARB-endorsed equivalent procedures to determine air to liquid (A/L) ratios;
5. ~~Test procedures, other than static pressure or pressure decay tests, that are part of the CARB certification for each specific system;~~
6.5. ~~Determination of spillage~~ Spillage of ~~Phase~~ a stage II vapor recovery ~~systems~~ system, using the CARB TP-201.2C procedure;
7.6. ~~Determination of liquid~~ Liquid removal of ~~Phase~~ a stage II vapor recovery ~~systems~~ system, using the CARB TP-201.6 procedure;
8.7. ~~Determination of flow vs.~~ Flow versus pressure for ~~equipment~~ components in ~~Phase~~ a stage II vapor recovery ~~systems~~ system, using the CARB TP-201.2B procedure; and
9.8. Procedures specified by a manufacturer for testing ~~its equipment; and~~ the vapor recovery system.

~~10.~~**B.** ~~Tests required by the Department using~~ ~~Department-owned testing equipment to verify test results.~~ If there is a difference between a testing contractor's and the Department's test results, the ~~Department~~ Department's test results ~~shall be determinative~~ 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).

~~B.~~**D.** A person who cancels an initial inspection shall notify the Department by calling the Department's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. ~~If an owner or operator cancels an inspection test, the owner or operator shall reschedule the inspection test to a date before the annual inspection date or the Department's scheduled deadline for corrective action, whichever applies.~~ The Department ~~may~~ shall take enforcement action if a person ~~an owner or operator~~ fails to comply with this Section ~~timely reschedule the inspection test~~.

~~C.~~**E.** ~~If the site fails to pass any of the tests required pursuant to this Article, the owner or operator shall make necessary repairs and adjustments in the time specified by the Department. The owner or operator shall also submit to the Department a reinspection fee and shall reschedule with the Department by mail or facsimile a time for repeat tests to be witnessed by the Department.~~ A person shall notify the Department 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 Department approves the reinspection date and time.

~~D.~~**F.** ~~If the deficiencies are not corrected by a deadline set by the Department, the Department may issue a DWM-53.~~ If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Department 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 Department shall take enforcement action if the person fails to timely reschedule the inspection.
2. The registered service agency shall notify the Department in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
3. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail,

whether it approves the inspection date and time.

**R20-2-906. Fees**

**A.** The Authority to Construct plan ~~review and~~ approval fee is $500~~.00~~.

**B.** The reinspection fee is $300~~.00~~, and shall be ~~charged~~ paid each time an initial or preburial reinspection is required, or when the Department is not timely notified that an inspection is canceled.

~~1. The site fails to pass any of the required tests;~~

~~2. Testing personnel do not show up at the facility within 30 minutes after the scheduled time;~~

~~3. Within 30 minutes of arrival at the scheduled facility, the Department determines that the facility is not ready to test or cannot complete the test because of inadequate, or improperly installed or maintained equipment or inadequate vapor space in storage tanks; or~~

~~4. The owner or operator's testing contractor has not begun the stage II pressure decay test within 30 minutes of the beginning of the scheduled time and the Department defers testing to another time.~~

**R20-2-910. Annual ~~Tests~~ Inspection and Testing**

**A.** ~~The stage I and stage II tests annual inspection are described in this Article. The owner or operator~~ A person shall ensure that an annual inspection, as required by A.R.S. § 41-2065(A)(15), is conducted by a registered service representative on or before ~~arrange these tests annually, with Department approval, to be completed by~~ the annual ~~test~~ inspection date. The annual ~~test~~ inspection date is ~~established on the date of the last annual test or a later date approved by the Department~~ the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Department in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Department approves the inspection date and time. ~~The annual test shall be performed in the presence of a witness from the Department.~~

**B.** The annual inspection shall include the tests defined in R20-2-905(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 Department's test results, the ~~Department~~ Department's test results ~~shall be determinative~~ prevail.

~~**B.**~~**D.** If ~~the~~ a site fails to pass any of the tests required by subsection ~~(A) the owner or operator shall make any necessary repairs or adjustments~~ (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). ~~The owner or operator shall submit the appropriate reinspection fee and reschedule with the Department by phone or facsimile a time for repeat tests to be conducted so that they may again be witnessed by the Department.~~

~~**C.** If an owner or operator's testing contractor has not begun the annual stage II pressure decay test within 30 minutes of the scheduled start time, the Department may defer testing to another time.~~

**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 Department issues to registered service agencies.

**G.** A person who cancels a witnessed inspection shall notify the Department by calling the Department'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 Department in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, of its approval of the inspection date and time. The Department shall take enforcement action if a person does not comply with this subsection.

**R20-2-911. Compliance Inspections**

~~In addition to the annual test, the~~ The Department shall not announce when it plans to conduct a compliance inspection of a ~~Stage~~ stage I ~~and~~ or ~~Stage~~ stage II vapor recovery ~~installations~~ system or component ~~at least annually~~. ~~Compliance inspections shall be unannounced.~~ If results of ~~the~~ a compliance inspection reveal ~~violations~~ a violation of A.R.S. Title 41, Chapter 15, or this Article, the Department ~~may~~ shall require the ~~owner or operator~~ vapor recovery system or component to ~~schedule~~ undergo an appropriate ~~a specific~~ test as ~~required~~ specified in R20-2-910.

**R20-2-912. Enforcement**

~~**A.**~~ If the Department finds that a stage II vapor recovery ~~equipment~~ system or component ~~at a gasoline dispensing site~~ is defective or ~~otherwise in violation of 1~~ non-compliant with one or more of the provisions of this Chapter ~~Article~~ or A.R.S. Title 41, Chapter 15, the Department 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. ~~DWM 53. The order shall extend to all equipment at the site that has reduced vapor recovery performance due to a violation is defective or non-complaint. A order shall require that a tag that is the subject of the order shall then be affixed to the equipment in public view.~~ The owner or

operator may be required to schedule an inspection for ~~demonstrate that~~ a ~~Stage~~ stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 41, Chapter 15 and ~~meets the 95% effective level by conducting 1 or more of the tests specified in~~ this Chapter ~~Article~~ before the ~~equipment~~ vapor recovery system or component is ~~may be placed in service~~ placed in service.

~~**B.** The owner or operator of a gasoline dispensing site that has been issued a DWM-53 pursuant to subsection (A) may request an informal review of the order by making a request in writing to the Department within 10 days of the order. Notice of the time and place of the informal review shall be mailed to the owner or operator at least 5 days prior to the informal review. Disposition of the informal review shall be mailed to the owner or operator within 5 days after conclusion of the informal review. Unless the order is vacated by the Department, or the equipment is reauthorized for use by the Department, the DWM-53 shall remain in effect during these proceedings.~~

~~**C.** The Department may impose civil penalties for stage I and stage II violations pursuant to A.R.S. § 41-2115.~~

*Attachment 9*

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**D.** The Department may require a refund of any funds paid to a local health department under a Per Capita Matching Grant that are expended for purposes not set forth in the narrative plan described in R9-18-102 (A)(1).

~~**R9-18-106. Visitation, inspection and audit**~~

~~**A.** The Department may at any time inquire into the operations of the applicant with respect to the services provided and may conduct or cause to be conducted an on-site inspection in all matters affecting such services during normal business hours.~~

~~**B.** The funds disbursed pursuant to these rules shall be subject to audit. A refund shall be requested by the Department for any funds expended for purposes not set forth in the approved application.~~

~~**R9-18-107.**~~ **R9-18-106.** ~~**Notice to department**~~ **Notice to Department**

~~The applicant shall provide written notice to the Office within 15 calendar days of any change of licensed personnel involved in the local health department services and of any material change in any circumstance upon for which funds were granted.~~

A local health department shall provide written notice to the Department within 30 calendar days of any change in the physician, registered nurse, or sanitarian who are specified in R9-18-104, and of any modification to the narrative plan described in R9-18-102(A)(1).

**R9-18-107. Renumbered**

# NOTICE OF FINAL RULEMAKING

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

[R06-352]

### PREAMBLE

**1.**

| Sections Affected | Rulemaking Action |
|---|---|
| R20-2-701 | Amend |
| R20-2-702 | Amend |
| R20-2-708 | Amend |
| R20-2-709 | Amend |
| R20-2-710 | Amend |
| R20-2-711 | Amend |
| R20-2-714 | Amend |
| R20-2-715 | Amend |
| R20-2-716 | Amend |
| R20-2-717 | Amend |
| R20-2-718 | New Section |
| R20-2-719 | New Section |
| R20-2-750 | Amend |
| R20-2-751 | Amend |
| R20-2-752 | Amend |
| R20-2-753 | Amend |
| R20-2-755 | Amend |
| R20-2-757 | Amend |
| R20-2-758 | Repeal |
| R20-2-759 | Amend |
| Table A | New Table |
| R20-2-760 | Amend |
| Table 1 | Amend |
| Table 2 | Amend |

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 41-2065(A)(4) and (D)

Implementing statute: A.R.S. §§ 41-2083 and 41-2122

**3. The effective date of the rules:**

September 12, 2006

Under A.R.S. § 41-1032(A)(1), the rules, except as noted below, will be effective when filed with the Office of the Secretary of State. Under Laws 2005, Ch 104, standards for motor fuel were changed. An immediate effective date is needed to implement the new standards on November 1, which is the beginning of the winter driving season. The immediate effective date will preserve public health by ensuring greater use of cleaner burning gasoline.

As indicated in the rule text, subsections of R20-2-701**,** R20-2-702, R20-2-751, R20-2-755, and R20-2-759, and Tables 1 and 2 will not become effective until Arizona's State Implementation Plan (SIP) dealing with CARB Phase 3 Reformulated Gasoline and shortening the winter season is approved by the EPA.

**4. A list of all previous notices appearing in the *Register* addressing the final rule:**

Notice of Rulemaking Docket Opening: 11 A.A.R. 2451, July 1, 2005

Notice of Proposed Rulemaking: 12 A.A.R. 1518, May 12, 2006

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Duane Yantorno

Address: Department of Weights and Measures
4425 W. Olive, Ste. 134
Glendale, AZ 85302

Telephone: (623) 463-9942

Fax: (623) 939-7825

E-mail: Dyantorno@azdwm.gov

**6. An explanation of the rule, including the agency's reason for initiating the rule:**

In consultation with the Department of Environmental Quality, the Department of Weights and Measures is changing fuel formulation, quality assurance, and other requirements related to CBG (Cleaner Burning Gasoline) and conventional motor fuel to reflect recent legislative changes and industry standards. The Department is also making the rules more clear, concise, and understandable.

The following changes are made so the rules are consistent with recent statutory changes:

- Includes statutory definitions, some of which have been changed for language consistency;
- Clarifies the definition of "gasoline" to exclude E85;
- Clarifies that E85 is a motor fuel rather than gasoline;
- Establishes labeling and dispenser requirements for motor fuel dispensing sites that dispense E85;
- Establishes reporting requirements for producers of E85;
- Includes statutory requirements for biodiesel;
- Prohibits use of MTBE in motor fuel;
- Recognizes a downstream tolerance of a maximum 3.7 weight percent oxygen for fuel ethanol including test method reproducibility;
- Establishes the maximum vapor pressure allowed for Arizona CBG in February and March;
- Shortens the winter oxygenate season to November 1 through January 31 rather than November 2 through March 31;
- Allows use of CARB (California Air Resources Board) phase 3 reformulated gasoline as an alternative standard for motor fuel in the CBG-covered area; and
- Adopts use of the CARBOB (California Reformulated Blendstock for Oxygenated Blending) model for certifying an alternative formulation of AZRBOB (Arizona Reformulated Blendstock for Oxygenated Blending) and fuel ethanol.

The following changes are designed to provide flexibility to the industry, facilitate use of E85, and protect the public and the environment:

- Establishes standards for E85 (fuel ethanol);
- Establishes specifications for fuel ethanol to be used as a blending component with AZRBOB or Arizona CBG;
- Requires producers outside the CBG-covered area to ensure that a motor fuel produced or offered for sale meets motor-fuel specifications and to certify its octane number;
- Reduces the amount of sulfur allowed in Arizona CBG to 80 ppm;
- Requires a registered supplier, third-party terminal, or pipeline that has submitted a quality assurance/quality control plan to the Department to resubmit the plan if significant changes are made to the plan;
- Allows a registered supplier to contract with an independent third party to perform the required quality assurance sampling and testing of AZRBOB after the addition of fuel ethanol, subject to approval by the Director;
- Establishes additional test methodologies for use in certifying Arizona CBG and AZRBOB; and
- Allows use of alternative test methodologies approved by the Director if required correlations are done.

As noted in the text of the rules, the following subsections and Tables will not become effective until EPA approves Arizona's revised State Implementation Plan regarding use of CARB 3 and shortening the winter season.

| Section | Subsection Subject Matter | SIP required to be approved |
|---|---|---|
| R20-2-701 | Definition of "PM" or "Predictive Model Procedures" | CARB 3 |
| R20-2-702(9), (11), and (12) | Materials incorporated by reference | CARB 3 |
| R20-2-751 (A)(6)(a), (b), (c), and (f), (A)(7)(i) and (ii), and (A)(8) | Arizona CBG requirements | CARB 3 and shortening winter season |
| R20-2-751 (B) | Arizona CBG requirements | Shortening winter season |
| R20-2-751(D)(2) | Arizona CBG requirements | Shortening winter season |
| R20-2-751 (E) | Arizona CBG requirements | Shortening winter season |
| R20-2-751(I) | Arizona CBG requirements | CARB 3 and shortening winter season |
| R20-2-755(A)(1)(a) | Additional requirements for AZRBOB and downstream oxygenate blending | CARB 3 |
| R20-2-759(C) and (D) | Testing methodologies | CARB 3 |
| Table 1 | Type 1 Arizona CBG standards | CARB 3 and shortening winter season |
| Table 2 | Type 2 Arizona CBG standards | CARB 3 and shortening winter season |

To facilitate implementation of R20-2-759(D), the Department will develop a substantive policy statement regarding test methods for certification of Arizona CBG and AZRBOB that specifies the procedures the Department will use to determine whether a proposed test method produces results for each fuel parameter that are equal to or better than the precision and accuracy of the designated test methods.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

A copy of the following study, which is available from the Department, was prepared at the direction of the Legislature and was used by the Legislature in amending A.R.S. § 41-2124 in 2004. The Department reviewed and also relied on the study.

Cost, Supply, and Emissions Impacts of Adopting the California Phase 3 Gasoline Standard for Arizona's Cleaner Burning Gasoline Program: A Technical and Economic Analysis of Cleaner Burning Gasoline Supply under HB 2207; MathPro, Inc. (PO Box 34404, West Bethesda, MD 20827-0404) and Meszler Engineering Services (906 Hamburg Drive, Abingdon, MD 21009); December 1, 2005

**8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The economic, small business, and consumer impact statement does not consider the economic impacts that result from establishing reporting requirements for producers of E85, requiring labels on dispensers of E85, prohibiting MTBE in motor fuel, establishing the maximum vapor pressure allowed for Arizona CBG during February and March, shortening the winter oxygenate season, and adopting use of the CARBOB model for certifying an alternative formulation of AZRBOB. These changes were made by the legislature rather than this rulemaking.

The 2005 federal energy bill spurred the search for a practical alternative motor fuel. This rulemaking clarifies that E85 may be sold or offered for sale within the CBG-covered area. The rulemaking sets standards for E85.

E85 consists of 85% denatured, fuel-grade ethanol and 15% gasoline. The fuel ethanol typically is produced from corn or other grain products but can be produced from agricultural and forestry wastes. The resources used to make fuel ethanol are renewable. The production process leaves the nutritional content of the grain products largely intact and still suitable for use in feeding livestock. E85 has an octane of approximately 105. E85 reduces the incidence of greenhouse emissions and is water soluble, non-toxic, and biodegradable. Increased use of E85 will promote energy independence and benefit farmers who grow grain products and producers of E85. E85 can be used in a "flex-fuel" motor vehicle, which is designed to operate on either gasoline or E85. It is estimated there are approximately 74,000 flex-fuel motor vehicles in Arizona but most are operated on gasoline because E85 is not widely available. There are plans to build a fuel ethanol facility near the town of Maricopa in the near future and to use the production byproducts in a cattle feed lot adjacent to the fuel ethanol facility.

This rulemaking will have economic benefits for those who produce the biomass products used in the production of fuel ethanol and for those who produce the fuel ethanol. It will also have an economic impact on the owner of a flex-fuel motor vehicle because the owner will be able to buy E85 more readily.

Requiring a producer outside the CBG-covered area to ensure that a motor fuel produced or offered for sale meets all motor-fuel specifications and has its octane certified will impose economic costs on only the two producers not currently in compliance with this requirement. Currently, the owner or operator of a motor fuel dispensing site is required to ensure that motor fuel sold or offered for sale meets all motor-fuel specifications. Because there are more than 2,000 motor fuel dispensing sites, the cost of compliance is huge and compliance is difficult for the owner or operator of a motor fuel dispensing site. The rule change places the responsibility for ensuring compliance with motor-fuel specifications on producers, who are in best position to comply and most of whom are already in compliance. This will have a significant economic benefit for consumers and owners or operators of motor fuel dispensing sites by ensuring that they receive the quality of motor fuel they believe they are receiving. It will also reduce the number of complaints received by the Department regarding bad motor fuel. During 2002 through 2005, the Department received 499 complaints about fuel quality. If a consumer inadvertently purchases motor fuel that does not meet motor-fuel specifications, the consumer may experience major engine damage to the consumer's motor vehicle and costs.

Reducing the amount of sulfur allowed in a motor fuel from 500 to 80 ppm ensures that Arizona's standards are consistent with the federal standard. The reduction of sulfur helps reduce ozone precursors. An exception is made for a small refinery. The EPA is requiring that motor fuel contain only 30 ppm on average by later this year. The rule change will have little economic effect because producers already comply with the federal standard.

The rule changes regarding quality assurance/quality control, test methodologies, and use of an independent third party provide increased flexibility to registered suppliers, pipelines, and third-party terminals and ensure that the Department is apprised of the quality assurance/quality control procedures being used. The increased flexibility may provide economic benefits for registered suppliers, pipelines, and third-party terminals. The rule changes may provide increased economic opportunity for independent third parties that contract to do quality assurance/quality control sampling and testing of AZRBOB.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

In addition to the changes identified in item 11, word choice and formatting changes were made between the proposed and final rules. Additionally, language was added to clarify the definition of "product transfer document," testing procedures in R20-2-752(H)(1), and the standard used by the Director to approve a QA/QC program under R20-2-752(E), R20-2-753(G), and R20-2-755(I). None of the changes is substantial as defined in A.R.S. § 41-1025.

**11. A summary of the comments made regarding the rule and the agency response to them:**

An oral proceeding was held on June 12, 2006. Written comments were received from the Western States Petroleum Association (WSPA), Arizona Petroleum Marketers Association (APMA), Dave Smith representing BP, Robert Shuler representing Pinal Energy Ethanol Plant (PEEP), Victor Dugan representing Exxon-Mobil, and EPA, Region IX. A teleconference was held with EPA on July 10, 2006. The comments and the Department's analysis of and response to each follow:

| Comment | Department's Analysis | Department's Response |
|---|---|---|
| WSPA strongly supports all of the proposed changes. | The Department appreciates the hard work of WSPA members and the significant contribution they made to the development of these rules. | No change |

| | | |
|---|---|---|
| PEEP: The plant referenced in the summary in item 8 of the Preamble is not being built by the City of Maricopa. | The comment is correct. The Notice of Proposed Rulemaking incorrectly indicated that an ethanol plant was being built by the town of Maricopa rather than within the town. | The language in the Preamble is changed to correctly reflect that an ethanol plant is being built within the town of Maricopa. |
| EPA: EPA is concerned about the Director's discretion in R20-2-759. | The Department determined that having Director discretion regarding approval of alternative testing methods adds needed flexibility. The Department believes it limited the Director's discretion by specifying standards for exercise of the discretion. | The Department clarified that the Director's discretion for approving an alternative test method is limited. Although the Department believes the standard was implied in the proposed rule, the Department specified in the final rule that the Director is required to approve an alternative test method only if the alternative test method has accuracy and precision equal to or better than the approved test method. |
| APMA thanks the Department for working with the regulated community on the rulemaking and providing clarification regarding biodiesel and other fuels. | The Department appreciates the hard work of APMA members and the significant contribution they made to the development of these rules. | No change |
| APMA: Which Sections require EPA approval before becoming effective? | The Department understands this is important information for those who must comply with the rules. | The Department added rule text and information in the Preamble regarding subsections that do not become effective until EPA approves the State Implementation Plan. |
| Exxon-Mobile: There appears to be an inconsistency between the VOC percent in R20-2-751(A)(8) and Table 1. | The Department agrees. | The change was made. The inconsistency was inadvertent. The Department believes that a reasonable reader of the proposed rule would have understood that the inconsistency was inadvertent. |
| BP: In R20-2-701, we recommend that the final E85 blend meet the same sulfur specification as other gasoline that could be used in a flex-fuel vehicle. | The Department agrees. | The change was made. This change is not substantial because it makes the rule consistent with federal law. |
| BP: In R20-2-719(A), it is recommended that the sulfur limit of biodiesel or a biodiesel blend be reduced from 500 ppm to 15 ppm starting September 1, 2006. | The Department agrees that this change is needed to meet the new federal requirement at 40 CFR 80.520. | The change was made. Because the rule will go into effect after September 1, 2006, it was not necessary to specify a beginning date. |
| BP: R20-2-719(A) needs to clearly indicate that it is applicable to both retail and wholesale sales. | The Department believes that the language is clear. | No change |

| | | |
|---|---|---|
| BP: R20-2-719(B) needs to indicate that both the supplier of neat biodiesel and the blender are required to report information to the Department. | The language at issue is statutory. Evidently the legislature did not intend to impose reporting requirements on a supplier of neat biodiesel. A statutory change is required to accomplish what BP requests. | No change |
| BP: In R20-2-751, we believe that Arizona needs to commit to updating it rules to incorporate the latest materials when they are completed. | The Department recognizes that the update of this material will be important. But the Department cannot incorporate material that is not currently effective. The Department plans to do a rulemaking each year to incorporate the latest version of all materials. | No change |
| BP: In R20-2-755(A)(1)(a), it appears that the use of the CARBOB model is allowed for both Types 1 and 2 Arizona CBG. The use of the CARBOB model is only appropriate for Type 2 Arizona CBG. | The Department agrees. | The change was made. The reference to Type 1 Arizona CBG was inadvertent because Type 1 Arizona CBG is not an alternative formulation to which the CARBOB model could be applicable. The change is technical rather than substantial because it corrects an inapplicable reference. |

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

A.R.S. §§ 41-2065(D), 41-2083(C), and 41-2122(B) require the director of the Department of Weights and Measures to consult with the director of the Department of Environmental Quality in making rules regarding quality standards and test methods for motor fuel including oxygenated fuel and approving alternate fuel control measures. This consultation was done.

**13. Incorporations by reference and their location in the rules:**

ASTM D 975-04c, Standard Specification for Diesel Fuel Oils, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 4806-04a, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 4814-04a, Standard Specification for Automotive Spark-Ignition Engine Fuel, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 5798-99, Standard Specification Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines, reapproved 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702

ASTM D 6751-03a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2003, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, incorporated at R20-2-702.

California Air Resources Board, California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model, as amended April 25, 2001, CARB, P.O. Box 2815, Sacramento, CA 95812, incorporated at R20-2-702.

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), April 9, 2005, CARB, PO Box 2815, Sacramento, CA 95812, incorporated in R20-2-702

California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001, CARB, P.O. Box 2815, Sacramento, CA 95812, incorporated in R20-2-702

**14. Was this rule previously made as an emergency rule?**

No.

**15. The full text of the rules follows:**

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section
R20-2-701. Definitions
R20-2-702. Material Incorporated by Reference
R20-2-708. Oxygenated Fuel Blends
R20-2-709. Retail Oxygenated Fuel Labeling
R20-2-710. Blending Requirements
R20-2-711. Alcohol-oxygenated Gasoline Storage Tank Requirements
R20-2-714. Requirements for ~~Gasoline Products Outside~~ Motor Fuels outside the CBG-covered Area
R20-2-715. Motor Fuel Quality Testing Methods and Requirements
R20-2-716. Sampling and Access to Records
R20-2-717. ~~Hold Open~~ Hold-open Latch Exception
R20-2-718. ~~Renumbered~~ Requirements for the Production or Sale of E85
R20-2-719. ~~Repealed~~ Requirements for the Sale of Biodiesel
R20-2-750. Registration Relating to Arizona CBG or AZRBOB
R20-2-751. Arizona CBG Requirements
R20-2-752. General Requirements for Registered Suppliers
R20-2-753. General Requirements for Pipelines and Third-party Terminals
R20-2-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending
R20-2-757. Product Transfer Documentation; Records Retention
R20-2-758. ~~Adoption of Fuel Certification Models~~ Repealed
R20-2-759. Testing Methodologies
Table A. Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB
R20-2-760. Compliance Surveys
Table 1. Type 1 ~~Gasoline~~ Arizona CBG Standards
Table 2. Type 2 ~~Gasoline~~ Arizona CBG Standards

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

**R20-2-701. Definitions**

In addition to the definitions in R20-2-101, the following definitions apply to this Article unless the context otherwise requires:

~~1.~~ "Area A" has the same meaning as in A.R.S. § 49-541.

~~2.~~ "Area B" has the same meaning as in A.R.S. § 49-541.

~~3.~~ "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. § 41-2124(K).

~~4.~~ "AZRBOB" or "Arizona Reformulated Blendstock for Oxygenate Blending" means a ~~petroleum-derived motor fuel~~ combination of gasoline blendstocks that is intended to be or ~~is~~ represented to constitute Arizona CBG upon the addition of a specified ~~type and percentage~~ amount (or range of ~~percentages~~ amounts) of ~~oxygenate~~ fuel ethanol after the ~~fuel has been~~ blendstock is supplied from the ~~production or import~~ facility at which it was produced or imported.

~~5.~~ "Batch" means a quantity of ~~gasoline~~ motor fuel or AZRBOB that is homogeneous for ~~those~~ motor fuel properties specific for the motor fuel standards applicable to that motor fuel or AZRBOB ~~that are specified for Arizona CBG certified under R20-2-751~~.

~~6.~~ "Beginning of transport" means the point at which:

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

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

*"Biodiesel" means a diesel fuel substitute that satisfies all of the following:*

*Is produced from nonpetroleum renewable resources if the qualifying volume of nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations sections 2281 and 2282 in effect on January 1, 2000.*

*Meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.*

*The use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.*

*Is sold, offered or exposed for sale as a neat product or blended with diesel fuel.* A.R.S. § 41-2051(1).

~~7.~~ "Blendstock" means any liquid compound that is blended with ~~other~~ another liquid ~~compounds~~ compound to produce a motor fuel, including Arizona CBG. ~~Deposit control additives~~ A deposit-control or ~~other~~ similar ~~additives~~ additive registered under 40 CFR 79 ~~are~~ is not ~~considered blendstocks~~ a blendstock.

"CARB" means the California Air Resources Board.

"CARBOB" means California Reformulated Gasoline Blendstock for Oxygenate Blending.

"CARBOB Model" means the procedures incorporated by reference in R20-2-702(12).

"CARB Phase 2 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(8).

"CARB Phase 3 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(9).

~~8.~~ "~~CBG covered~~ 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 ~~contained in~~ within area A.

~~9.~~ "Conventional gasoline" means gasoline that conforms ~~with~~ to the requirements of this Chapter for sale or use in Arizona, but does not meet the requirements of Arizona CBG or AZRBOB.

~~10. "Co-solvent" means a chemical compound soluble in, and added to, a methanol-gasoline blend to prevent phase separation, reduce corrosion, and improve lubrication. A co-solvent may be any one or a mixture of the following:~~

~~a. Ethanol,~~

~~b. Any propanol,~~

~~c. Any butanol, or~~

~~d. Gasoline grade tertiary butyl alcohol.~~

~~11.~~ "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.

~~12.~~ "Diesel" or "diesel fuel" means a refined middle ~~distallate~~ distillate for use as a motor fuel in a compression-ignition internal-combustion engine.

~~13.~~ "Downstream oxygenate blending" means combining AZRBOB and ~~an oxygenate~~ fuel ethanol to produce fungible Arizona CBG.

"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.

"E85" means a fuel ethanol gasoline blend that meets the specifications in ASTM D 5798, which is incorporated by reference in R20-2-702.

"EPA" means the United States Environmental Protection Agency.

~~14.~~ "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 R20-2-702.

~~15.~~ "Final distribution facility" means a stationary ~~gasoline~~ motor-fuel transfer point ~~from~~ 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 ~~gasoline~~ 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 ~~the gasoline~~ 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.

~~16. "Fuel" means any material capable of releasing energy or power by combustion or other chemical or physical reaction.~~

~~17. "Fuel property" means any characteristic listed in R20-2-751(A)(1) through (A)(7), R20-2-751(B)(1) through (B)(7), or Table 2.~~

"Fuel ethanol" means denatured ethanol that meets the specifications in ASTM D 4806, which is incorporated by reference in R20-2-702.

"Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than .05 grams of lead for each United States gallon, 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 is commonly used as a fuel for spark-ignition internal-combustion engines. Gasoline does not include diesel fuel or E85.

~~18.~~ "Importer" means any person ~~who~~ that assumes title or ownership of Arizona CBG or AZRBOB produced by an unregistered supplier.

"Manufacturer's proving ground" means a facility used only to develop complete motor vehicles, that are not currently available on the retail market, for an automotive manufacturer.

~~19.~~ "Motor fuel" means petroleum or a petroleum-based substance ~~that is~~ such as motor gasoline, any grade of oxygenated gasoline, aviation ~~gasoline~~ fuel, number one or number two diesel fuel~~,~~ including neat biodiesel or a biodiesel blend, and E85 ~~or any grade of oxygenated gasoline~~ typically used in the operation of a motor engine.

"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 R20-2-751(A)(1) through (A)(7), R20-2-751(B)(1) through (B)(7), Table 1, Table 2, or any other motor fuel standard referenced in this Article.

~~20~~. "Motor vehicle" means ~~any~~ a vehicle equipped with a spark-ignited or compression-ignition internal-combustion engine except:

~~a.~~ ~~Vehicles~~ A vehicle that ~~run~~ runs on~~,~~ or ~~are~~ is guided by~~,~~ rails; or

~~b.~~ ~~Vehicles~~ A vehicle that ~~are~~ is designed primarily for travel through air or water.

"Motor vehicle racing event" means a competition, including related practice and qualifying and demonstration laps that uses unlicensed motor vehicles designed and manufactured specifically for racing and is conducted on a public or private racecourse for the entertainment of the general public.

~~21.~~ "MTBE" means methyl tertiary butyl ether.

"Neat" means straight or 100 percent; not blended with gasoline.

~~22.~~ "NOx" means oxides of nitrogen.

~~23.~~ "Octane," "octane number," or "octane rating" mean the anti-knock characteristic of gasoline as determined by the resultant arithmetic test average of ASTM D 2699 and ASTM D 2700.

~~24.~~ "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, ~~which is able to~~ that may be used as a fuel or as a gasoline blending component and is approved as a blending agent under the provisions of a waiver issued by the EPA under 42 U.S.C. 7545(f).

~~26.~~ "Oxygenate blender" means ~~any~~ a person ~~who~~ that owns, leases, operates, controls, or supervises an oxygenate-blending facility, or ~~who~~ that owns or controls the blendstock or gasoline used, or the gasoline produced, at an oxygenate-blending facility.

~~25.~~ "Oxygenate-blending facility" means any location (including a truck) where ~~oxygenate~~ fuel ethanol 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 ~~deposit control additives~~ a deposit-control or ~~other~~ similar ~~additives~~ additive registered under 40 CFR 79.

~~27.~~ "Oxygenated Arizona CBG" means Arizona CBG with a minimum oxygen content of ~~3.5~~ 3.7 wt. % or another minimum oxygen content approved by the Director under A.R.S. § 41-2124, 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~~ January 31 of each year.

~~28.~~ "Oxygen content" means the percentage by weight of oxygen contained in a gasoline oxygenate blend as calculated by ASTM ~~D4815-94a~~ D 4815.

~~29.~~ "Performance standard" means the VOC and NOx emission reduction percentages in R20-2-751(A)(8)~~, R20-2-751(A)(9),~~ and Table 1.

~~30.~~ "Pipeline" means a transporter ~~who~~ that owns or operates an interstate common-carrier pipe to transport motor fuels into Arizona.

~~31.~~ "PM" or "Predictive Model Procedures" means the California Predictive Model~~,~~ and ~~California Air Resources Board's~~ CARB's "California Procedures for Evaluating Alternative ~~Specification~~ Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995, and "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as amended April 25, 2001, both of which are ~~which is~~ incorporated by reference in ~~R20-2-758~~ R20-2-702. This definition will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

~~32.~~ "PM alternative gasoline formulation" means a final blend of Arizona CBG or AZRBOB that is subject to a set of PM alternative specifications.

~~33~~. "PM alternative specifications" means the specifications for the following fuel properties, as determined ~~under~~ using a testing methodology in R20-2-759:

~~a.~~ Maximum RVP, expressed in the nearest 100th of a pound per square inch;

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

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

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

~~e.~~ Maximum T50, expressed in the nearest degree Fahrenheit;

~~f.~~ Maximum T90, expressed in the nearest degree Fahrenheit; and

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

~~34.~~ "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 R20-2-751~~(F),~~ (G), ~~and~~ (H), and (I).

~~35.~~ "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.

~~36.~~ "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.

~~37.~~ "PM flat limit compliance option" means, with reference to a specific fuel property, the compliance option that each gallon of gasoline must meet for ~~the~~ that specified fuel property as contained in the PM alternative specifications.

~~38.~~ "Produce" means:

~~a.~~ Except as otherwise provided ~~in subsections (b) or (c)~~, to convert a liquid compound that is not Arizona CBG or AZRBOB into Arizona CBG or AZRBOB. If a person blends ~~blendstocks~~ a blendstock that ~~are~~ 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 ~~of~~ Arizona CBG or AZRBOB in accordance with this Article, without the addition of ~~blendstocks~~ a blendstock that ~~are~~ is not Arizona CBG or AZRBOB, that person is not a producer of Arizona CBG or AZRBOB.

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

~~c.~~ If an oxygenate blender blends oxygenates into AZRBOB supplied from a gasoline production ~~facility~~ 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 ~~deposit control additives~~ a deposit-control or ~~other~~ similar ~~additives~~ additive, ~~then~~ the producer or importer of the AZRBOB, rather than the oxygenate blender, ~~is not a producer of any portion of the resulting Arizona CBG, and the producer or importer of the AZRBOB~~ is considered the producer or importer of the full volume of the resulting Arizona CBG.

~~39.~~ "Producer" means a refiner or other person ~~who~~ that produces a motor fuel, including Arizona CBG or AZRBOB.

~~40.~~ "Production facility" means a facility ~~where~~ at which a motor fuel, including Arizona CBG or AZRBOB, is produced. Upon request of a producer, the Director may designate, as part of the producer's production facility, a physically separate bulk storage facility that:

~~a.~~ Is owned or leased by the producer~~,~~ ;

~~b.~~ Is operated by or at the direction of the producer~~,~~ ; and

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

"Product transfer document" means a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other paper that is provided by the transferor at the time motor fuel is delivered and evidences that custody or title of the motor fuel is transferred to the transferee. A product transfer document is not required when motor fuel is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility.

~~41.~~ "Refiner" means ~~any~~ a person ~~who~~ that owns, leases, operates, controls, or supervises a refinery in the United States, including its trust territories.

~~43.~~ "Refinery" means a facility that produces a liquid ~~fuels~~ 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.

~~44.~~ "Registered supplier" means ~~any~~ a producer or importer ~~who~~ that supplies Arizona CBG or AZRBOB and is registered with the Director under R20-2-750.

~~45.~~ "Reproducibility" means the testing method margin of error as provided in the ASTM specification or other testing method required under this Article.

~~46. "Service station" means a retail business operated for the purpose of dispensing motor fuel into the fuel tanks of motor vehicles.~~

~~42.~~ "RVP" means Reid vapor pressure equivalent of gasoline or blendstock as measured according to ASTM D 5191.

~~47.~~ "Supply" means to provide or transfer motor fuel to a physically separate facility, vehicle, or transportation system.

"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.

~~48.~~ "Third-party terminal" ~~or "3rd-party terminal"~~ means an owner or operator of a gasoline storage tank facility ~~who~~ 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 ~~for interstate transport into Arizona~~.

~~49.~~ "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.

~~50.~~ "Transporter" means ~~any~~ a person ~~who is not a producer or importer and who:~~ that

~~a.~~ ~~Causes~~ causes ~~transport of~~ motor fuels, including Arizona CBG or AZRBOB, to be transported into or within Arizona~~; and~~

~~b. Does not acquire title or assume ownership of the Arizona CBG or AZRBOB~~.

~~51.~~ "Type 1 ~~gasoline~~ Arizona CBG" means a gasoline that meets the standards contained in R20-2-751(A) and Table 1.

~~52.~~ "Type 2 ~~gasoline~~ Arizona CBG" means a gasoline that meets the standards contained in Table 2~~,~~ or is certified using the PM according to the requirements of R20-2-751~~(F),~~ (G), ~~and~~ (H), and (I), and:

~~a.~~ Meets the requirements in R20-2-751(A) beginning ~~April~~ February 1 through October 31 of each year; and

~~b.~~ Meets the requirements in R20-2-751(B) beginning November ~~2~~ 1 through ~~March~~ January 31 of each year.

"Vehicle emissions control area" has the same meaning as in A.R.S. § 49-541 except that a vehicle emissions control area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

~~53.~~ "VOC" means volatile organic compound.

"Winter" means November 1 through January 31.

**R20-2-702. Material Incorporated by Reference**

**A.** 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. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 1, 1998 Edition, Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, D.C. 20402-9328.
2. ASTM D ~~975-98b~~ 975-04c, Standard Specification for Diesel Fuel Oils, ~~published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, 2001~~2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
3. ASTM D 4806-04a, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

~~3.~~4. ASTM D ~~4814-00~~ 4814-04a, Standard Specification for Automotive Spark-Ignition Engine Fuel, ~~published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.02, 2001~~ 2004, American

Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

~~4.~~ 5. 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 ~~6406J~~ 6406-J, Washington, D.C. 20460.

6. ASTM D 5798-99, Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines, re-approved 2004, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

7. ASTM D 6751-03a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2003, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

8. 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.

9. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as amended April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.

10. The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.

11. 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.

12. 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.

**B.** Subsections (A)(9), (A)(11), and (A)(12) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

**R20-2-708. Oxygenated Fuel Blends**

A person ~~who~~ 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. § 41-2122. The maximum oxygen content of gasoline shall not exceed 3.7 percent by weight for fuel ethanol and as specified in A.R.S. § 41-2122 for other oxygenates. ~~Except as allowed by EPA waivers, gasolines blended with methanol shall contain a corrosion inhibitor in an amount specified by the manufacturer of the inhibitor. Any gasoline blend containing methanol shall contain a co-solvent in an amount equal to or greater than the amount allowed by EPA waivers for gasolines within the oxygen limits allowed.~~

**R20-2-709. Retail Oxygenated Fuel Labeling**

**A.** ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that a ~~service station~~ motor fuel dispenser that offers gasoline containing ~~an oxygenate, or combination of oxygenates,~~ fuel ethanol that results in a gasoline blend containing 1.5~~%~~ percent or more by weight of oxygen is clearly labeled with the ~~oxygenate~~ fuel ethanol volume information. ~~If only one oxygenate is blended into a gasoline, each~~ Each face of each motor fuel dispenser shall be clearly labeled with the oxygenate volume information if the percent by volume is~~:~~

~~1. More than 0.3% by volume of methanol,~~

~~2. More~~ more than 4.3~~%~~ percent by volume of fuel ethanol~~,~~

~~3. More than 8.3% by volume of MTBE, or~~

~~4. Any other oxygenate or combination of oxygenates at a level that requires an EPA waiver~~.

**B.** ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that labels required under subsection (A) are displayed on the upper 60~~%~~ percent of each face of each motor fuel dispenser. The label indicating the maximum percent by volume of ~~each~~ oxygenate contained in the oxygenated fuel shall state:

~~1.~~ "Contains up to _____ % fuel ethanol~~;~~."

~~2. Contains up to _____% methanol and _____% co-solvent;~~

~~3. Contains up to _____% ether (MTBE); or~~

~~4. Contains up to _____% other (specify name of oxygenate).~~

**C.** In the CBG-covered area and area B, ~~a service station~~ the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each ~~service station~~ motor fuel dispenser ~~also~~ contains the following statement: "This gasoline is oxygenated and will reduce carbon monoxide emissions from motor vehicles." The statement may be printed on the label required in subsection (B) or on a separate label. If the statement is printed on a separate label, the label shall be displayed next to the label required in subsection (B).

~~**D.** A service station owner or operator shall ensure that any other oxygenate blended with gasoline is disclosed in the format described in subsections (B) and (C).~~

~~**E.**~~**D.** ~~A service station~~ The owner or operator of a motor fuel dispensing site shall ensure that:

1. The label required by subsection (B) is clean, legible, and visible at all times;
2. The label is printed in black or white block letters on a sharply contrasting background; and
3. The lettering on labels required by subsections (B) and (C) is no less than 1/4".

**R20-2-710. Blending Requirements**

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

**B.** If a ~~service station~~ motor fuel dispensing site storage tank contains an oxygenated gasoline blend that does not contain the amount of oxygen required by A.R.S. §§ 41-2122, 41-2123, 41-2125, or R20-2-751, the ~~service station~~ owner or operator of the motor fuel dispensing site shall do one of the following:

1. Add gasoline that contains no more than 20~~%~~ percent by volume of ~~any~~ the same oxygenate to the non-compliant oxygenated gasoline blend;
2. Add a gasoline blend that dilutes the non-compliant oxygenated gasoline blend to the level of oxygen content required by A.R.S. §§ 41-2122, 41-2123, 41-2125, or R20-2-751; or
3. Empty the storage tank and replace the non-compliant oxygenated gasoline blend with a required oxygenate blend.

**R20-2-711. Alcohol-oxygenated Gasoline Storage Tank Requirements**

**A.** Before a person adds an alcohol-oxygenated gasoline into a storage tank, the person shall:

1. Test the storage tank for the presence of water and, if any water is detected, remove ~~it~~ the water from the storage tank; and
2. Install a fuel ~~filters~~ filter designed for use with alcohol-oxygenated gasoline in the fuel line of all motor fuel dispensers that dispense alcohol-oxygenated gasoline ~~blends~~.

**B.** If water ~~of a mixture of alcohol and water~~ is detected in a storage tank or in an alcohol-oxygenated gasoline ~~at any time~~ in a storage tank, the owner or operator shall empty the storage tank.

**R20-2-714. Requirements for ~~Gasoline Products Outside~~ Motor Fuels outside the CBG-covered Area**

**A.** A person ~~who~~ that owns or operates a ~~service station~~ motor fuel dispensing site or transmix or production facility outside the CBG-covered area shall ensure that ~~gasoline and gasoline-oxygenate blends~~ a motor fuel offered for sale at ~~a service station~~ the motor fuel dispensing site or transmix or production facility ~~outside the CBG-covered area meet~~ meets all the ~~ASTM D 4814-00 requirements~~ appropriate specifications in R20-2-702 except:

1. ~~The minimum vapor pressure shall be 6.4 pounds per square inch;~~
~~2.~~ From May 1 through September 30, gasoline shall meet the specifications in ASTM D 4814-04a except maximum vapor pressure shall be 9.0 pounds per square inch;
~~3.~~2. For gasoline blends, the vapor pressure may be no more than one pound per square inch greater than the vapor pressures established by ASTM D ~~4814-00~~ 4814-04a during:
   a. May 1 through September 15, if the ~~base fuel~~ gasoline-fuel ethanol blend meets the requirements of ASTM D ~~4814-00~~ 4814-04a, the volatility requirements of subsection ~~(A)(2)~~ (A)(1), and the final gasoline-fuel ethanol blend contains at least nine percent fuel ethanol by volume but does not exceed the volume specified in EPA waivers; and
   b. September 16 through April 30, if the ~~base fuel~~ gasoline-fuel ethanol blend meets the requirements of ASTM D ~~4814-00~~ 4814-04a and the final gasoline-fuel ethanol blend contains at least 1.5 percent fuel ethanol by weight ~~and~~ but does not exceed the volume specified in EPA waivers.

**B.** ~~A service station~~ 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.** ~~A service station~~ The owner or operator of a motor fuel dispensing site or transmix or production facility shall ensure that the minimum octane rating determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method, is:

1. 87 for unleaded or regular;
2. 88 for mid-grade, extra, or any other gasoline with an octane rating of 88 or higher; and
3. 90 for super, high performance, premium, or any other gasoline with an octane rating of 90 or higher.

**D.** Prohibited activities regarding a motor fuel sold or offered for sale outside the CBG-covered area.

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. § 41-2122.
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.

**R20-2-715. Motor Fuel Quality Testing Methods and Requirements**

**A.** Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, ~~a person testing a gasoline blend~~ the producer of a motor fuel shall ~~use~~ test the motor fuel for its motor fuel properties using the methodologies in R20-2-702 and ensure that the motor fuel ~~and meet~~ meets the ~~test requirements of ASTM D 4814-00~~ applicable specifications in the material incorporated by reference in R20-2-702.

**B.** Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the methodologies and meet the ~~test requirements~~ specifications of ASTM D ~~975-98b~~ 975-04c.

**C.** The owner or operator of a transmix or production facility shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating determined and certified in accordance with 16 CFR 306 using the average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method. The owner or operator of a motor fuel dispensing site shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating posted in accordance with 16 CFR 306.

**R20-2-716. Sampling and Access to Records**

**A.** The Department 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 ~~common carrier~~ 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; ~~or~~
8. An oxygenate blender or registered supplier~~.~~ ; or
9. A transmix or production facility.

**B.** ~~A person required by this Article to~~ 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 ~~the production, importation~~ producing, importing, blending, ~~transport, distribution, or delivery~~ transporting, distributing, delivering, testing, or storing ~~of~~ motor fuels, including Arizona CBG or AZRBOB, and shall ~~ensure that~~ make the records ~~are~~ available for Department inspection upon request.

**R20-2-717. Hold-open Latch Exception**

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

**R20-2-718. ~~Renumbered~~ Requirements for the Production or Sale of E85**

**A.** Requirements applicable statewide.
1. A producer of E85 or the owner or operator of a motor fuel dispensing site that dispenses E85 shall ensure that the E85 sold or offered for sale in Arizona meets all the specifications in ASTM D 5798-99.
2. An owner or operator of a motor fuel dispensing site shall ensure that both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that indicate E85 is not gasoline and is intended for use only in a flexible-fuel vehicle, and stating, "Check your owner's manual to ensure that this fuel can be used in your vehicle."
3. An owner or operator of a motor fuel dispensing site shall ensure that any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements in R20-2-203.
4. A producer of E85 shall report to the Department, by the 15th of the month following the production of E85, the following information regarding the E85 production:
   a. The amount of fuel ethanol used during the previous month,
   b. The amount of gasoline used during the previous month,
   c. The total amount of E85 produced during the previous month,
   d. The total amount of E85 sold during the previous month,
   e. The fuel quality properties for the gasoline and fuel ethanol components making up each batch of E85, and
   f. The fuel quality properties of each batch of final E85 blend.

**B.** Requirements applicable in the CBG-covered area.
1. A producer of E85 for sale in the CBG-covered area shall use Arizona CBG or AZRBOB as the gasoline portion of the E85 blend.
2. A producer of E85 for sale in the CBG-covered area shall ensure that the fuel ethanol used meets the standard in R20-2-751(C).

**R20-2-719. ~~Repealed~~ Requirements for the Sale of Biodiesel**

**A.** A person shall not sell or offer or expose for sale:
1. Biodiesel that is not tested or does not meet the specifications established by ASTM D 6751,

2. A blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D 975-04c, or
3. Biodiesel or a blend of biodiesel and diesel fuel for use in Area A that contains sulfur in excess of 15 ppm.

**B.** *A person who blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:*
1. *The percentage of biodiesel in a final blend.*
2. *The volume of the finished product.*
3. *For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.*
4. *For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:*
   a. *Sulfur content.*
   b. *Aromatic hydrocarbon content.*
   c. *Cetane number.*
   d. *Specific gravity.*
   e. *American petroleum institute gravity.*
   f. *The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation.* A.R.S. § 41-2083(L).

**C.** A person required to submit a report under subsection (B) shall use a form prescribed by the Director, certify the truthfulness and accuracy of the data submitted, and consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.

**D.** A person shall label a dispenser at which biodiesel is dispensed in a manner that notifies other persons of the volume percentage of biodiesel in the finished product and with the statement: "This fuel contains biodiesel. Check the owner's manual or with your engine manufacturer before using."

**R20-2-750. Registration Relating to Arizona CBG or AZRBOB**

**A.** Each of the following shall register with the Director ~~prior to~~ before ~~the first date that the person will produce, import~~ producing, importing, or ~~obtain~~ obtaining custody of Arizona CBG or AZRBOB:
1. A refiner ~~who~~ that produces Arizona CBG or AZRBOB;
2. An importer ~~who~~ that imports Arizona CBG or AZRBOB;
3. An oxygenate blender ~~who~~ that blends oxygenate with AZRBOB to produce Arizona CBG; or
4. A pipeline or third-party terminal ~~who~~ that has custody of Arizona CBG or AZRBOB.

**B.** A person listed in subsection (A) shall register on a form prescribed by the Director and ~~shall~~ include the following information:
1. Business name, business address, and contact name or position title and telephone number;
2. For each ~~separate~~ refinery ~~and~~ or oxygenate blending facility, the facility name, physical location, contact name or position title and~~,~~ telephone number, and type of facility;
3. For each ~~separate~~ refinery, ~~and~~ oxygenate blending facility, ~~and for each~~ 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 R20-2-752(F), the name~~,~~ and address of the independent laboratory, and contact name~~,~~ or position title and telephone number ~~of the independent laboratory.~~ ;
4. If required under 40 CFR 80.76(d), the EPA registration number; and
5. A statement of ~~the registrant's~~ consent permitting the Department or its authorized agent to collect samples and access records as provided in R20-2-716.

**C.** ~~Changes to any information in~~ A person registered under subsection (B) shall ~~be sent to~~ notify the Director ~~not later than~~ within 10 days after the effective date of ~~the~~ 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 ~~noncomplying~~ to be noncompliant from the date that ~~the~~ registration should have occurred.

**E.** The Department shall maintain a ~~listing~~ list of all registered suppliers.

**R20-2-751. 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 D 4814-04a. The dates in this subsection are compliance dates for ~~service station operators~~ the owner or operator of a motor fuel dispensing site or a ~~and~~ fleet ~~owners~~ vehicle fueling facility.
~~**Fuel Property/Performance Standard – Limits**~~
1. Sulfur: ~~500~~ 80 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 1 - ~~March~~ January 31: 9.0 pounds per square inch (psi)
   b. February: 13.5 psi
   c. March: 11.5 psi
   ~~b.~~ d. April: 10.0 psi
   ~~c.~~ e. May: 9.0 psi
   ~~d.~~ f. June 1 - September 30: 7.0 psi for CARB Phase 2 gasoline and 7.2 psi for CARB Phase 3 gasoline
7. Oxygen and Oxygenates
   a. Minimum Content:
      i. November 1 - ~~March~~ January 31: 10~~%~~ percent fuel ethanol by volume. If A.R.S. § 41-2124(E) petition in effect: 2.7~~%~~ percent oxygen by weight ~~(other than ethanol)~~ as approved by the Director.
      ii. ~~April~~ February 1 - October 31: 0~~%~~ percent by weight (any oxygenate).
   b. The maximum oxygen content shall not exceed ~~4.0%~~ 3.7 percent by weight for fuel ethanol and ~~3.5% by weight~~ as specified in A.R.S. § 41-2122 for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.
   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. § 41-2122.
8. Type 1 Arizona CBG shall meet the Federal Complex Model VOC ~~Emissions Reduction Percentage~~ emissions reduction percentage May 1 through September 15: ~~>~~ ~~25.0%~~ ≥27.5 percent (Federal Complex Model settings: Summer, Area Class B, Phase 2). Type 2 Arizona CBG shall meet CARB Phase 2 or Phase 3 PM 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 ~~2~~ 1 through ~~March~~ January 31 of each year, all Arizona CBG ~~shall meet~~ meets the following fuel property requirements. ~~The dates in this subsection are compliance dates for service station operators and fleet owners.~~

| | ~~Fuel Property~~ | ~~Limits~~ |
|---|---|---|
| ~~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)~~ |
| ~~7.~~ | ~~Oxygenate - Ethanol~~ | |

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 - Fuel ethanol;
   a. Minimum oxygenate content - 10~~%~~ percent fuel ethanol by volume;

b. Maximum oxygen content - ~~4.0%~~ 3.7 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 41-2123~~.~~ ; and
c. Alternative ~~oxygenates~~ minimum fuel ethanol content may be used if approved by the Director under A.R.S. § 41-2124(D).

**C.** Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM D 4806-04a and the following:
1. A sulfur content not exceeding 10 ppm by weight,
2. An olefins content not exceeding 0.5 percent by volume, and
3. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.

~~C.~~**D.** General ~~Elections~~ elections. Except as provided in subsection ~~(D)~~ (E), ~~all~~ a registered ~~suppliers~~ supplier shall make an initial election, and a subsequent election each time a change occurs, before ~~the~~ beginning ~~of~~ to transport ~~of the~~ Arizona CBG or AZRBOB. ~~Registered suppliers~~ A registered supplier shall make the election with the Director on a form or in a format prescribed by the 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 or Phase 3 model; and
2. For each applicable fuel property or performance standard ~~for~~ in the election ~~in~~ under subsection ~~(C)~~ (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 R20-2-760. ~~(A)~~ 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 ~~November 1~~ October 31 and ~~April~~ February 1 through April 30.

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

~~E.~~ **F.** Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. ~~Registered suppliers~~ A registered supplier shall certify Arizona CBG or AZRBOB under R20-2-752 as meeting all requirements of the election made in subsection ~~(C)~~ ~~or~~ (D) or (E). For each fuel property, Type 1 ~~gasoline~~ 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 R20-2-702. For each fuel property, Type 2 ~~gasoline~~ 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 ~~(F),~~ (G), ~~and~~ (H), and (I) and column A of Table 2. A registered supplier may certify Arizona CBG or AZRBOB using an equivalent test method that the Department approves using the criteria stated in R20-2-759.

~~F.~~**G.** Certification and ~~Use~~ use of Predictive Model for ~~Alternative~~ alternative PM ~~Gasoline Formulations~~ gasoline formulations.
1. Except as provided in subsections ~~(F)~~ (G)(4) and ~~(H)~~ (I), ~~the use of~~ a registered supplier shall use the PM ~~shall be~~ as provided in the Predictive Model Procedures.
2. A registered supplier shall certify a PM alternative gasoline formulation with the Director by either:
   a. Submitting to the Director a complete copy of the documentation provided to the executive officer of ~~the California Air Resources Board~~ CARB according to 13 California Code of Regulations, Section 2264 and subsection ~~(H)~~ (I); or
   b. Notifying the Director, on a form prescribed by or in a format acceptable to the 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. ~~The~~ A registered supplier shall deliver the certification required under subsection (G)(2) to the Director before ~~the beginning of transport of~~ 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 ~~may~~ 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 ~~any~~ an outstanding ~~requirements~~ requirement under subsection (J) to provide offsets for fuel properties at the same production or import facility ~~under subsection (I)~~.

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 ~~may~~ shall not elect any other compliance option, including another PM alternative gasoline formulation, if an outstanding ~~requirements~~ requirement to provide offsets for fuel properties ~~exist~~ exists under the provisions of subsection ~~(I)~~ (J). This subsection ~~shall~~ 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 ~~are~~ is no outstanding ~~requirements~~ 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. ~~Once~~ If a registered supplier elects to sell or supply from ~~its~~ the registered supplier's production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier ~~may~~ shall not use a previously assigned designated alternative limit for a fuel property to provide offsets under subsection ~~(I)~~ (J).

d. If a registered supplier notifies the Director under subsection ~~(C) or~~ (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 ~~(C) or~~ (D) or (E), a final blend at that facility subject to a flat limit compliance option or an averaging compliance option.

~~G.~~ **H.** Prohibited activities regarding PM alternative gasoline formulations.

~~1.~~ A registered supplier shall not sell, offer for sale, supply, or offer to supply from ~~its~~ the registered supplier's production or import facility Arizona CBG that is reported as a PM alternative gasoline formulation under R20-2-752 if any of the following occur:

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

~~b.~~ 2. The registered supplier is prohibited by subsection ~~(F)~~ (G)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation~~;~~ ,

~~c.~~ 3. The gasoline fails to conform with any PM flat limit in the PM alternative specifications election~~;~~ , or

~~d.~~ 4. With respect to any fuel property for which the registered supplier elects a PM averaging limit~~,~~ :

~~i.~~ 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 ~~(F)~~ (G)(2); or

~~ii.~~ b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection ~~(F)~~ (G)(2), and either ~~of the following occur:~~ the gasoline exceeds the designated alternative limit for the fuel property~~;~~ or ~~when~~ the designated alternative limit for the fuel property exceeds the PM averaging limit~~,~~ and the exceedance is not fully offset in accordance with subsection ~~(I)~~ (J).

~~H.~~ **I.** Oxygen content requirements for PM alternative gasoline formulations. ~~All alternative PM gasoline formulations from~~ A registered supplier shall ensure that from November 1 through ~~March~~ January 31, all alternative PM gasoline formulations ~~shall~~ 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 ~~shall be certified~~ using the PM with a minimum oxygen content of 2.0% 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.

~~I.~~ **J.** Offsetting ~~Fuel Properties~~ fuel properties and ~~Performance Standards~~ performance standards. ~~Each~~ A registered supplier ~~who~~ that elects to comply with the averaging standards for any of the fuel properties or performance standards contained in Tables 1 ~~or~~ and 2, or the PM, shall, from a single production or import facility, complete physical transfer ~~from the same production or import facility~~ of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount by which the ~~gasoline~~ Arizona CBG or AZRBOB exceeds the averaging standard according to the following schedule:

1. ~~Registered suppliers electing~~ 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 ~~the~~ beginning ~~of~~ to transport ~~of~~ any final blend of Arizona CBG or AZRBOB from ~~a~~ the production or import facility;

2. ~~Registered suppliers electing~~ 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 ~~standards~~ standard that occurs from May 1 to September 15 ~~of each calendar year~~ during that same ~~time~~ period; and

3. ~~Registered suppliers electing~~ 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 ~~summer~~ standard that occurs from May 1 to September 15 ~~of each calendar year~~ during that same ~~time~~ period.

~~J.~~ **K.** Consequence of failure to comply with averages.

1. In addition to a penalty under R20-2-762, if any, ~~under R20-2-762,~~ a registered supplier ~~who~~ that fails to comply with ~~the requirements~~ a requirement of subsection ~~(I)~~ (J) shall meet the applicable per-gallon standards contained in Table 1, Table 2, or ~~for any~~ an alternative PM gasoline formulation, for a probationary period as follows:
   a. For a registered ~~suppliers electing~~ supplier that elects to comply with the standards contained in Table 1, the probationary period begins on the first day of the next ~~corresponding~~ averaging season and ends on the last day of that averaging season if the conditions of subsection (K)(2) are met;
   b. For a registered ~~suppliers electing~~ 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 Director, that the registered supplier did not comply with the requirements of subsection ~~(I)~~ (J). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period. The probationary period ~~shall be~~ ends 90 days after its beginning date.
2. A registered supplier ~~may~~ 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 Director that includes:
      i. An implementation schedule for actions to correct noncompliance, and
      ii. Reporting requirements that document ~~the plan~~ implementation of the compliance plan~~;~~ .
   b. The 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 ~~(I)~~ (J) within one year of the end of a probationary period under subsection ~~(J)~~ (K)(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 ~~(J)~~ (K)(2) are satisfied, whichever is later.
   a. If a registered supplier elects ~~compliance~~ to comply with the Table 1 standards, the probationary period begins on the first day of the next ~~corresponding~~ averaging season.
   b. If a registered supplier elects ~~compliance~~ 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 Director, that the registered supplier did not comply with the requirements of subsection ~~(I)~~ (J). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period.
4. If a registered supplier fails to comply with the requirements of subsection ~~(I)~~ (J) within one year ~~of~~ after the end of a probationary period provided under subsection ~~(J)~~ (K)(3), the registered supplier shall permanently comply with applicable per-gallon standards.

~~K.~~ **L.** Effect of VOC survey failure. Each time ~~the CBG-covered area fails~~ a VOC survey conducted under R20-2-760 shows excess VOC emissions in the CBG-covered area, the VOC emissions performance reduction in R20-2-751(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.

~~L.~~ **M.** Effect of NOx survey failure. Each time ~~the CBG-covered area fails~~ a NOx survey conducted under R20-2-760 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.

~~M.~~ **N.** Subsequent survey compliance. If the minimum VOC ~~emission reduction percentage~~ or average NOx emissions reduction percentage has been made more stringent according to subsection ~~(K) or~~ (L) or (M) and ~~the CBG-covered area passes~~ all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction percentage in the CBG-covered area, the applicable VOC or NOx emissions adjusted reduction percentage ~~adjusted standard~~ shall be reduced by an absolute 1.0~~%~~ percent beginning in the year following the ~~second~~ year ~~of the~~ in which the second compliant survey is conducted. Each ~~standard~~ emissions reduction percentage adjusted under this subsection shall not be decreased below the following:

1. >~~25.0%~~ 27 percent for the VOC ~~Emission Reduction Percentage~~ emissions reduction percentage, May 1 - September 15, Table 1, column C; and
2. >6.8~~%~~ percent for the NOx ~~Emission Reduction Percentage~~ emissions reduction percentage, May 1 - September 15, Table 1, column B.

~~N.~~ **O.** Subsequent survey failures. If a VOC or NOx emissions reduction percentage is made less stringent under subsection ~~(M)~~ (N) and ~~the CBG-covered area fails~~ 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 R20-2-751(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 ~~to the period of~~ May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0~~%~~ percent; and
3. ~~The~~ If the VOC or NOx emission reduction percentage ~~for the performance standard~~ is increased under subsection (O)(1) or (O)(2), the VOC or NOx emission reduction percentage shall not be made less stringent regardless of the ~~results~~ result of subsequent surveys for ~~that performance standard~~ VOC or NOx emissions.

~~**O.**~~**P.** Effective date for adjusted standards. If a performance standard is adjusted by operation of ~~subsections (K),~~ subsection (L), (M), ~~or~~ (N), or (O), the effective date for the change ~~shall begin with~~ is the beginning of the next averaging season for which the standard is applicable.

**Q.** Subsections (A)(6)(a), (b), (c), and (f), (A)(7)(a)(i) and (ii), (A)(8), (B), (D)(2), (E), and (I) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

**R20-2-752. 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.** ~~The~~ A registered supplier shall ~~sign~~ make the certification on a form or in a format prescribed by the Director. The registered supplier shall include in the certification ~~shall include~~ information on ~~the~~ shipment volumes, fuel properties as determined under R20-2-759, and performance standards for each batch of Arizona CBG or AZRBOB. ~~For each batch transported, the~~ The registered supplier shall submit the certification to the Director on or before the 15th day of each month for ~~the~~ each batch of Arizona CBG or AZRBOB transported during the previous month.

**C.** Recordkeeping and records retention.

1. ~~Each~~ A registered supplier ~~who~~ 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, RVP, and as applicable, T50, T90, E200, and E300 as determined under R20-2-759.
2. ~~All~~ If Arizona CBG or AZRBOB produced or imported by a registered supplier~~, that~~ is not tested and documented as required by this Section, the Director shall ~~be deemed~~ deem the Arizona CBG or AZRBOB to have a RVP, sulfur, aromatic hydrocarbon, olefin, oxygen, T50, and T90 ~~exceeding~~ that exceeds the standards specified in R20-2-751~~,~~ or ~~exceeding~~ the comparable PM averaging limits, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable ~~standards and~~ fuel property limits ~~for fuel properties~~ and performance standards.
3. A registered supplier shall provide to the Director any records maintained by the registered supplier under this ~~subsection~~ Section within 20 days of a written request from the Director. If a registered supplier fails to provide records for a blend or shipment of Arizona CBG or AZRBOB ~~under this Section~~, the Director shall deem the final blend or shipment of Arizona CBG or AZRBOB ~~shall be deemed supplied~~ in violation of R20-2-751, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable ~~standards and~~ fuel property limits ~~for fuel properties~~ and performance standards.

**D.** Notification requirement. A registered supplier shall notify the Director by ~~facsimile prior to the beginning of transport of~~ fax 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 ~~shall be submitted~~ to the Director for approval at least three months before ~~transport of~~ the registered supplier transports Arizona CBG or AZRBOB. The Director shall approve a QA/QC program only if the Director determines that the QA/QC program ensures that the registered supplier's laboratory testing procedures comply with R20-2-759 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 Director for review and approval. Within 30 days of receiving the changed QA/QC program, the Director shall determine whether the changed QA/QC program meets the original quality objectives. The 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 ~~opt to~~ comply with the independent testing requirements of subsection (F).

**F.** Independent testing.

1. A registered supplier of Arizona CBG or AZRBOB ~~who~~ that does not ~~comply with subsection (E)~~ develop a QA/QC program shall conduct a program of independent sample collection and ~~analyses~~ 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 R20-2-759 for compliance with each fuel property ~~or~~ 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 ~~produced~~ that the registered supplier produces or ~~imported~~ imports that consists of the following:

i. An independent laboratory shall collect a representative sample from each batch;

ii. The Director or designee shall identify up to 10% of the ~~total number of~~ samples collected under subsection (F)(1)(b)(i) for analysis; and

iii. The ~~designated~~ independent laboratory shall, for each sample identified by the Director or designee, analyze the sample using the methodology specified in R20-2-759 for compliance with each fuel property ~~or~~ and performance standard for which the ~~batch~~ Arizona CBG or AZRBOB is certified.

2. The Director or designee may request in writing a ~~portion~~ duplicate of the batch sample collected under subsection (F)(1)(a) or (F)(1)(b) for analysis by a laboratory selected by the Director or designee. The registered supplier shall submit a duplicate of the sample to the Director within 24 hours of the written request.

~~2.~~3. Designation of ~~Independent Laboratory~~ independent laboratory.

a. A registered supplier ~~who~~ that does not ~~comply with subsection (E)~~ 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 ~~is produced or imported~~. 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 Director under the registration requirements of R20-2-750.

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 ~~subsections~~ subsection ~~(F)(2)I(i) through (iii)~~ (F)(3)(c), the Director shall consider a laboratory independent if it is owned or operated by a ~~gasoline~~ pipeline ~~company~~ owned or operated by four or more ~~producers or importers~~ registered suppliers.

~~d.~~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(9.4)~~ 9.4.

~~3.~~ 4. A registered supplier shall ~~cause~~ ensure that its designated independent laboratory ~~to~~:

a. ~~Record~~ 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 ~~being~~ sampled;

ii. The volume of the batch;~~-~~

iii. The identification number of the gasoline storage tank ~~or tanks~~ 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~~, and the date and time the sample is collected~~;

v. The date and time the sample is collected;

~~v.~~ vi. The grade of the batch (for example, unleaded premium, unleaded mid-grade, or unleaded); and

~~vi.~~ 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. ~~Retain~~ Retains each sample collected under this subsection for at least 45 days, ~~except~~ unless this time ~~may be~~ is extended by the Director for up to 180 days ~~upon request by the Director~~;

c. ~~Submit~~ Submits to the Director a quarterly report on the 15th day of January, April, July, and October of each year~~. The report shall include~~ 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)(3)(a)~~ (F)(4)(a) for each sample; and

d. ~~Supply~~ Supplies to the Director, upon request, a ~~portion~~ duplicate of the sample.

**G.** Exemptions to QA/QC and ~~Independent Laboratory Testing Requirements~~ independent laboratory testing requirements. A registered supplier ~~who~~ that produces or imports Arizona CBG or AZRBOB using computer-controlled in-line blending equipment and ~~is operating~~ operates under an exemption from EPA under 40 CFR 80.65(f)~~(4)~~ (iv), is exempt from the requirements of subsections (E) and (F), ~~provided that~~ if reports of the results of the independent audit program of the ~~refiner's~~ registered supplier's computer-controlled in-line blending operation, which are submitted to EPA under 40 CFR

80.65(f)~~(4)~~ (iv), are submitted to the Director by March 1 of each year.

**H.** Use of ~~Laboratory Analysis for Certification~~ 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. ~~for the same batch for compliance with subsection (F), the~~ 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 ~~laboratory test~~ results is larger than one of the following:

| | ~~Fuel Property~~ | ~~Range~~ |
|---|---|---|
| ~~a.~~ | ~~Sulfur content~~ | ~~25 ppm by weight~~ |
| ~~b.~~ | ~~Aromatics~~ | ~~2.7% by volume~~ |
| ~~c.~~ | ~~Olefins~~ | ~~2.5% by volume~~ |
| ~~d.~~ | ~~Ethanol~~ | ~~0.4% by volume~~ |
| ~~e.~~ | ~~Methanol~~ | ~~0.2% by volume~~ |
| ~~f.~~ | ~~MTBE (and other methyl ethers)~~ | ~~0.6% by volume~~ |
| ~~g.~~ | ~~ETBE (and other ethyl ethers)~~ | ~~0.6% by volume~~ |
| ~~h.~~ | ~~TAME~~ | ~~0.6% by volume~~ |
| ~~i.~~ | ~~t-Butanol content~~ | ~~0.6% by volume~~ |
| ~~j.~~ | ~~RVP~~ | ~~0.3 psi~~ |
| ~~k.~~ | ~~50% distillation temperature~~ | ~~5° Fahrenheit~~ |
| ~~l.~~ | ~~90% distillation temperature~~ | ~~5° Fahrenheit~~ |
| ~~m.~~ | ~~E200~~ | ~~2.5% by volume~~ |
| ~~n.~~ | ~~E300~~ | ~~3.5% by volume~~ |
| ~~o.~~ | ~~API gravity~~ | ~~0.3° API~~ |

   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. RVP: 0.3 psi;
   f. 50% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results;
   g. 90% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results;
   h. E200: 2.5% by volume;
   i. E300: 3.5% by volume; or
   j. API gravity: 0.3° API.

2. If the absolute value of the ~~differences of~~ 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 ~~laboratory testing results~~ for certification of the batch of Arizona CBG or AZRBOB under subsection (B):
   a. The larger of the two values for ~~the~~ each fuel property, except ~~that~~ the smaller of the two values shall be used for measures of oxygenates; or
   b. ~~The registered supplier shall have~~ Have ~~one additional~~ a second independent laboratory analyze the Arizona CBG or AZRBOB for ~~the~~ each fuel property. If the ~~laboratory~~ difference between the results obtained by the ~~additional~~ second independent laboratory and those obtained by the registered supplier ~~is~~ are within the range listed in ~~this~~ subsection (H)(1) ~~as compared to the results obtained by the registered supplier~~, the registered sup-

plier's ~~laboratory analysis~~ results shall be used for certifying the Arizona CBG or AZRBOB ~~certification~~ under subsection (B).

**R20-2-753. 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 Department under R20-2-750; and
2. The registered supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the standards in R20-2-751(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~~, except~~ unless this time ~~may be~~ is extended for an individual ~~samples~~ sample for up to 180 days ~~upon request~~ by the Director.

**C.** A pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of ~~not less than~~ at least one sample from one batch completing shipment ~~per~~ for each registered supplier ~~per~~ each day at each input location.

**D.** A pipeline shall provide the Director with a report summarizing the ~~laboratory~~ quality control testing results ~~required in~~ 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 ~~any~~ a batch does not meet the standards in R20-2-751(A) or (B), as applicable, but is within reproducibility, the pipeline shall notify the Director by ~~facsimile~~ fax within 48 hours ~~with~~ 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 ~~any~~ a batch does not meet the standards in R20-2-751(A) or (B), as applicable, including reproducibility, the pipeline or third-party terminal shall notify the Director by ~~facsimile~~ fax within 24 hours ~~with~~ 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 ~~stop the~~ prevent release of the batch from a distribution point until the batch is certified as meeting the standards in R20-2-751(A) or (B), as applicable.

**G.** ~~The~~ 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 ~~terminals~~ 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 R20-2-751(A) or (B). ~~The~~ A pipeline or third-party terminal shall submit the QA/QC program to the Director for approval at least three months before ~~the first date~~ the pipeline or third-party terminal ~~transports~~ begins to transport Arizona CBG or AZRBOB. The Director shall approve a QA/QC program only if the 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 Director for review and approval. Within 30 days of receiving the changed QA/QC program, the Director shall determine whether the changed QA/QC program meets the quality objectives originally approved by the Department. The 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 ~~be operated~~ operate the exempt portion of the facility in compliance with requirements for registered suppliers in R20-2-752 and oxygenate blenders in R20-2-755, as applicable.

**I.** A pipeline is not liable under R20-2-761 if it follows all of the procedures in this Section.

**R20-2-755. 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 ~~final blend~~ AZRBOB, for purposes of compliance with ~~Tables~~ Table ~~1 or~~ 2, are determined by adding the specified ~~type and~~ amount of ~~oxygenate~~ fuel ethanol to a representative sample of the AZRBOB and ~~determining the fuel properties and performance standards of~~ testing the resulting gasoline ~~according to~~ using the test methods in R20-2-759 or certifying the ARZBOB using the CARBOB model. If the registered supplier designates a range of amounts of ~~oxygenate or more than one oxygenate type~~ fuel ethanol to be added to the AZRBOB, the minimum designated amount of ~~the oxygenate having the smallest designated volume~~ fuel ethanol shall be added to the AZRBOB to determine the fuel properties and performance standards of the ~~final blend~~ resulting Arizona CBG. If a registered supplier does not comply with this subsection, the Department shall determine whether ~~compliance of~~ the ~~final blend~~ AZRBOB complies with applicable fuel ~~property~~ properties and performance standards, excluding requirements for RVP, ~~shall be determined~~ without adding ~~oxygenate~~ fuel ethanol to the AZRBOB.
   b. In determining whether AZRBOB complies with the Arizona CBG standards, the registered supplier shall ensure

that the fuel ethanol ~~oxygenate~~ added ~~shall be~~ to the representative sample under subsection (A)(1)(a) is representative of the ~~oxygenate~~ fuel ethanol the registered supplier reasonably expects will be subsequently added to the ~~final blend~~ AZRBOB.

2. Calculating the volume of ~~a final blend of~~ AZRBOB. If a registered supplier designates a final blend as AZRBOB and complies with this Section, the volume of ~~a final blend~~ AZRBOB is calculated for compliance purposes under R20-2-751 by adding the minimum ~~designated~~ amount of ~~the oxygenate having the smallest volume~~ fuel ethanol designated by the registered supplier. If a registered supplier fails to comply with this subsection, the Department shall calculate the volume of ~~the final blend~~ AZRBOB for purposes of compliance with applicable fuel ~~property~~ properties and performance standards ~~shall be calculated~~ without adding the amount of ~~oxygenate~~ fuel ethanol 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 of~~ fuel ethanol in the ~~types and~~ amount (or within the range of amounts) designated in R20-2-757 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 ~~oxygen~~ oxygenate blender ~~who~~ that adds the ~~type and~~ amount (or within the range of amounts) of ~~oxygenate~~ fuel ethanol designated in R20-2-757 to the AZRBOB before the AZRBOB is transferred from a final distribution facility.
2. A person shall not sell or supply ~~AZRBOB~~ Arizona CBG from a final distribution facility if the ~~type and~~ amount or range of amounts of ~~oxygenate~~ fuel ethanol designated in R20-2-757 ~~have~~ has not been added to the AZRBOB.

**C.** Restrictions on blending AZRBOB with other products. A person shall not combine ~~any~~ AZRBOB supplied from the facility at which ~~it~~ the AZRBOB is produced or imported with any other AZRBOB, gasoline, blendstock, or oxygenate, except for:

1. ~~Oxygenate of~~ Fuel ethanol 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~~ fuel ethanol amount (or range of amounts) is specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility.

**D.** Quality ~~Assurance Sampling~~ assurance sampling and ~~Testing~~ 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 (D)(3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328. 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 R20-2-759...;"~~;~~ 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)."~~. 40 CFR 80.69(a)(7), as it existed on July 1, 1996, is incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~

**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 January 31 on all samples collected under the program design previously approved by the 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 R20-2-759;
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 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 Director, within 30 days after submitting the report required under subsection (E)(10);
9. Permits a Department official to monitor sample collection, transportation, storage, and analysis at any time; and
10. Prepares and submits a report to the 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 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 RVP, 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 Director. The Director shall inform the third party of the date selected at least 10 business days before sampling is to begin.

**G.** To obtain the 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 Director no later than January 1 to cover the sampling and testing period from November 1 through January 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 January 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 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.

~~**E.**~~ **I.** Requirements for oxygenate blenders.
1. Requirement to add ~~oxygenate~~ fuel ethanol to AZRBOB. If an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender ~~has represented~~ represents that ~~oxygenate~~ fuel ethanol will be added to the AZRBOB, the oxygenate blender shall add fuel ethanol to the AZRBOB ~~oxygenate of~~ in the ~~types 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 ~~who~~ that makes ~~a final blend of~~ Arizona CBG by blending ~~an oxygenate~~ fuel ethanol with ~~any~~ AZRBOB in a motor fuel storage tank, other than a truck used ~~for delivering~~ to deliver motor fuel to ~~retail outlets or bulk purchaser-consumer facilities~~ 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 R20-2-759.
3. Additional requirements for oxygenate blending in trucks. An oxygenate blender ~~who~~ 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 (I)(3)(c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328. 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 R20-2-759...~~",~~ ;" 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)~~".~~ ." ~~40 CFR 80.69(e)(2), as it existed on July 1, 1996, is incorporated by reference~~

~~and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~

4. Additional requirements for in-line oxygenate blending in pipelines using computer-controlled blending.
   a. An oxygenate blender ~~who~~ that produces Arizona CBG by blending ~~oxygenate~~ fuel ethanol 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~~ fuel ethanol 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 R20-2-759; 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 ~~specified type and~~ amount of ~~oxygenate~~ fuel ethanol specified by ~~within~~ 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 ~~spot samples~~ a representative sample every two hours during each in-line blend of AZRBOB and ~~oxygenate~~ fuel ethanol, and analyze the samples ~~with~~ within 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
      iv. Notify the 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 ~~this~~ subsection (I)(4)(b)(iii) until the Director ~~approves~~ determines that the corrective action ~~taken under subsection (iii)~~ has remedied the noncompliance.
5. Recordkeeping and ~~Records Retention~~ 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. ~~The~~ Volume of final blend or shipment ~~volume~~, ~~and~~
      v. ~~The oxygen~~ Oxygen content as determined under R20-2-759~~.~~, and
      vi. Results from all testing.
   b. The Director shall deem that Arizona CBG blended by an oxygenate blender ~~that is~~ and not tested and documented as required by this Section ~~shall be deemed to have~~ has an oxygen content ~~exceeding~~ that exceeds the standards specified in R20-2-751~~,~~ or ~~exceeding~~ exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the standards in R20-2-751.
   c. Within 20 days of the Director's written request, an oxygenate blender shall provide any records maintained by the oxygenate blender under ~~R20-2-755~~ this Section. If ~~an~~ the oxygenate blender fails to provide records requested for a blend or shipment of Arizona CBG ~~under this Section~~, the Director shall deem that the ~~final~~ blend or shipment of Arizona CBG ~~shall be deemed in violation of~~ violates R20-2-751~~,~~ or ~~deemed to exceed~~ exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the standards and limits under R20-2-751.
6. Notification requirement. An oxygenate blender shall notify the Director by ~~facsimile prior to the beginning of transport of~~ fax before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.
7. Quality ~~Assurance~~ assurance and ~~Quality Control~~ quality control (QA/QC) ~~Program~~ program. An oxygenate blender ~~conducting laboratory~~ that conducts sampling and ~~analysis~~ testing under subsection ~~(E)~~ (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 ~~laboratory~~ sampling and testing of Arizona CBG or AZRBOB. The oxygenate blender shall submit the QA/QC program to the Director for approval at least three months before ~~transport of~~ transporting Arizona CBG. The Director shall approve a QA/QC program only if the 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 ~~opt to~~ comply with the independent testing requirements of R20-2-752(F), except that, for sampling and ~~analysis~~ testing conducted under subsection ~~(E)(3)~~ (I)(3), the minimum number of samples collected and ~~analyzed~~ tested by the independent laboratory shall be 10% of the number of samples required to be ~~analyzed~~ collected and tested under subsection ~~(E)(3)~~ (I).
8. An oxygenate blender that does not ~~conducting~~ conduct laboratory sampling and ~~analysis~~ testing required under subsection ~~(E)~~ (I) in its own laboratory shall designate an independent laboratory, as ~~required~~ described in R20-2-752(F), to conduct ~~all of~~ the ~~laboratory~~ sampling and ~~analysis~~ testing required under subsection ~~(E)~~ (I)(7).

9. Within 24 hours of the ~~Director~~ Director's or designee's written request, an oxygenate blender shall submit a ~~portion~~ duplicate of any sample collected under subsection ~~(E)(7) or (8)~~ (I)(7).

**J.** Subsection (A)(1)(a) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.

**R20-2-757. Product Transfer Documentation; Records Retention**

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

1. ~~The name~~ Name and address of the transferor;
2. ~~The name~~ Name and address of the transferee;
3. ~~The volume~~ Volume of Arizona CBG or AZRBOB being transferred;
4. ~~The location~~ Location of the Arizona CBG or AZRBOB at the time of ~~the~~ transfer;
5. ~~The date~~ Date of the transfer;
6. Product transfer document number;
7. Identification of the gasoline as Arizona CBG or AZRBOB;
8. ~~The minimum~~ Minimum octane rating of the Arizona CBG or ARZBOB;
9. ~~The applicable Federal Complex Model VOC and NOx reduction percentage standards contained in R20-2-751(A) to which the Arizona CBG or AZRBOB conforms;~~

~~10.~~ For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through ~~March~~ January 31, the ~~type and~~ minimum quantity of ~~oxygenate~~ fuel ethanol contained in the Arizona CBG; and

~~11.~~ 10.~~In the case of~~ If the product transferred is AZRBOB for which ~~oxygenate~~ fuel ethanol 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";~~ fuel ethanol;"
b. ~~The designation~~ Designation of the AZRBOB as suitable for blending with fuel ethanol~~:~~
   ~~i. Any oxygenate;~~
   ~~ii. Ether only; or~~
   ~~iii. A specified oxygenate type or types and amount or amounts~~;
c. ~~The oxygenate type or types and~~ Fuel ethanol 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 ~~oxygenate~~ fuel ethanol and weight percent oxygen content ~~specifications~~; and
d. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless ~~it~~ the other AZRBOB has the same requirements for ~~oxygenate type or types and~~ fuel ethanol amount or range of amounts.

**B.** 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 ~~sets forth~~ includes all required information for the Arizona CBG or AZRBOB.

**C.** Any transferee in subsection (A), other than a registered supplier, oxygenate blender, third-party terminal, pipeline, ~~service station~~ motor fuel dispensing site ~~operator~~, or fleet ~~owner~~ vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 24~~-month period~~ months ~~preceding~~ before the most recent transfer ~~or delivery~~. The transferee shall maintain product transfer ~~or delivery~~ documents for the 30~~-day period~~ days ~~preceding~~ before the most recent transfer ~~or delivery~~ at the business address listed on the product transfer document. The transferee may ~~retain~~ maintain all remaining product transfer ~~or delivery~~ documents for the preceding 24 months elsewhere ~~but shall make them available to the Director within two working days from the time of request by the Director or designee~~.

**D.** A ~~service station operator~~ motor fuel dispensing site or fleet ~~owner~~ vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG ~~delivered~~ transferred during the 12 months ~~preceding that shipment~~ before the most recent transfer. ~~The documentation~~ The motor fuel dispensing site or fleet vehicle fueling facility shall maintain product transfer documents for the three most recent ~~deliveries~~ transfers ~~shall be maintained~~ on the ~~service station or fleet owners'~~ premises. ~~A service station operator or fleet owner~~ The motor fuel dispensing site or fleet vehicle fueling facility may maintain ~~documentation~~ the remaining product transfer documents ~~for the remainder of all deliveries~~ for the ~~12-month period~~ preceding 12 months elsewhere ~~but shall make it available to the Director within two working days from the time of request by the Director~~.

**E.** 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-month period~~ ~~preceding~~ 60 months before the most recent transfer ~~or delivery~~. ~~Transfer or delivery~~ The transferee shall maintain product transfer documents ~~made during the 30-day period~~ for each shipment of Arizona CBG or AZRBOB transferred during the 30 days preceding the most recent transfer ~~or delivery shall be maintained~~ at the business address listed on the product transfer document. ~~Documents~~ The transferee may maintain all remaining product transfer documents ~~for the remainder of all transfers or deliveries~~ for the preceding 60 months elsewhere ~~shall be available within two working days from the time of request by the Director or designee~~.

**F.** When a person transfers custody or title of fuel ethanol that is intended for use as a blend component in AZRBOB or Arizona CBG, the person shall provide the transferee a document that prominently states that the fuel ethanol complies with the standards for fuel ethanol intended for use as a blend component in AZRBOB or Arizona CBG.

~~**F.**~~**G.** Upon request by the Director or designee, a person shall present product transfer documents to the Department within two working days of the request. Legible photocopies ~~shall be~~ of the product transfer documents are acceptable.

**R20-2-758. ~~Adoption of Fuel Certification Models~~ Repealed**

~~The following documents are incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.~~

~~1. The California Predictive Model (PM), California Air Resources Board's "California Procedures for Evaluating Alternative Specification for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995 (Predictive Model Procedures). A copy may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.~~

~~2. The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~

**R20-2-759. Testing Methodologies**

**A.** ~~Except as provided in subsections (C) and (D), a person certifying Arizona CBG or AZRBOB as meeting standards under Table 1 shall test the fuel with the methods under 13 California Code of Regulations, Section 2263, incorporated by reference as of January 1, 1997 and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.~~ 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: American Society for Testing and Materials, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959. A copy of the CARB methods may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.

**B.** ~~Except as provided in subsection I, a person certifying Arizona CBG or AZRBOB as meeting standards under Table 2 shall test the fuel with methods under 13 California Code of Regulations, Section 2263, as incorporated by reference in subsection (A).~~ An oxygenate blender or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure fuel ethanol 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.** ~~A registered supplier, oxygenate blender, or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure oxygenate using ASTM D4815-94a procedures and RVP using ASTM D4814-99 standards. For Arizona CBG located in the CBG covered area, oxygenate shall be measured using ASTM D4815-94a, and RVP shall be measured using ASTM D5191-99. ASTM D4814-99, ASTM D4815-94a and ASTM D5191-99 are incorporated by reference and on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. Copies may be obtained at American Society for Testing and Materials, 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959.~~ 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.** ~~Except as required in subsection I, a registered supplier of Arizona CBG or AZRBOB may certify Type 1 Arizona CBG produced or imported at any facility using the federal test methods contained in 40 CFR 80.46 (a) through (g), incorporated by reference as of July 1, 1996, provided these are the only test methods used by that registered supplier to certify Arizona CBG or AZRBOB at that facility. 40 CFR 80.46(a) through (g) is on file with the Department and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments. A copy may be obtained at: U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.~~ A test method that the Department determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The Department 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 Department 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 Department shall approve a proposed test method only if the

Department 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. 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 regarding CARB 3 is approved by EPA.

**Table A. Arizona Department of Weights and Measures 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% | | D 5769-98 | | | | |
| | V% | | D 1319-02a[A] | 1.65 | | D 5580-00 | 1.4 |
| Benzene | V% | | D 3606-99 | 0.21 | | D 5580-00 | 0.1409 (X) $^{1.133}$ |
| Olefins | V% | | D 1319-02a | 0.32 (x)$^{0.5}$ | | D 6550-00 | 0.32 (X) $^{0.5}$; Footnote 1 |
| Oxygenates | W% | | D 5599-00 | See test method | | D 4815-99 | See test method |
| | W% | | D 4815-99[B] | See test method | | | |
| Vapor Pressure (Correlation Equation) Footnote 2 | psi | | D 5191-01 | 0.3 | | 13 CCR Section 2297 | 0.21 |
| Sulfur | wppm | | D 2622-98 | | | D 5453-93 | 0.2217 (x)$^{0.92}$ wppm |
| | | | _____ | | | D 2622-94 (modified) | 10-30 wppm R=0.405 (x) > 30 wppm R =0.192 (x) |
| Distillation T50 | deg F | | D 86-01 | See test method | | D 86-99ae1 | See test method |
| Distillation T90 | deg F | | D 86-01 | See test method | | D 86-99ae1 | See test method |

[A] A refinery or importer may determine aromatics content using ASTM D 1319-02a if the result is correlated to ASTM D 5769-98.
[B] A refinery or importer may determine oxygenate content using ASTM D 4815-99 if the result is correlated to ASTM D 5599-00.
Footnotes:
1. Replace the last sentence in ASTM D 6550-00 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 RVP, the only correlation equation to be used is the CARB (RVP= (0.972 X Ptot) – 0.715).

**R20-2-760. Compliance Surveys**

**A.** A registered supplier ~~who~~ that elects to certify that Arizona CBG or AZRBOB meets ~~any~~ an averaging standard under R20-2-751 shall ~~conduct~~ ensure that compliance surveys are conducted in accordance with a compliance survey program plan approved by the Director. The Director shall approve a compliance survey program plan if it:
1. Consists of at least four VOC and NOx surveys ~~during the period~~ conducted at least one per month between May 1 through September 15 of each year; and
2. Complies with subsection ~~I~~ (J).

**B.** If a registered supplier fails to ~~conduct~~ ensure that an approved compliance survey program is conducted, the Director shall issue an order requiring ~~compliance~~ the registered supplier to comply with all applicable fuel property and performance standards on a per-gallon basis for ~~at least~~ six months~~, extending~~ or through the end of the survey period identified in subsection (A)(1), ~~and ending after the six-month period~~ whichever is longer. ~~The requirement for~~ Regardless of when a failure to survey occurs, the Director's order shall require compliance with per-gallon standards ~~applies~~ from the beginning of the survey period during which the failure to survey occurs~~, regardless of when the failure to survey occurs during that period~~.

**C.** General compliance survey requirements. A registered supplier shall ensure that a compliance survey conforms to the following:

1. ~~A survey shall consist~~ Consists of all samples that are collected under ~~the applicable~~ an approved survey ~~design~~ program plan during any consecutive ~~seven-day period~~ seven days and that are not excluded under subsection ~~I~~ (C)(4)~~.~~ ;
2. ~~A survey shall be~~ Is representative of all Arizona CBG being dispensed in the CBG-covered area as provided in subsection ~~(F).~~ (G);
3. ~~Each~~ Analyzes each sample included in ~~a~~ the compliance survey ~~shall be analyzed~~ for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and RVP according to the ~~methodologies specified~~ test methods in R20-2-759. RVP ~~shall be~~ is required to be analyzed ~~during the time period of~~ only from May 1 through September 15~~.~~ ;
4. ~~The~~ Bases the results of ~~each~~ the compliance survey ~~shall be based~~ upon ~~the results of the~~ 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 ~~standards for the~~ fuel property standard being evaluated in addition to any reproducibility that applies to the fuel property standard~~.~~ ; and
5. ~~A survey sample that does not comply with R20-2-751, or that constitutes evidence of noncompliance with a standard or requirement under this Article, may be used by the Director in an enforcement action.~~
6. ~~Each~~ If a laboratory ~~that~~ analyzes the compliance survey samples, ~~shall participate~~ the laboratory participates in a correlation program with the Director to ensure the validity of analysis results.

**D.** If the Director determines that a sample used in a compliance survey does not comply with R20-2-751 or another requirement under this Article, the Director shall take enforcement action against the registered supplier.

~~**D.**~~ **E.**~~The results of each~~ A registered supplier shall comply with the following VOC and NOx compliance survey ~~shall be determined as follows~~ requirements:

1. For each compliance survey sample ~~from the survey~~, determine the VOC and NOx emissions reduction percentage ~~is determined~~ based upon the tested fuel properties for that sample using the ~~applicable~~ methodology for calculating VOC and NOx emissions reductions at 40 CFR 80.45, as incorporated by reference in ~~R20-2-758~~ R20-2-702;
2. The CBG-covered area fails ~~the~~ a VOC compliance survey if the VOC emissions reduction percentage average of all samples collected during ~~that~~ 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 ~~the~~ a NOx compliance survey if the NOx emissions reduction percentage average of all samples collected during ~~that~~ the compliance survey is less than the per-gallon standard for NOx emissions reduction percentage in Table 1, column A.

~~**E.**~~ **F.**~~The~~ A registered supplier shall determine the result ~~results~~ of ~~each~~ the series of NOx ~~survey series~~ compliance surveys conducted between May 1 and September 15 ~~shall be determined~~ as follows:

1. For each compliance survey sample ~~from a survey series~~, the NOx emissions reduction percentage is determined based upon the tested fuel properties for that sample using the ~~applicable~~ methodology for calculating NOx emissions reduction ~~under~~ at 40 CFR 80.45, as incorporated by reference in ~~R20-2-758~~ R20-2-702; and
2. The CBG-covered area fails the NOx ~~survey series~~ series of compliance surveys conducted between May 1 and September 15 if the NOx emissions reduction percentage average for all compliance survey samples collected during that ~~survey series~~ time is less than the Federal Complex Model per-gallon standard for the NOx emissions reduction percentage in Table 1, column A.

~~**F.**~~ **G.**~~Each survey program shall~~ 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 Director shall approve a compliance survey program conducted by an independent surveyor if the compliance survey program:

1. ~~Be~~ Is designed and conducted by a ~~person~~ surveyor that is independent of the registered supplier ~~(the surveyor)~~. To be considered independent:
   a. The surveyor shall not be an employee of any registered supplier~~;~~ ,
   b. The surveyor shall not have ~~any~~ an obligation to or interest in any registered supplier~~;~~ , and
   c. The registered supplier shall not have ~~any~~ an obligation to or interest in the surveyor~~.~~ ;
2. ~~Be designed to include~~ Includes enough samples to ensure that the average levels of oxygen, RVP, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95% confidence level, with error of less than 0.1 psi for RVP, 0.1% for oxygen (by weight), 0.5% for aromatic hydrocarbons (by volume), 0.5% for olefins (by volume), 5°F.

for T50 and T90, and 10 ~~ppm~~ wppm for sulfur;

3. ~~Require~~ Requires that the surveyor~~: a. Except as provided in subsection (G),~~ not ~~inform anyone, in~~ provide advance notice, except as provided in subsection (H), of the date or location of any survey sampling;

~~b.~~4. ~~Upon~~ Requires that the surveyor ~~request of the Director,~~ 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 Director, within 30 days following submission of the survey report required under subsection (G)(6)~~:~~;

~~i. To a location specified by the Director;~~
~~ii. Identified by the name and address of the facility where the sample was collected; and~~
~~iii. Showing the date of collection.~~

~~c.~~5. ~~Permit~~ Requires that the surveyor permit a Department official ~~at any time~~ to monitor ~~the conduct of the survey, including~~ sample collection, transportation, storage, and analysis at any time~~.~~ ;

~~4.~~ 6. ~~Require~~ Requires the surveyor to submit a report of each survey to the Director~~,~~ within 30 days ~~following completion of the survey, to the Director. The report shall include~~ after sampling for the survey is completed that includes the following information:

a. ~~The name~~ Name of the person conducting the survey;
b. ~~An attestation~~ Attestation by an officer of the ~~surveying company~~ surveyor that the ~~survey~~ sampling and testing was conducted according to the compliance survey program plan and the ~~survey~~ results are accurate;
c. ~~If~~ Identification of the registered supplier for whom the compliance survey was conducted if the compliance survey was conducted for only one registered supplier~~, the identification of that supplier~~;
d. ~~The identification~~ Identification of the area from which ~~gasoline~~ survey samples were selected;
e. ~~The dates~~ Dates on which the survey was conducted;
f. ~~The address~~ Address of each facility at which a ~~gasoline~~ sample was collected, and the date of collection;
g. ~~The results~~ Results of the ~~analyses~~ analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP, and the calculated VOC or NOx emissions reduction percentage, as applicable, for each survey conducted during the period identified in subsection (A)(1);
h. ~~The name~~ Name and address of each laboratory ~~where gasoline~~ at which samples were analyzed;
i. ~~A description~~ Description of the ~~methodology~~ method used to select the ~~locations for~~ facilities from which a sample ~~collection~~ was collected ~~and the numbers of samples collected~~;
j. Number of samples collected from each facility;
~~j.~~k. ~~For~~ Justification for excluding a collected sample ~~any samples that were excluded~~ from the survey, ~~a justification for the exclusion~~ if one was excluded; and
~~k.~~l. ~~The average~~ Average VOC and NOx emissions reduction percentage.

~~G.~~**H.** ~~Each survey shall be commenced~~ An independent surveyor shall begin each survey on a date selected by the Director. The Director shall notify the surveyor of the date selected at least 10 business days before the ~~beginning date of the~~ survey is to begin.

~~H.~~**I.** ~~The procedure for seeking Director~~ To obtain the Director's approval ~~for a~~ of a compliance survey program plan ~~is~~, the person seeking approval shall:

1. ~~The person seeking survey program plan approval shall submit~~ Submit the plan to the Director ~~for the Director's approval~~ no later than January 1 to cover the survey period of May 1 through ~~March 31~~ September 15 of each year; and
2. ~~The survey program~~ Have the plan ~~shall be~~ signed by a corporate officer of the registered supplier~~,~~ or ~~in the case of a comprehensive survey program plan,~~ by an officer of the ~~organization coordinating the survey program~~ independent surveyor.

~~I.~~**J.** No later than April 1 of each year, ~~the~~ a registered ~~supplier's contract with the surveyor~~ supplier that intends to meet the requirements in subsection (A) by contracting with an independent surveyor to ~~carry out~~ conduct the ~~entire~~ compliance survey plan for the next summer and winter season shall ~~be in effect,~~ enter into the contract and ~~the registered supplier shall~~ pay ~~an amount~~ all of the money necessary to ~~carry out the entire~~ conduct the compliance survey plan. ~~To the surveyor or~~ The registered supplier may pay the money necessary to conduct the compliance survey plan to the independent surveyor or to ~~place the money into~~ an escrow account with instructions to the escrow agent to ~~pay~~ release the money ~~over~~ to the independent surveyor ~~during the course of the conduct of~~ as the compliance survey plan is implemented. No later than April 15 ~~preceding the period in which a survey will be conducted~~, the registered supplier shall ~~give~~ submit to the Director a copy of the contract with the independent surveyor, proof that the money necessary to ~~carry out~~ conduct the compliance survey plan has ~~either~~ been paid ~~to the surveyor or placed into an escrow account~~, and, if ~~placed into an escrow account~~ applicable, a copy of the escrow agreement.

**Table 1. Type 1 ~~Gasoline~~ Arizona CBG Standards**
Table 1 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

| | **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 (%)<br>May 1 - Sept. 15 | ≥ 27.5 | ≥ 29.0 | ≥ 25.0 | N/A |
| NOx Emission Reduction (%)<br>May 1 - Sept. 15 | ≥ 5.5 | ≥ 6.8 | N/A | N/A |
| NOx Emission Reduction (%)<br><br>Sept. 16 - ~~Nov. 1~~ October 31 and ~~April~~ February 1 - April 30*** | ≥ 0.0 | N/A | N/A | N/A |
| Oxygen content: fuel ethanol, (% by weight unless otherwise noted)<br>Nov. ~~2~~ 1 - ~~March~~ January 31***<br>~~April~~ February 1 - ~~Nov. 1~~ October 31 | N/A<br>0.0* | N/A<br>N/A | N/A<br>0.0 | N/A<br>~~4.0~~ 3.7 |
| Oxygen content: other than fuel ethanol, (% by weight)<br>Nov. ~~2~~ 1 - ~~March~~ January 31***<br>~~April~~ February 1 - ~~Nov. 1~~ October 31 | N/A<br>0.0 | N/A<br>N/A | N/A<br>0.0 | N/A<br>~~2.7~~**** |

* Maximum oxygen content ~~must~~ shall comply with the EPA oxygenate waiver requirements and with A.R.S. § 41-2122.
** Dates represent compliance dates for ~~service stations and fleet owners~~ the owner of a motor fuel dispensing site or a fleet vehicle fueling facility.
*** ~~Registered suppliers~~ A registered supplier shall certify all Arizona CBG as Type 2 ~~gasoline~~ Arizona CBG meeting the standards in Table 2 beginning November ~~2~~ 1 through ~~March~~ January 31.
**** As specified in A.R.S. § 41-2122.

**Table 2. Type 2 ~~Gasoline~~ Arizona CBG Standards**
Table 2 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

| | 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 | 30/15 | 40/20 | Parts per million by weight |
| Olefin Content | 10.0 | 4.0 | 6.0 | % by volume |
| 90% Distillation Temperature (T90) | 330 | 290/295 | 300/305 | Degrees Fahrenheit |
| 50% Distillation Temperature (T50) | 220 | 200/203 | 210/213 | Degrees Fahrenheit |
| Aromatic Hydrocarbon Content | 30.0/35 | 22.0 | 25.0 | % by volume |
| Oxygen content: fuel ethanol~~****~~**<br>Nov. ~~2~~ 1 - ~~March~~ January 31<br>~~April~~ February 1 - ~~Nov. 1~~ October 31<br>The maximum oxygen content EtOH year around | 10% fuel ethanol**<br>~~2.7~~ | --<br>-- | 10% fuel ethanol**<br>~~2.7**~~3.7 | % by vol.<br>% by weight |
| ~~Oxygen content: other than ethanol****~~<br>~~Nov. 2 - March 31~~<br>~~April 1 - Nov. 1~~ | ~~3.5***~~<br>~~2.7~~ | ~~--~~<br>~~--~~ | ~~3.5***~~<br>~~2.7**~~ | ~~% by weight~~<br>~~% by weight~~ |

* Instead of the standards in columns B and C, a registered supplier may ~~elect to~~ comply with the standards contained in column A, and R20-2-751(F), (G), and (H) for the use of the PM.
** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.
~~*** Non-ethanol oxygenate is allowed only if approved by the Director under A.R.S. § 41-2124(D). Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.~~
A registered supplier shall certify all Arizona CBG using fuel ethanol as the oxygenate beginning November ~~2~~ 1 through ~~March~~ January 31. Alternative ~~oxygenates~~ fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the Director under A.R.S. § 41-2124(D).
~~NOTE~~ NOTES: Dates represent compliance dates for ~~service stations and fleet owners~~ the owner of a motor fuel dispensing site or fleet vehicle fuel facility.
Standards shown in the form of x/y denote standards for CARB Phase 2/Phase 3 gasolines.

*Attachment 10*

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| AGE GROUP 0 - 5<br>MEDICAL ASSESSMENT | Weight |
|---|---|
| Cerebral Palsy | 5.0 |
| Epilepsy | 5.0 |
| Moderate, Severe, or Profound Mental Retardation (36 Months and older only) | 15.0 |
| Autism + M-CHAT (18 Months and older only) Fails at least six M-CHAT based questions | 7.0 |
| Autism + Behaviors (30-35 Months only) Exhibits at least 3 of 4 specific behaviors | 5.0 |
| Autism + Behaviors (36 Months and older only) Exhibits at least 6 of 8 specific behaviors | 10.0 |
| Drug Regulation + Administration (6 Months to 35 Months) | 1.0 |
| Drug Regulation + Administration (36 Months and older) | 1.5 |
| Non-Bowel/Bladder Ostomy Care (6 Months to 35 Months) | 7.0 |
| Non-Bowel/Bladder Ostomy Care (36 Months and older) | 5.0 |
| Tube Feeding (6 Months to 35 Months) | 7.0 |
| Tube Feeding (36 Months and older) | 5.0 |
| Physical Therapy or Occupational Therapy (6 Months to 35 Months) | 1.0 |
| Physical Therapy or Occupational Therapy (36 Months and older) | 1.5 |
| Acute Hospital Admission (One) | 1.0 |
| Acute Hospital Admissions (Two or more) | 2.0 |
| Direct Care Staff Trained (6 Months to 11 Months) | 0.5 |
| Direct Care Staff Trained (12 Months and older) | 1.0 |
| Special Diet | 2.0 |

# NOTICE OF FINAL RULEMAKING

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on February 9, 2010.*

[R11-03]

### PREAMBLE

| **1. Sections Affected** | **Rulemaking Action** |
|---|---|
| R20-2-701 | Amend |
| R20-2-702 | Amend |
| R20-2-704 | Amend |
| R20-2-707 | Amend |
| R20-2-708 | Amend |
| R20-2-709 | Amend |
| R20-2-713 | Amend |
| R20-2-714 | Amend |
| R20-2-715 | Amend |
| R20-2-718 | Amend |
| R20-2-719 | Repeal |
| R20-2-749 | New Section |
| R20-2-751 | Amend |
| R20-2-752 | Amend |
| R20-2-754 | Amend |
| R20-2-755 | Amend |

| | |
|---|---|
| R20-2-756 | Amend |
| R20-2-757 | Amend |
| R20-2-759 | Amend |
| Table A | Amend |
| R20-2-760 | Amend |
| Table 1 | Amend |
| Table 2 | Amend |

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. §§ 41-2065(A)(4), (D), and 41-2083(N)

Implementing statute: A.R.S. §§ 41-2083 and 41-2122

**3. The effective date for the rules:**

March 12, 2011

**4. List of all previous notices appearing in the *Register* addressing the final rules:**

Notice of Rulemaking Docket Opening: 16 A.A.R. 535, April 2, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 980, June 25, 2010

Notice of Rulemaking Docket Opening: 16 A.A.R. 1228, July 9, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 1198, July 9, 2010

**5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Duane Yantorno

Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302

Telephone: (602) 771-4933

Fax: (623) 939-7825

E-mail: Dyantorno@azdwm.gov

**6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:**

In a rulemaking that was effective in September 2006, the effect of several subsections was contingent upon the State's Implementation Plan regarding CARB 3 and shortening the winter season to November 1 through January 31 being approved by the U.S. Environmental Protection Agency. The EPA did not approve the State's Implementation Plan regarding CARB 3 because the Energy Policy Act of 2005 prohibited EPA from adding any boutique fuels to the list of approved fuels. EPA did not approve the State's Implementation Plan regarding shortening the winter season because an analysis conducted by EPA suggested that shortening the winter season would increase particulate pollution.

Because EPA did not approve the SIP regarding CARB 3 and the shorter winter season, in this rulemaking the Department is:

- Deleting reference to a winter season that runs from November 1 through January 31. This will make the winter season run from November 1 through March 31; and
- Removing CARB (California Air Resources Board) phase 3 reformulated gasoline as an alternative standard for motor fuel in the CBG-covered area.

In this rulemaking, the Department is also:

- Responding to amendments made in 2007 to A.R.S. § 41-2083 regarding product transfer document requirements for a final destination and labeling requirements for dispensers at motor fuel dispensing sites;
- Responding to HB 2621, enacted in 2008, regarding biofuel standards and requirements;
- Moving definitions relating to Arizona CBG and AZRBOB from R20-2-701 to a new Section, R20-2-749;
- Modifying motor fuel standards for ethanol blending;
- Updating materials incorporated by reference; and
- Amending R20-2-754, in response to a five-year-review report approved by Council on February 6, 2007, to clarify that third-party terminals as well as pipelines may blend transmix into Arizona CBG or AZRBOB. R20-2-707 and R20-2-713, which are included in this rulemaking, were also noted for amendment in that five-year-review report.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. The summary of the economic, small business, and consumer impact:**

The economic impact of this rulemaking will be minimal. Because implementation of rules regarding use of CARB 3 and shortening the winter season was contingent on EPA approving the SIP and because EPA did not approve the SIP, reference to these two items is being deleted. This will cause the rules to remain as they have been.

The rules made in response to recent statutory amendments to A.R.S. § 41-2083 will have some economic impact. Producers, suppliers, and blenders of biofuels and biofuel blends will have to comply with the registration, reporting, labeling, and quality assurance and quality control requirements in this rulemaking. However, these requirements, which are required by statute and minimally burdensome on producers, suppliers, and blenders of biofuels and biofuel blends, are needed to protect the public and to protect the producer, supplier, or blender from liability for any damage resulting when a consumer misfuels. Any cost associated with compliance is a cost of doing business that will be passed to the ultimate consumer. The requirement regarding transfer documents, which already exists and is simply being clarified to be consistent with statute, is minimally burdensome.

The updated materials incorporated by reference are simply the latest industry standards. Incorporation of a new standard regarding biofuel and biofuel blends is required by statute.

Transmix is an off-grade product generally sold at a reduced price to a transmix processor. The amendment to R20-2-754 allows pipelines and third-party terminals to blend a small amount of transmix into a final product rather than selling it at a reduced price. This is an economic benefit to the pipelines and third-party terminals.

**10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

In addition to the changes identified in item 11, all of which are non-substantive, minor changes were made between the proposed and final rules. Some of these changes result from comments by G.R.R.C. staff.

**11. A summary of the comments made regarding the rules and the agency response to them:**

The Department received comments regarding the proposed rules from the National Biodiesel Board, Western States Petroleum Association, Shuler Government Affairs LLC for Pinal Energy, Caljet, Arizona Petroleum Marketers Association, and BP:

| COMMENT | DWM ANALYSIS | RESPONSE |
|---|---|---|
| Change the definition of "biodiesel" to be consistent with the definition used by ASTM, EPA, and other entities. (Biodiesel Board; WSPA) | The term "biodiesel" is defined in statute. The Department must use the statutory definition. | To clarify its reliance on the statutory definition, the Department used the exact statutory definition and noted its use by placing it in italics. The statutory definition of "biodiesel" includes an internal definition of "nonpetroleum renewable resources." As a result, the Department deleted its definition of "renewable resource" and clarified its reliance on the statutory definition by using "nonpetroleum renewable resource" in the rule text. |
| Use a letter other than "B" to distinguish biofuel and biofuel blends. The FTC has developed labeling requirements that limit use of "B" to designate biodiesel blends. (Biodiesel Board) | The Department recognizes that using "B" regarding biofuel blend may cause confusion. To avoid this, the Department changed the letter designation to "C" for biofuel blend. | R20-2-701: Changed the "B" to "C" within the definition of biofuel blend. |
| The definitions of "biodiesel blend" and "biodiesel" do not clearly indicate that B5 and below is treated as diesel per ASTM D975 rather than biodiesel blend. (WSPA) | Both "biodiesel" and "biodiesel blend" are defined in statute. The Department must use the statutory definitions. However, consistent with ASTM D975, B5 and below is treated as diesel rather than biodiesel blend. The definition of "diesel" references ASTM D975. | To clarify its reliance on the statutory definition, the Department used the exact statutory definition of "biodiesel blend" and noted its use by placing it in italics. |

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| Include a definition of "non-ester renewable diesel" to be consistent with EPA and to clarify the definition of "non-ester renewable diesel blend." (Biodiesel Board) | A careful review of the rule text showed that the term "non-ester renewable diesel blend" is not used. As a result, the Department determined the term could be deleted. | Deleted the definition of "non-ester renewable diesel blend." |
| The definition of biodiesel FAME (mono-alkyl ester) includes the statement that it is intended to be used in engines designed for conventional fuel, but this is not necessarily the case. (WSPA) | The commenter is correct. | The Department clarified the definition by inserting the word "some." It now indicates that biodiesel FAME is intended for use in some engines designed for conventional fuel. |
| R20-2-707(A)(9): To be consistent with ASTM D975, clarify that a biodiesel blend with up to 5.49% of biofuel does not have to labeled with the exact percentage of biofuel. (Biodiesel Board) | Under A.R.S. § 41-2083(M), a person is required to prepare a product transfer document in a manner that notifies the transferee of any volume per cent of biodiesel intentionally added to or known by the transferor to be in the product. There is no requirement for labeling. This requirement applies to a product transfer document. | No change |
| R20-2-708: What is the Department's reason for not including the WSPA recommended language regarding T V/L=20 limits? (WSPA) | Standards regarding these limits have not been finalized so the Department elected not to include them. When standards are finalized, the Department will revisit this issue. | No change |
| The definition of "motor fuels" is awkward. (WSPA) | The term "motor fuels" is defined in statute. The Department must use the statutory definition. | To clarify its reliance on the statutory definition, the Department used the exact statutory definition of "motor fuel" and noted its use by placing it in italics. |
| A few provisions still specify the minimum oxygen content at 3.7 wt.%. This should be 3.5 wt.% when there is 10 vol% ethanol. (WSPA) | The Department checked with EPA to determine the correct maximum oxygen content by weight percent. To be consistent with EPA guidance, the maximum oxygen content should be 4.0 wt.%. | Maximum oxygen content was changed to 4.0 wt.% in all places. In certain circumstances, the minimum oxygen content is specified in the rules but the maximum is always 4.0 wt.%. |
| R20-2-718: This Section needs to clarify that the QA/QC and reporting requirements do not apply to E10 or B5. (WSPA) | The lead to R20-2-718(A)(2) and (3) indicates the requirements are applicable to a person required to register with the EPA under 40 CFR 80, Subpart K. This means the reporting and QA/QC requirements apply regarding B5 but do not apply regarding E10. | No change |
| R20-2-714 and 751: Clarify that the 9.0 psi gasoline RVP specification is for terminals and a 10 psi is applicable to motor-fuel dispensing sites. (WSPA) | The standards in both R20-2-714 and R20-2-751 are applicable downstream from a terminal. They are not applicable to a terminal. The difference between the two Sections is that R20-2-714 applies outside the CBG-covered area and R20-2-751 applies to CBG. | No change |
| R20-2-709(C): Delete the added phrase "in the winter." (WSPA) | The Department added this phrase to required labeling because it determined the additional information was needed by the public. | No change |

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| R20-2-701: The definition of "terminal" is so broad that it applies to all bulk storage facilities including those commonly known as jobber facilities. The prior definition of "third-party terminal" recognized terminals that accept custody but not ownership of motor fuels. (APMA) | The Department did not intend to broaden the definition of "terminal." However, the definition of "third-party terminal" is specific to Arizona CBG and AZRBOB. | The Department changed the definition of "terminal" to track the definition of "third-party terminal" but made it applicable to motor fuels rather than specific to Arizona CBG and AZRBOB. |
| R20-2-701: The definition of "biofuel distributor" includes anyone transporting a biofuel product, even a common carrier. There are more specific definitions for terms relating to a biofuel distributor so this term appears not to be needed. (APMA) | The term "biofuel distributor" is not used in the rule text. The more specific terms relating to a biofuel distributor are used. As a result, the Department determined the term "biofuel distributor" could be deleted. | Deleted the term "biofuel distributor" from R20-2-701. |
| R20-2-718(A-C): The Department requires that a producer or supplier of biofuels submit a QA/QC manual to the Department for approval. If the manual has to be approved, why does the Department establish minimum sampling frequencies within the rule? (APMA) | The Department establishes minimum sampling standards so a producer or supplier knows the standard that must be present in a QA/QC manual if it is to be approved by the Department. | No change |
| R20-2-718(B)(5) and (C)(6): Sampling rates for E85 are less than those for biodiesel. This creates a market advantage for marketers of E85. (APMA) | The Department does not agree that the sampling frequency for E85 should be increased to make it equal to that of biodiesel. E85 and biodiesel are very different products produced with very different technology. Production of ethanol is technical, more difficult, and requires more complicated systems than production of biodiesel. Indeed, biodiesel can be produced by almost anyone using readily available equipment. As a result, to protect the public, sampling frequency for biodiesel needs to be greater. There is no market advantage regarding E85 because of the greater difficulty in producing it. | No change |
| R20-2-718(B)(2): Delete reference to Arizona CBG or AZRBOB and replace with "a pressurant." Arizona CBG or AZRBOB should not be the only allowed hydrocarbon component in formulating E85 within the CBG-covered area. (Shuler; Caljet) | To avoid air-quality problems, in federally defined reformulated gasoline (RFG) areas, when E85 in produced, it is required that production start with a RFG. The Department's requirement that production of E85 in the CBG-covered area begin with Arizona CBG or AZRBOB is consistent with that of EPA. | No change |
| R20-2-701: Delete the definition of "non-ester renewable diesel blend" because it is not a biofuel if it is not produced entirely from renewable resources. (Caljet) | The Department determined that the phrase "non-ester renewable diesel blend" is not used in the rule text so the definition could be deleted. | Deleted the definition of "non-ester renewable diesel blend." |
| R20-2-718(C)(7): Clarify that a producer that is accredited under the BQ9000 program submits the BQ9000 quality manual instead of the QA/QC manual required under subsection (C)(6). (Caljet) | This was the Department's intention. | Clarifying language was added. |

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| R20-2-718(D): Delete this subsection because petroleum-based fuels are not biofuels and petroleum-based diesel fuel is not renewable. Where are the QA/QC and testing standards for this fuel? (Caljet)<br>Why the disparity between petroleum-based renewable diesel and other biofuels: Petroleum-based renewable diesel needs only to meet the standards in its definition. (WSPA) | The EPA currently is developing standards for petroleum-based renewable diesel but at the moment, the only standard is that provided by ASTM D975. The Department believes it is important to acknowledge petroleum-based renewable diesel exists and include this minimum standard. When additional standards become available, the Department will complete this subsection with QA/QC and testing requirements. | No change |
| R20-2-708(B)(4): Delete this subsection because it conflicts with subsection (B)(3). (BP) | The Department disagrees that the two subsections are in conflict. Subsection (B)(4) allows use of a sub-octane blendstock to which ethanol is added to meet the specifications in ASTM D4814. | No change |

**12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

Under A.R.S. § 41-2083(C) and (H), the director of the Department is required to consult with the director of the Department of Environmental Quality regarding the rules. This consultation has occurred. Under the state's implementation plan, changes regarding Arizona CBG will have to be submitted to the EPA for approval.

**13. Incorporations by reference and their location in the rule:**

The following materials are incorporated by reference in R20-2-702:

ASTM D975-10, Standard Specification for Diesel Fuel Oils, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D4806-09, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D4814- 09b, Standard Specification for Automotive Spark-Ignition Engine Fuel, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D5798- 09b, Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D6751- 09a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D7467-09a, Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20), 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

**14. Were these rules previously made as emergency rules?**

No

**15. The full text of the rules follows:**

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section
R20-2-701. Definitions
R20-2-702. Material Incorporated by Reference
R20-2-704. Price and Grade Posting on External Signs
R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB
R20-2-708. ~~Oxygenated Fuel~~ Gasoline Ethanol Blends

R20-2-709. Retail Oxygenated Fuel Labeling
R20-2-713. Motor Fuel Storage Tank Labeling
R20-2-714. Requirements for Motor Fuels ~~Outside the CBG-covered Area~~ Other than Arizona CBG
R20-2-715. Motor Fuel Quality Testing Methods and Requirements
R20-2-718. Requirements for ~~the~~ Production, Transport, Distribution, and ~~or~~ Sale of ~~E85~~ Biofuels
R20-2-719. ~~Requirements for the Sale of Biodiesel~~ Repealed
R20-2-749. Definitions Applicable to Arizona CBG and AZRBOB
R20-2-751. Arizona CBG Requirements
R20-2-752. General Requirements for Registered Suppliers
R20-2-754. Downstream Blending Exceptions for Transmix
R20-2-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending
R20-2-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks
R20-2-757. Product Transfer Documentation; Records Retention
R20-2-759. Testing Methodologies
Table A. Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB
R20-2-760. Compliance Surveys
Table 1. Type 1 Arizona CBG Standards
Table 2. Type 2 Arizona CBG Standards

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

**R20-2-701. Definitions**

In addition to the definitions in R20-2-101, the following definitions apply to this Article unless the context otherwise requires:

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

"Area A" has the same meaning as in A.R.S. § 49-541.

"Area B" has the same meaning as in A.R.S. § 49-541.

"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. § ~~41-2124(K)~~ 41-2124(J).

"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 fuel ethanol 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" means a diesel fuel substitute that* ~~satisfies all of the following:~~

~~Is produced from nonpetroleum renewable resources if the qualifying volume of nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations sections 2281 and 2282 in effect on January 1, 2000.~~

~~Meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.~~

~~The use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.~~

~~Is sold, offered or exposed for sale as a neat product or blended with diesel fuel. A.R.S. § 41-2051(1)~~ *is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to § 211 of the clean air act as defined in section 49-401.01.* A.R.S. § 41-2051

*"Biodiesel blend" means a motor fuel that is comprised 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.* A.R.S. § 41-2051

"Biodiesel (mono-alkyl ester)" means a biodiesel or fuel additive that:

Is registered as a motor vehicle fuel or fuel additive under 40 CFR 79,

Is a mono-alkyl ester,

Meets the standards in ASTM D6751,

Is intended for use in some engines designed to run on conventional diesel fuel, and

Is derived from nonpetroleum renewable resources.

"Biodiesel (mono-alkyl ester) blend" means a motor fuel composed of biodiesel (mono-alkyl ester) and diesel fuel and identified by the letter "B" and a numeric value indicating the volume percentage of biodiesel (mono-alkyl ester) in the blend.

"Biofuel" means a solid, liquid, or gaseous fuel that is derived from biomass or nonpetroleum renewable resources and can be used directly for heating or power or as a motor fuel.

"Biofuel blend" means a motor fuel composed of biofuel and petroleum-based motor fuel and identified by the letter "C" and a numeric value indicating the volume percentage of biofuel in the blend.

"Biomass" means biological material, such as animal or plant matter, that can be transformed into biofuel, excluding biological material that has been transformed by geological processes into a substance such as coal petroleum or a derivative of a substance resulting from geological processes.

"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.

"BQ9000" means the cooperative and voluntary program, implemented by the National Biodiesel Accreditation Commission, to accredit producers and marketers of biodiesel fuel using a combination of the ASTM standard for biodiesel (ASTM D6751) and a quality systems program of fuel management practices regarding storing, sampling, testing, blending, shipping, and distributing biodiesel fuel.

"CARB" means the California Air Resources Board.

~~"CARBOB" means California Reformulated Gasoline Blendstock for Oxygenate Blending.~~

"CARBOB Model" means the procedures incorporated by reference in ~~R20-2-702(12)~~ R20-2-702(11).

"CARB Phase 2 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(8).

~~"CARB Phase 3 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(9).~~

"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.

~~"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.~~

*"Diesel"* or "diesel fuel" *means a refined middle distillate ~~for use~~ that is used as a ~~motor~~ fuel in a compression-ignition ~~internal-combustion~~ internal combustion engine and that meets the specifications of ASTM D975.* A.R.S. § 41-2051

~~"Downstream oxygenate blending" means combining AZRBOB and fuel ethanol to produce fungible Arizona CBG.~~

"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.

"E85" means a fuel ethanol gasoline blend that meets the specifications in ASTM ~~D 5798~~ D5798, which is incorporated by reference in R20-2-702.

"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 R20-2-702.

"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 des-

ignated 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 specifications in ASTM ~~D 4806~~ D4806, which is incorporated by reference in R20-2-702.

"Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than .05 grams of lead for each United States gallon, 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 is commonly used as a fuel for spark-ignition internal-combustion engines. Gasoline does not include diesel fuel or E85.

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

"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" means a facility used only to develop complete motor vehicles, ~~that~~ which are not currently available on the retail market, for an automotive manufacturer.

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

*"Motor fuel" means a petroleum or a petroleum-based substance ~~such as~~ that is motor gasoline, ~~any grade of oxygenated gasoline,~~ aviation ~~fuel~~ gasoline, number one or number two diesel fuel ~~including neat biodiesel or a~~ or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel ~~blend~~ blends, biofuel blends and the ethanol blend E85 ~~typically used in the operation of a motor engine~~ as defined in ASTM D5798.* A.R.S. § 41-2051

"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 R20-2-751(A)(1) through (A)(7), R20-2-751(B)(1) through (B)(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 ~~that is~~ designed primarily for travel through air or water.

"Motor vehicle racing event" means a competition, including related practice and qualifying and demonstration laps that uses unlicensed motor vehicles designed and manufactured specifically for racing and is conducted on a public or private racecourse for the entertainment of the general public.

"MTBE" means methyl tertiary butyl ether.

"Neat" means ~~straight~~ pure or 100 percent; not blended with ~~gasoline~~ motor fuel.

"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 ~~D 2699~~ D2699 and ASTM ~~D 2700~~ D2700.

*"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 is approved as a blending agent under the provisions of a waiver issued by the ~~EPA under 42 U.S.C. 7545(f)~~ United State environmental protection agency pursuant to 42 United States Code §7545(f).* A.R.S. § 41-2121

"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.

~~"Oxygenate-blending facility" means any location (including a truck) where fuel ethanol 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 minimum oxygen content of 3.7 wt. % or another minimum oxygen content approved by the Director under A.R.S. § 41-2124, 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 January 31 of each year.~~

"Oxygen content" means the percentage by weight of oxygen contained in a gasoline oxygenate blend as ~~calculated~~

~~by~~ determined under ASTM ~~D 4815~~ D4815.

~~"Performance standard" means the VOC and NOx emission reduction percentages in R20-2-751(A)(8) and Table 1.~~

"Petroleum-based renewable diesel" means diesel fuel or fuel additive that meets all of the following:

Is registered as a motor vehicle fuel or fuel additive under 40 CFR 79,

Is not a mono-alkyl ester,

Is intended for use in engines designed to run on diesel fuel,

Is derived from petroleum and nonpetroleum renewable resources,

Meets the requirements of ASTM D975, and

Is identified by the letter "R" and a numeric value indicating the volume percentage of the nonpetroleum renewable resources component in the blend.

"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.

~~"PM" or "Predictive Model Procedures" means the California Predictive Model and CARB's "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995, and "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as amended April 25, 2001, both of which are incorporated by reference in R20-2-702. This definition will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 is approved by EPA.~~

~~"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 R20-2-759:~~

~~Maximum RVP, 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 R20-2-751(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.~~

"Pressurant" means a blendstock component of an E85 blend for sale within the CBG-covered area added specifically to ensure that the vapor pressure meets ASTM D5798 requirements.

~~"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.~~

"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 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" means a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other paper that is provided by the transferor at the time motor fuel is delivered and evidences that custody or title of the motor fuel is transferred to the transferee. A product transfer document is not required when motor fuel is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility.

"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.

~~"Registered supplier" means a producer or importer that supplies Arizona CBG or AZRBOB and is registered with the Director under R20-2-750.~~

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

~~"RVP" means Reid vapor pressure equivalent of gasoline or blendstock as measured according to ASTM D 5191.~~

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

"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 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.

"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.

~~"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.~~

"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.

~~"Type 1 Arizona CBG" means a gasoline that meets the standards contained in R20-2-751(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 R20-2-751(G), (H), and (I), and:~~

~~Meets the requirements in R20-2-751(A) beginning February 1 through October 31 of each year; and~~

~~Meets the requirements in R20-2-751(B) beginning November 1 through January 31 of each year.~~

"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 in A.R.S. § 49-541 except that a vehicle emissions control area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

"VOC" means volatile organic compound.

~~"Winter" means November 1 through January 31.~~

**R20-2-702. Material Incorporated by Reference**

**A.** 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. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 1, 1998 Edition, ~~Superintendent of Documents, U.S.~~ Government Printing Office, ~~Mail Stop SSOP, Washington, D.C. 20402-9328~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.
2. ASTM Standard D975, 2010 ~~D 975-04e~~ (ASTM D975-10), "Standard Specification for Diesel Fuel Oils," ~~2004~~ published April 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
3. ASTM Standard D4806, 2009, ~~D 4806-04a~~ (ASTM D4806-09), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," ~~2004~~ published July 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
4. ASTM Standard D4814, 2009b ~~D 4814-04a~~ (ASTM D4814-09b), "Standard Specification for Automotive Spark-Ignition Engine Fuel," ~~2004~~ published September 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
5. 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.
6. ASTM Standard D5798, 2009b ~~D 5798-99~~ (ASTM D5798-09b), "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines," ~~re-approved 2004~~ published May 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
7. ASTM Standard D6751, 2009a ~~D 6751-03a~~ (ASTM D6751-09a), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," ~~2003~~ published February 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
8. 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.

~~9. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model," as amended April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.~~

~~10.~~9. The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: ~~U.S.~~ Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.

~~11.~~10. 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.

~~12.~~11. 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.

12. ASTM Standard D7467, 2009a (ASTM D7467-09a), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published June 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

**B.** ~~Subsections (A)(9),~~ Subsection (A)(11)~~, and (A)(12)~~ will not become effective until Arizona's revised State Implementation Plan ~~regarding CARB 3~~ is approved by EPA.

**R20-2-704. Price and Grade Posting on External Signs**

**A.** No change

1. No change
2. No change
3. No change

4. No change
5. No change
6. Describes diesel fuel as No. 1 diesel, #1 diesel, No. 2 diesel, #2 diesel, or biodiesel blend; and
7. No change

**B.** ~~Effective June 5, 2004, if a sign uses~~ If the following terms are used in a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index:

| | 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 |

**R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB**

**A.** ~~If~~ When a ~~person~~ 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 ~~service station~~ motor fuel dispensing site or fleet vehicle fueling facility, the ~~person~~ transferor shall provide to the transferee documents that include the following information:

~~1. The name and address of the person transferring custody or title;~~
~~2. The name and address of the transferee;~~
~~3.~~1. No change
~~4.~~2. No change
~~5.~~3. No change
~~6.~~4. No change
~~7.~~5. No change
~~8.~~6. No change
~~9.~~7. For conventional gasoline transported in or through the ~~CBG covered~~ CBG-covered area, the statement, "This gasoline is not intended for use inside the ~~CBG covered~~ CBG-covered area"; ~~and~~
~~10.~~8. Whether a lead substitute is present in the gasoline and the type of lead substitute present~~.~~;
9. For a biofuel or biofuel blend, the percentage of biofuel in the finished product; and
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, the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;
   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), the transferee shall supply to the transferor information regarding the final destination.

~~**B.**~~**C.** No change
~~**C.**~~**D.** No change
~~**D.**~~**E.** No change
~~**E.**~~**F.** ~~A service station~~ 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 ~~service station owner's or operator's~~ premises of the motor fuel dispensing site owner or operator or fleet ~~owner's premises~~ owner. This documentation shall be available for Department review.
~~**F.**~~**G.** No change
~~**G.**~~**H.** No change

**R20-2-708. ~~Oxygenated Fuel~~ Gasoline Ethanol 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. § 41-2122. The maximum oxygen content of gasoline oxygenate blends shall not exceed ~~3.7~~ 4.0 percent by weight for fuel ethanol oxygenate and as specified in A.R.S. § 41-2122 for other oxygenates.

**B.** Special provisions for gasoline ethanol blends.
1. A gasoline ethanol blend that meets the requirements in subsections (B)(1)(a) and (B)(1)(b) shall not exceed the vapor pressure specified in ASTM D4814 by more than one psi:
   a. The gasoline ethanol blend shall contain fuel ethanol. The concentration of the fuel 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 percent by volume of the gasoline ethanol blend; and
b. The fuel 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 and October.
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 ration 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 ration 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 R20-2-707, the transferor of a gasoline ethanol blend shall ensure that the product transfer document contains a legible and conspicuous statement that the gasoline being transferred contains fuel ethanol and the percentage concentration of fuel ethanol.

**R20-2-709. Retail Oxygenated Fuel Labeling**

**A.** No change

**B.** The owner or operator of a motor fuel dispensing site shall ensure that labels required under subsection (A) are displayed on the upper 60 percent of each face of each motor fuel dispenser. The label indicating the maximum percent by volume of oxygenate contained in the oxygenated fuel shall state: "~~Contains~~ May contain up to _____ % fuel ethanol."

**C.** In the CBG-covered area and area B, the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each motor fuel dispenser contains the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles in the winter." The statement may be printed on the label required in subsection (B) or on a separate label. If the statement is printed on a separate label, the label shall be displayed next to the label required in subsection (B).

**D.** No change
1. No change
2. No change
3. No change

**R20-2-713. Motor Fuel Storage Tank Labeling**

**A.** ~~A service station~~ 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 ~~a service station~~ 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 or #2 diesel fuel, ~~or~~
6. Gasoline vapor return~~.~~,
7. Biodiesel blend, or
8. E85.

**B.** ~~A service station~~ An owner or operator of a motor fuel dispensing site shall ensure that ~~labels are~~ 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.** ~~A service station~~ An owner or operator of a motor fuel dispensing site may display other information on the reverse side of a two-sided label.
**D.** ~~A service station~~ An owner or operator of a motor fuel dispensing site shall not put motor fuel into storage tanks without attaching the proper label.

**R20-2-714. Requirements for Motor Fuels ~~Outside the CBG-covered Area~~ Other than Arizona CBG**

**A.** A person that owns or operates a motor fuel dispensing site or transmix or production facility outside the CBG-covered area shall ensure that a motor fuel offered for sale at the motor fuel dispensing site or transmix or production facility meets all the appropriate specifications in R20-2-702 except~~:~~
~~1.~~ ~~From~~ that from May 1 through September 30, gasoline shall meet the specifications in ASTM ~~D 4814-04a~~ D4814 except maximum vapor pressure shall be 9.0 pounds per square inch~~;~~
~~2. For gasoline blends, the vapor pressure may be no more than one pound per square inch greater than the vapor pressures established by ASTM D 4814-04a during:~~
~~a. May 1 through September 15, if the gasoline-fuel ethanol blend meets the requirements of ASTM D 4814-04a, the volatility requirements of subsection (A)(1), and the final gasoline-fuel ethanol blend contains at least nine percent fuel ethanol by volume but does not exceed the volume specified in EPA waivers; and~~
~~b. September 16 through April 30, if the gasoline-fuel ethanol blend meets the requirements of ASTM D 4814-04a and the final gasoline-fuel ethanol blend contains at least 1.5 percent fuel ethanol by weight but does not exceed the volume specified in EPA waivers~~.

**B.** No change
**C.** No change
1. No change
2. No change
3. No change

**D.** No change
1. No change
2. No change
3. No change

**R20-2-715. Motor Fuel Quality Testing Methods and Requirements**

**A.** No change
**B.** Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the methodologies and meet the specifications of ASTM ~~D 975-04e~~ D975.
**C.** No change

**R20-2-718. Requirements for ~~the~~ Production, Transport, Distribution, and ~~or~~ Sale of ~~E85~~ Biofuels**

~~**A.** Requirements applicable statewide.~~
~~1. A producer of E85 or the owner or operator of a motor fuel dispensing site that dispenses E85 shall ensure that the E85 sold or offered for sale in Arizona meets all the specifications in ASTM D 5798-99.~~
~~2. An owner or operator of a motor fuel dispensing site shall ensure that both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that indicate E85 is not gasoline and is intended for use only in a flexible-fuel vehicle, and stating, "Check your owner's manual to ensure that this fuel can be used in your vehicle."~~
~~3. An owner or operator of a motor fuel dispensing site shall ensure that any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements in R20-2-203.~~
~~4. A producer of E85 shall report to the Department, by the 15th of the month following the production of E85, the following information regarding the E85 production:~~
~~a. The amount of fuel ethanol used during the previous month,~~
~~b. The amount of gasoline used during the previous month,~~
~~c. The total amount of E85 produced during the previous month,~~
~~d. The total amount of E85 sold during the previous month,~~
~~e. The fuel quality properties for the gasoline and fuel ethanol components making up each batch of E85, and~~
~~f. The fuel quality properties of each batch of final E85 blend.~~

~~**B.** Requirements applicable in the CBG-covered area.~~
~~1. A producer of E85 for sale in the CBG-covered area shall use Arizona CBG or AZRBOB as the gasoline portion of the E85 blend.~~
~~2. A producer of E85 for sale in the CBG-covered area shall ensure that the fuel ethanol used meets the standard in R20-2-751(C).~~

**A.** General requirements for producers and suppliers of biofuel or biofuel blends in Arizona.
1. Registration requirement.
a. A producer, supplier, or person required to register with the EPA under 40 CFR 80, Subpart K, shall register with the Director, using a form prescribed by the 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 Director within 10 days after the effective date of a change in any of the information provided under subsection (A)(1)(a).
c. Consequences of failing to register under subsection (A)(1)(a).
i. If a producer fails to register, the Department shall presume that all biofuel or biofuel blend produced is non-compliant with the requirements of this Chapter from the date that registration should have occurred; and
ii. If a supplier or person required to register with the EPA fails to register, the Director shall take action as allowed under A.R.S. § 41-2115 and R20-2-762.
d. The Department 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 Department by the 15th of the month after producing or supplying biofuel or biofuel blend. The person shall:
i. Report on a form prescribed by the Director;
ii. Provide the information specified in subsections R20-2-718(B) and (C), as applicable;
iii. Attest to the truthfulness and accuracy of the information submitted;
iv. Consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article; and
v. Ensure that the report form is signed by a corporate officer responsible for operations at the facility at or from which the biofuel or biofuel blend was produced or supplied.
b. The Department 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.
3. Quality Assurance and Quality Control (QA/QC) program requirement.
a. A person required to register under subsection (A)(1)(a) shall develop a QA/QC program to ensure the quality of a biofuel or biofuel blend produced in or supplied in or into Arizona.
b. A person required to develop a QA/QC program under subsection (A)(3)(a) shall summarize the QA/QC program in a manual and submit the manual to the Director for approval at least three months before the person plans to produce or supply a biofuel or biofuel blend. The person shall ensure that the manual:
i. Documents the manner in which the QA/QC program ensures that a biofuel or biofuel blend produced or supplied conforms to applicable ASTM specifications, is appropriately blended, and meets all customer-specific requirements;
ii. Contains a policy and objectives that expressly commit the producer or supplier to ensure the quality of the biofuel or biofuel blend produced or supplied;
iii. Contains procedures that will be used to determine and document that operational quality requirements are met; and
iv. Contains a provision for making, maintaining, and controlling documents and records regarding the QA/QC program.
c. A person that submits a manual under subsection (A)(3)(b) shall not produce or supply a biofuel or biofuel blend until the manual is approved by the Director.
d. The Director shall approve a manual submitted under subsection (A)(3)(b) only if the Director determines that the QA/QC program sufficiently ensures the quality of a biofuel or biofuel blend produced or supplied.

**B.** Specific requirements for producers or suppliers of E85.
1. The owner or operator of a motor fuel dispensing site at which E85 is dispensed shall ensure that:
a. Both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that:
i. Indicate E85 is not gasoline,
ii. Indicate E85 is intended for use only in a flexible-fuel vehicle, and
iii. State "Check your owner's manual to ensure that this fuel can be used in your vehicle," and
b. Any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements of this Chapter and A.R.S. § 41-2083.
2. Additional requirement for producing E85 for sale in the CBG-covered area. A producer of E85 for sale in the CBG-covered area shall:
a. Use Arizona CBG or AZRBOB and pressurant as needed to meet the hydrocarbon requirement of ASTM D5798; and
b. Ensure that the fuel ethanol used meets the standards in this Chapter.
3. Reporting requirement for a producer of E85. A producer of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the E85 produced:
a. The amount of fuel ethanol used to produce E85 in the previous month,
b. The amount of gasoline used to produce E85 in the previous month,

c. The total amount of E85 produced during the previous month,
d. The following fuel quality properties for the finished E85:
i. Appearance,
ii. American Petroleum Institute gravity,
iii. Organic chloride,
iv. Water content,
v. Vapor pressure, and
vi. Sulfur content.

4. Reporting requirement for a supplier of E85. A supplier of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
a. The amount of E85 sold during the previous month; and
b. A certification by the supplier of E85 that the E85 sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).

5. Quality Assurance and Quality Control (QA/QC) program for a producer of E85. A producer of E85 shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which E85 is produced. The producer shall ensure that that sampling and testing protocol meets the following minimum standards:
a. All samples of E85 are collected after any applicable blend component is added;
b. All samples of E85 are collected using approved ASTM methods;
c. Sampling is done at one of the following rates:
i. If E85 is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
ii. If E85 is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 500 times E85 is blended or transferred or one sample per week, whichever is more frequent;
iii. If E85 is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 250 times E85 is blended or transferred or two samples per week, whichever is more frequent;
d. All testing of E85 is conducted using the appropriate ASTM test method outlined in ASTM D5798;
e. Test results are used to certify the quality of the E85 produced;
f. Sample handling and storage procedures are specified; and
g. Sample retention time-frames are specified.

6. Non-compliant E85. If test results for E85 shipped from a facility indicate that the E85 does not comply with the requirements of this Chapter, the producer of the E85 shall immediately:
a. Notify the Director of the test results,
b. Take all reasonable steps to stop the sale of the non-compliant E85, and
c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.

**C.** Specific requirements for producers or suppliers of biodiesel and biodiesel blends.

1. A person shall not sell or offer or expose for sale:
a. Neat biodiesel unless the neat biodiesel meets all specifications established by ASTM D6751,
b. Diesel fuel containing up to five percent by volume biodiesel unless the diesel fuel meets all specifications established by ASTM D975, and
c. A blend containing six percent through 20 percent biodiesel and diesel fuel unless the blend meets all specifications established by ASTM D7467.

2. The owner or operator of a motor fuel dispensing site shall ensure that:
a. Any motor fuel dispenser from which a biodiesel or biodiesel blend is dispensed:
i. Meets the labeling requirements established by A.R.S. § 41-2083(L),
ii. Is compatible with biodiesel or biodiesel blend, and
iii. Meets all requirements in this Chapter and A.R.S. § 41-2083; and
b. Any biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).

3. Additional requirement for producing biodiesel or biodiesel blend for sale in the CBG-covered area. A producer of biodiesel or biodiesel blend for sale in the CBG-covered area shall ensure that the diesel fuel used contains no more than 15 ppm of sulfur.

4. Reporting requirement for a producer of a biodiesel or biodiesel blend. A producer of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the biodiesel or biodiesel blend produced:

a. The total amount of biodiesel or biodiesel blend produced in the previous month;
b. The amount of biodiesel used to produce a biodiesel blend in the previous month;
c. The following fuel quality properties, established by ASTM D6751, for the finished biodiesel:
i. Flash point;
ii. Water sediment;
iii. Sulfur content,
iv. Cold soak filterability;
v. Cloud point;
vi. Acid number;
vii. Free glycerin;
viii. Total glycerin; and
ix. Distillation, 90 percent; and
d. The following fuel quality properties, established by ASTM D7467, for the finished biodiesel blend that contains six percent through 20 percent biodiesel:
i. Sulfur content,
ii. Aromatic hydrocarbon content,
iii. Cetane index,
iv. Acid number,
v. Distillation, and
vi. American Petroleum Institute gravity.

5. Reporting requirement for a supplier of a biodiesel or biodiesel blend. A supplier of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
a. The amount of biodiesel or biodiesel blend sold during the previous month; and
b. A certification by the supplier of biodiesel or biodiesel blend that the biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).

6. Quality Assurance and Quality Control (QA/QC) program for a producer of biodiesel or a biodiesel blend. Except as specified in subsection (C)(7), a producer of biodiesel or a biodiesel blend shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which biodiesel or a biodiesel blend is produced. The producer shall ensure that that sampling and testing protocol meets the following minimum standards:
a. All samples of biodiesel or biodiesel blend are collected after any applicable blend component is added;
b. All samples of biodiesel or biodiesel blend are collected using approved ASTM methods;
c. Sampling is done at one of the following rates:
i. If biodiesel or a biodiesel blend is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
ii. If biodiesel or a biodiesel blend is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 20 times biodiesel or biodiesel blend is blended or transferred or one sample every two weeks, whichever is more frequent;
iii. If biodiesel or a biodiesel blend is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 10 times biodiesel or biodiesel blend is blended or transferred or one sample per week, whichever is more frequent;
d. All testing of biodiesel or biodiesel blend is conducted using the appropriate ASTM test method outlined in ASTM D6751, D975, or D7467;
e. Test results are used to certify the quality of the biodiesel or biodiesel blend produced;
f. Sample handling and storage procedures are specified; and
g. Sample retention time-frames are specified.

7. A producer of biodiesel or a biodiesel blend that is accredited under the BQ9000 program shall, at least three months before planning to produce or supply a biodiesel or biodiesel blend, submit to the Director the quality manual developed and implemented under the BQ9000 program instead of the QA/QC manual required under subsection (C)(6). A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall not produce or supply a biodiesel or biodiesel blend until the quality manual developed under the BQ9000 program is approved by the Director. A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall, upon request, provide the Director with access to records relating to the accreditation and documentation relating to the precision and accuracy of any alternative test method used to meet the requirements of this Section. The Director has authority under A.R.S. §§ 41-2065(A)(4) and 41-2083(N) to audit the quality manual submitted under this subsection.

8. Non-compliant biodiesel or biodiesel blend. If test results for biodiesel or a biodiesel blend shipped from a facility indicate that the biodiesel or biodiesel blend does not comply with the requirements of this Chapter, the producer of the biodiesel or biodiesel blend shall immediately:
   a. Notify the Director of the test results,
   b. Take all reasonable steps to stop the sale of the non-compliant biodiesel or biodiesel blend, and
   c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.

**D.** Specific requirements for producers or suppliers of petroleum-based renewable diesel. A producer or supplier of petroleum-based renewable diesel that is intended as a final product for the fueling of motor vehicles shall ensure that the petroleum-based renewable diesel:
1. Meets the standards in ASTM D975, and
2. Is identified as specified in R20-2-701.

**R20-2-719. ~~Requirements for the Sale of Biodiesel~~ Repealed**

~~**A.** A person shall not sell or offer or expose for sale:~~
~~1. Biodiesel that is not tested or does not meet the specifications established by ASTM D 6751,~~
~~2. A blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D 975-04c, or~~
~~3. Biodiesel or a blend of biodiesel and diesel fuel for use in Area A that contains sulfur in excess of 15 ppm.~~

~~**B.** A person who blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:~~
~~1. The percentage of biodiesel in a final blend.~~
~~2. The volume of the finished product.~~
~~3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.~~
~~4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:~~
~~a. Sulfur content.~~
~~b. Aromatic hydrocarbon content.~~
~~c. Cetane number.~~
~~d. Specific gravity.~~
~~e. American petroleum institute gravity.~~
~~f. The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation. A.R.S. § 41-2083(L).~~

~~**C.** A person required to submit a report under subsection (B) shall use a form prescribed by the Director, certify the truthfulness and accuracy of the data submitted, and consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.~~

~~**D.** A person shall label a dispenser at which biodiesel is dispensed in a manner that notifies other persons of the volume percentage of biodiesel in the finished product and with the statement: "This fuel contains biodiesel. Check the owner's manual or with your engine manufacturer before using."~~

**R20-2-749. Definitions Applicable to Arizona CBG and AZRBOB**

The following definitions apply only to R20-2-750 through R20-2-762, 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 fuel ethanol 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 fuel ethanol 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 Director under A.R.S. § 41-2124, 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 R20-2-751(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 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995, which is incorporated by reference in R20-2-702.

"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 R20-2-759:

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 R20-2-751(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 Director under R20-2-750.

"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.

"Type 1 Arizona CBG" means a gasoline that meets the standards contained in R20-2-751(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 R20-2-751(G), (H), and (I), and meets the requirements in:

R20-2-751(A) beginning April 1 through October 31 of each year; and

R20-2-751(B) beginning November 1 through March 31 of each year.

"Winter" means November 1 through March 31.

**R20-2-751. 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 ~~D 4814-04a~~ 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: ~~80~~ 500 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~~ vapor pressure.
   a. October ~~1 - January 31~~: 9.0 ~~pounds per square inch (psi)~~ psi;
   b. ~~February: 13.5~~ November 1 - March 31: 9.0 psi;
   ~~c. March: 11.5 psi~~
   ~~d.~~c. April: 10.0 psi;
   ~~e.~~d. May: 9.0 psi;
   ~~f.~~e. June 1 - September 30: 7.0 psi; ~~for CARB Phase 2 gasoline and 7.2 psi for CARB Phase 3 gasoline~~
   f. A gasoline ethanol blend in the CBG-covered area is subject to the one pound psi vapor pressure waiver, as described in R20-2-708(B), during April and October only.
7. Oxygen and ~~Oxygenates~~ oxygenates.
   a. Minimum ~~Content~~ content:
      i. November 1 - ~~January~~ March 31: 10 percent fuel ethanol by volume. If A.R.S. § 41-2124(E) petition in effect: 2.7 percent oxygen by weight as approved by the Director.
      ii. ~~February~~ April 1 - October 31: 0 percent by weight (any oxygenate).
   b. The maximum oxygen content shall not exceed ~~3.7~~ 4.0 percent by weight for fuel ethanol and as specified in A.R.S. § 41-2122 for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.
   c. No change
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 ~~or Phase 3 PM~~ 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 ~~January~~ March 31 of each year, all Arizona CBG meets the following fuel property requirements.
1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
   a. No change
   b. Maximum oxygen content - ~~3.7~~ 4.0 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 41-2123; and
   c. No change

**C.** Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM ~~D 4806-04a~~ D4806 and the following:
1. No change
2. No change
3. No change

**D.** No change
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 ~~or Phase 3~~ model; and
2. No change

**E.** Winter elections. Beginning November 1 through ~~January~~ 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 Director on a form or in a format prescribed by the Director. The election shall state:
1. No change
2. No change

**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.

**~~F.~~G.** Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. A registered supplier shall certify Arizona CBG or AZRBOB under R20-2-752 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 R20-2-702. 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 ~~(G),~~ (H), ~~and~~ (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 Department approves using the criteria stated in R20-2-759.

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

1. Except as provided in subsections ~~(G)(4)~~ (H)(4) and ~~(I)~~ (J), a registered supplier shall use the PM as provided in the Predictive Model Procedures.
2. No change
   a. Submitting to the 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 ~~(I)~~ (J); or
   b. No change
      i. No change
      ii. No change
3. A registered supplier shall deliver the certification required under subsection ~~(G)(2)~~ (H)(2) to the Director before transporting the PM alternative gasoline formulation.
4. No change
   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 ~~(J)~~ (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 ~~(J)~~ (K). This subsection does not preclude a registered supplier from electing another PM alternative gasoline formulation if:
      i. No change
      ii. No change
      iii. No change
   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 ~~(J)~~ (K).
   d. No change
      i. No change
      ii. No change

**~~H.~~I.** No change

1. No change
2. The registered supplier is prohibited by subsection ~~(G)(4)(a)~~ (H)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation,
3. No change
4. No change
   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 ~~(G)(2)~~ (H)(2); or
   b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection ~~(G)(2)~~ (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 ~~(J)~~ (K).

**~~I.~~J.** Oxygen content requirements for PM alternative gasoline formulations. A registered supplier shall ensure that from November 1 through ~~January~~ 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.

~~J.~~K. No change
1. No change
2. No change
3. No change

~~K.~~L. No change
1. In addition to a penalty under R20-2-762, if any, a registered supplier that fails to comply with a requirement of subsection ~~(J)~~ (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 ~~(K)(2)~~ (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 Director, that the registered supplier did not comply with the requirements of subsection ~~(J)~~ (K). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period. The probationary period ends 90 days after its beginning date.
2. No change
   a. No change
      i. No change
      ii. No change
   b. No change
   c. No change
   d. No change
3. If a registered supplier fails to comply with the requirements of subsection ~~(J)~~ (K) within one year of the end of a probationary period under subsection ~~(K)(1)~~ (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 ~~(K)(2)~~ (L)(2) are satisfied, whichever is later.
   a. No change
   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 Director, that the registered supplier did not comply with the requirements of subsection ~~(J)~~ (K). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period.
4. If a registered supplier fails to comply with the requirements of subsection ~~(J)~~ (K) within one year after the end of a probationary period provided under subsection ~~(K)(3)~~ (L)(3), the registered supplier shall permanently comply with applicable per-gallon standards.

~~L.~~M. No change

~~M.~~N. No change

~~N.~~O. Subsequent survey compliance. If the minimum VOC or average NOx emissions reduction percentage has been made more stringent according to subsection ~~(L)~~ (M) or ~~(M)~~ (N) and all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction percentage 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. No change
2. No change

~~O.~~P. Subsequent survey failures. If a VOC or NOx emissions reduction percentage is made less stringent under subsection ~~(N)~~ (O) and a subsequent VOC or NOx survey shows excess VOC or NOx emissions in the CBG-covered area:
1. No change
2. No change
3. If the VOC or NOx emission reduction percentage is increased under subsection ~~(O)(1)~~ (P)(1) or ~~(O)(2)~~ (P)(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.

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

~~Q. Subsections (A)(6)(a), (b), (c), and (f), (A)(7)(a)(i) and (ii), (A)(8), (B), (D)(2), (E), and (I) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.~~

**R20-2-752. General Requirements for Registered Suppliers**

**A.** No change

**B.** No change
**C.** No change
1. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. The test results for sulfur, aromatic hydrocarbon, olefin, oxygen, ~~RVP~~ vapor pressure, and as applicable, T50, T90, E200, and E300 as determined under R20-2-759.
2. If Arizona CBG or AZRBOB produced or imported by a registered supplier is not tested and documented as required by this Section, the Director shall deem the Arizona CBG or AZRBOB to have a ~~RVP~~ vapor pressure, sulfur, aromatic hydrocarbon, olefin, oxygen, T50, and T90 that exceeds the standards specified in R20-2-751 or the comparable PM averaging limits, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.
3. No change

**D.** No change
**E.** No change
**F.** No change
1. No change
   a. No change
   b. No change
      i. No change
      ii. No change
      iii. No change
2. No change
3. No change
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
   d. No change
   e. No change
4. No change
   a. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. No change
      vi. No change
      vii. No change
   b. No change
   c. No change
      i. No change
      ii. No change
   d. No change

**G.** No change
**H.** No change
1. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. ~~RVP~~ Vapor pressure: 0.3 psi;
   f. No change
   g. No change
   h. No change

i. No change
j. No change
2. No change
a. No change
b. No change

**R20-2-754. Downstream Blending Exceptions for Transmix**

**A.** ~~Pipelines~~ A pipeline or third-party terminal may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of 1 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.** No change
1. No change
2. Tank gauge as per 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 Department ~~and the Office of the Secretary of State~~. A copy may also be obtained at American Petroleum Institute, 1220 L St., N.W., Washington, D.C. ~~20045-4070~~ 20005-4070. This incorporation by reference contains no future editions or amendments.

**R20-2-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending**

**A.** No change
1. No change
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 amount of fuel ethanol to a representative sample of the AZRBOB and testing the resulting gasoline using the test methods in R20-2-759 or certifying the ARZBOB using the CARBOB model. If the registered supplier designates a range of amounts of fuel ethanol to be added to the AZRBOB, the minimum designated amount of fuel ethanol 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 Department shall determine whether the AZRBOB complies with applicable fuel properties and performance standards, excluding requirements for ~~RVP~~ vapor pressure, without adding fuel ethanol to the AZRBOB.
b. No change
2. No change

**B.** No change
1. No change
a. No change
b. No change
2. No change

**C.** No change
1. No change
2. No change

**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 (D)(3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the ~~U.S.~~ Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
1. No change
2. No change
3. No change

**E.** No change
1. No change
a. No change
b. No change
c. No change
2. Is conducted from November 1 through ~~January~~ March 31 on all samples collected under the program design previously approved by the Director under subsection (G);
3. No change
4. No change

5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
    a. No change
    b. No change
    c. No change
    d. No change
    e. No change
    f. No change
    g. Results of the analysis of the samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and ~~RVP~~ vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable;
    h. No change
    i. No change
    j. No change
    k. No change

**F.** No change

**G.** No change
1. Submit the plan to the Director no later than January 1 to cover the sampling and testing period from November 1 through ~~January~~ March 31 of each year, and
2. No change

**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 ~~January~~ 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 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.** No change
1. No change
2. No change
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 ~~(I)(3)(c)~~ (c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the ~~U.S.~~ Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
    a. No change
    b. No change
    c. No change
4. No change
    a. No change
        i. No change
        ii. No change
        iii. No change
    b. No change
        i. No change
        ii. No change
        iii. No change
        iv. No change
    c. No change
5. No change
    a. No change
        i. No change

ii. No change
iii. No change
iv. No change
v. No change
vi. No change
b. No change
c. No change
6. No change
7. No change
8. No change
9. No change

**J.** Subsection (A)(1)(a) will not become effective until Arizona's revised State Implementation Plan ~~regarding CARB 3~~ is approved by EPA.

**R20-2-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks**

**A.** No change
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; ~~and~~
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.** No change

**R20-2-757. Product Transfer Documentation; Records Retention**

**A.** No change
~~1. Name and address of the transferor;~~
~~2. Name and address of the transferee;~~
~~3.~~1. Volume of Arizona CBG or AZRBOB being transferred;
~~4.~~2. Location of the Arizona CBG or AZRBOB at the time of transfer;
~~5.~~3. Date of the transfer;
~~6.~~4. Product transfer document number;
~~7.~~5. Identification of the gasoline as Arizona CBG or AZRBOB;
~~8.~~6. Minimum octane rating of the Arizona CBG or AZRBOB;
~~9.~~7. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through ~~January~~ March 31, the minimum quantity of fuel ethanol contained in the Arizona CBG; ~~and~~
~~10.~~8. If the product transferred is AZRBOB for which fuel ethanol 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 fuel ethanol;"
b. Designation of the AZRBOB as suitable for blending with fuel ethanol;
c. Fuel ethanol 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 fuel ethanol and weight percent oxygen content; and
d. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless the other AZRBOB has the same requirements for fuel ethanol amount or range of amounts~~.~~; and
9. 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, the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;
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.

~~**B.**~~**C.** No change
~~**C.**~~**D.** No change
~~**D.**~~**E.** No change
~~**E.**~~**F.** No change
~~**F.**~~**G.** No change

~~G.~~**H.** No change

**R20-2-759. 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.** No change

**C.** No change

**D.** A test method that the Department determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The Department 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 Department 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 Department shall approve a proposed test method only if the Department 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 ~~regarding CARB 3~~ is approved by EPA.

**Table A. Arizona Department of Weights and Measures 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% | ~~D 5769-98~~ D5769-04 | | | |
| | V% | ~~D 1319-02a A~~ D1319-02a (2003) A | 1.65 | D 5580-00 | 1.4 |
| Benzene | V% | ~~D 3606-99~~ D3606-99 (2007) | 0.21 | D 5580-00 | 0.1409 $(X)^{1.133}$ |
| Olefins | V% | ~~D 1319-02a~~ D1319-02a (2003) | 0.32 $(x)^{0.5}$ | ~~D 6550-00~~ D6550-00 (2005) if correlated to D1319 | 0.32 $(X)^{0.5}$; Footnote 1 |
| Oxygenates | W% | D 5599-00 | See test method | ~~D 4815-99~~ D4815-99 (2004) | See test method |
| | W% | ~~D 4815-99B~~ D4815-99(2004)B | See test method | | |
| Vapor Pressure (Correlation Equation) Footnote 2 | psi | ~~D 5191-01~~ D5191-01 (2007) | 0.3 | 13 CCR Section 2297 | 0.21 |
| Sulfur | wppm | ~~D 2622-98~~ D2622-98 (2005) | | ~~D 5453-93~~ D5453-93 | 0.2217 $(x)^{0.92}$ wppm |
| | | | | ~~D 2622-94~~ D2622-94 (modified) | 10-30 wppm R=0.405 (x) > 30 wppm R =0.192 (x) |
| Distillation T50 | deg F | ~~D 86-01~~ D86-01 (2007b) | See test method | ~~D 86-99ae1~~ D86-99ae1 | See test method |
| Distillation T90 | deg F | ~~D 86-01~~ D86-01 (2007b) | See test method | ~~D 86-99ae1~~ D86-99ae1 | See test method |

[A] A refinery or importer may determine aromatics content using ASTM ~~D 1319-02a~~ D1319-02a (2003) if the result is correlated to ASTM ~~D 5769-98~~ D5769-98 (2004).
[B] A refinery or importer may determine oxygenate content using ASTM ~~D 4815-99~~ D4815-99 (20 04) if the result is correlated to ASTM ~~D 5599-00~~ D5599-00 (2005).
Footnotes:
1. Replace the last sentence in ASTM ~~D 6550-00~~ 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 ~~RVP~~ vapor pressure, the only correlation equation to be used is the CARB (~~RVP~~ vapor pressure= (0.972 X Ptot) - 0.715).

**R20-2-760. Compliance Surveys**

**A.** No change
1. No change
2. No change

**B.** No change

**C.** No change
1. No change
2. No change
3. Analyzes each sample included in the compliance survey for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and ~~RVP~~ vapor pressure according to the test methods in R20-2-759. ~~RVP~~ Vapor pressure is required to be analyzed only from May 1 through September 15;
4. No change
5. No change

**D.** No change

**E.** No change
1. No change
2. No change
3. No change

**F.** No change
1. No change
2. No change

**G.** No change
1. No change
   a. No change
   b. No change
   c. No change
2. Includes enough samples to ensure that the average levels of oxygen, ~~RVP~~ 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 ~~RVP~~ 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. No change
4. No change
5. No change
6. No change
   a. No change
   b. No change
   c. No change
   d. No change
   e. No change
   f. No change
   g. Results of the analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and ~~RVP~~ 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. No change
   i. No change
   j. No change
   k. No change
   l. No change

**H.** No change

**I.** No change
1. No change
2. No change

**J.** No change

**Table 1. Type 1 Arizona CBG Standards**
~~Table 1 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.~~

| | 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 (%)<br>May 1 - Sept. 15 | ≥27.5 | ≥29.0 | ≥25.0 | N/A |
| NOx Emission Reduction (%)<br>May 1 - Sept. 15 | ≥5.5 | ≥6.8 | N/A | N/A |
| NOx Emission Reduction (%)<br>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)<br>Nov. 1 - ~~January~~ March 31***<br>~~February~~ April 1 - October 31 | N/A<br>0.0* | N/A<br>N/A | N/A<br>0.0 | N/A<br>~~3.7~~ 4.0 |
| Oxygen content: other than fuel ethanol, (% by weight)<br>Nov. 1 - ~~January~~ March 31***<br>~~February~~ April 1 - October 31 | N/A<br>0.0 | N/A<br>N/A | N/A<br>0.0 | N/A<br>**** |

* Maximum oxygen content shall comply with the EPA oxygenate waiver requirements and with A.R.S. § 41-2122.
** 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 ~~January~~ March 31.
**** As specified in A.R.S. § 41-2122.

**Table 2. Type 2 Arizona CBG Standards**
~~Table 2 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.~~

| | 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~~ | 30~~/15~~ | 40~~/20~~ | Parts per million by weight |
| Olefin Content | 10.0 | 4.0 | 6.0 | % by volume |
| 90% Distillation Temperature (T90) | 330 | 290~~/295~~ | 300~~/305~~ | Degrees Fahrenheit |
| 50% Distillation Temperature (T50) | 220 | 200~~/203~~ | 210~~/213~~ | Degrees Fahrenheit |
| Aromatic Hydrocarbon Content | 30.0~~/35~~ | 22.0 | 25.0 | % by volume |
| Oxygen content: fuel ethanol**<br>Nov. 1 - ~~January~~ March 31<br>~~February~~ April 1 - October 31<br>The maximum oxygen content EtOH year around | 10% fuel ethanol** | –<br>– | 10% fuel ethanol**<br><br>~~3.7~~ 4.0 | % by vol.<br><br>% by weight |

* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R20-2-751~~(F),~~ (G), ~~and~~ (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 as the oxygenate beginning November 1 through ~~January~~ March 31. Alternative fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the Director under A.R.S. § 41-2124(D).
~~NOTES~~ NOTE: Dates represent compliance dates for the owner of a motor fuel dispensing site or fleet vehicle fuel facility.
~~Standards shown in the form of x/y denote standards for CARB Phase 2/Phase 3 gasolines.~~

*Attachment 11*

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JANICE K. BREWER
GOVERNOR

KEVIN TYNE
DIRECTOR

# ARIZONA DEPARTMENT OF WEIGHTS AND MEASURES

4425 West Olive Avenue, Suite 134 Glendale, AZ 85302
602-771-4920 FAX 623-939-8586 800-277-6675
www.azdwm.gov

To: AZ CBG Registered Supplier Distribution List (on back of letter)

RE: Technical Correction to Arizona Administrative Code (AAC) Title 20, Chapter 2, Section 759, Table A, Footnote 2 (amended March 12, 2011)

Dear Registered Supplier:

Arizona Administrative Code (A.A.C.) Title 20, Chapter 2, Section 759, Table A, Footnote 2 as amended March 12, 2011, indicates that "When determining vapor pressure, the only correlation equation to be used is the CARB (vapor pressure = (0.972 X Ptot) - 0.715)."

Previously, there was an expectation that this CARB correlation equation was to become effective once Arizona's revised State Implementation Plan (SIP) was approved by the Environmental Protection Agency (EPA). However, EPA cannot approve this part of the SIP revision because it would have created a new fuel for which they are prohibited from doing. Therefore, registered suppliers may not use the CARB correlation equation as it would not be in compliance.

All registered suppliers should continue using the same ASTM equation that has been in use for years. The Department of Weights and Measures will undergo a rulemaking to clarify this in the rule in the future.

Please feel free to call Michelle Wilson, Director of Transportation Fuels and Air Quality Programs at 602-771-4933 if you have any questions.

Sincerely,

Kevin P. Tyne

Kevin Tyne
Director

cc: Gina Grey, WSPA

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# ENCLOSURE 4

## Certified Statutes and Rules

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ADEQ
AIR QUALITY DIVISION

13 JUN 27 AM 11: 35

STATE OF ARIZONA )
) ss:
COUNTY OF MARICOPA )

I **Barbara Howe** hereby certify:
Name

That I am **Law Reference Librarian** of the Arizona State
Title/Division

Library, Archives and Public Records of the State of Arizona;

That there is on file in said Agency the following:

A.R.S. § 41-2124 (2005) and A.R.S. § 41-2115 (2008)

The reproduction(s) to which this affidavit is attached is/are a true and correct copy of the document(s) on file.

Barb Howe
Signature

Subscribed and sworn to before me this June 25, 2013
Date

M. De La Hoya
Signature, Notary Public

My commission expires 11-24-2013.
Date

OFFICIAL SEAL
M. DE LA HOYA
NOTARY PUBLIC - State of Arizona
MARICOPA COUNTY
My Comm. Expires Nov. 24, 2013

# ARIZONA
# REVISED STATUTES

# ANNOTATED

## 2005
## Cumulative Pocket Part

*For Use in 2005–2006*

Replacing 2004 Pocket Part supplementing 2004 main volume

## Volume 12A

### Title 41
### §§ 41–101 to 41–1100

Including Legislation Enacted Through
The First Regular Session
of The Forty-Seventh Legislature (2005)

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## Historical and Statutory Notes

**Reviser's Notes:**

**2005 Note.** Pursuant to authority of § 41-1304.02, subsections D and E were relettered as subsections C and D, respectively.

# CHAPTER 15

# DEPARTMENT OF WEIGHTS AND MEASURES


ARTICLE 1. GENERAL PROVISIONS

Section
41-2051. Definitions.
41-2052. Political subdivisions; taxis, livery vehicles and limousines.

ARTICLE 3. METHOD OF SALE OF COMMODITIES AND SERVICES

41-2083. Standards for motor fuel; exceptions.

ARTICLE 4. LICENSING, TESTING AND CERTIFICATION

41-2091. Licensing devices used for commercial purposes; authorization to test devices used for all other purposes; fees; certification; transaction privilege tax license records; notification; issuance and revocation of license.
41-2092. Licensing fees; definitions.
41-2092. Licensing fees; definitions.
41-2092. Licensing fees; definitions.
41-2092. Licensing fees.
41-2095. Meters; duplicate receipts.
41-2096. Signage.

ARTICLE 6. MOTOR FUEL

41-2122. Standards for oxygenated fuel; volatility; exceptions.
41-2123. Area A; sale of gasoline; oxygen content.
41-2124. Area A; fuel reformulation; rules.
41-2124. Area A; fuel reformulation; rules.
41-2124. Area A; fuel reformulation; rules.
41-2124. Area A; fuel reformulation; rules.


## ARTICLE 1. GENERAL PROVISIONS

### § 41-2051. Definitions

In this chapter, unless the context otherwise requires:

1. "Biodiesel" means a diesel fuel substitute that satisfies all of the following:

(a) Is produced from nonpetroleum renewable resources if the qualifying volume of nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations §§ 2281 and 2282 in effect on January 1, 2000.

(b) Meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to § 211 of the clean air act as defined in § 49-401.01.

(c) The use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.

(d) Is sold, offered or exposed for sale as a neat product or blended with diesel fuel.

2. "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 department.

3. "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.

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

of a waiver issued or other limits established by the United States environmental protection agency.

3. May contain, for a gasoline-ethanol blend, less than ten per cent by volume of ethanol on approval by the director of a petition filed pursuant to § 41–2124, subsection D. The approval applies to all registered suppliers and oxygenate blenders, and for the duration of that approval, the supply or sale of gasoline-ethanol blends that contain less than ten per cent by volume of ethanol is not subject to subsections B and C of this section.

**B.** Notwithstanding subsection A of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors 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 41–2083. In making this determination, the director of the department of weights and measures 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 § 41–2083 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 manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures no later than sixty days before the first day of a gasoline control period.

Added by Laws 1988, Ch. 252, § 13. Amended by Laws 1990, Ch. 39, § 3, eff. April 11, 1990; Laws 1991, Ch. 174, § 4; Laws 1993, 6th S.S., Ch. 1, § 15; Laws 1994, Ch. 353, § 14, eff. April 26, 1994; Laws 1995, Ch. 125, § 1; Laws 1997, Ch. 117, § 1, eff. April 20, 1997; Laws 1998, Ch. 146, § 21; Laws 1998, Ch. 217, § 11; Laws 1999, Ch. 295, § 11; Laws 2005, Ch. 104, § 2.

*For text of section pending conditional amendment, see § 41–2123, in the main volume*

### Historical and Statutory Notes

Laws 2005, Ch. 104, § 7, subsec. A, provides:

**"Sec. 7. Conditional enactment**

"A. Section 41–2083, Arizona Revised Statutes, as amended by section 1 of this act and § 41–2123, Arizona Revised Statutes, as amended by § 2 of this act, are not effective unless on or before November 1, 2007 the administrator of the United States environmental protection agency approves a revision to the state implementation plan as defined in section 49–401.01, Arizona Revised Statutes, that incorporates the changes contained in §§ 1 and 2 of this act."

## § 41–2124. Area A; fuel reformulation; rules

*Text of section pending conditional amendments*

**A.** From and after May 1, 1999, 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 § 211(c)(4) of the clean air act[1] as defined in § 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 § 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 § 41–2083, 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, §§ 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 § 41-2083, subsections D and F.

B. From and after November 1, 2000 through March 31, 2001 and from the period beginning November 1 through March 31 of each subsequent 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 § 211(c)(4) of the clean air act as defined in § 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, §§ 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in § 41-2083, subsections D and F. The fuel described in this subsection shall meet the requirements of § 41-2123, subsection A, paragraph 1.

C. From November 1, 2000 through March 31, 2001 and for each winter season of November through March thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of environmental quality. The director of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007 or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of § 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 per cent by volume of ethanol.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

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

Added by Laws 1997, Ch. 117, § 2, eff. April 20, 1997. Amended by Laws 1998, Ch. 171, § 1; Laws 1999, Ch. 295, § 13; Laws 2000, Ch. 405, § 21, eff. April 28, 2000; Laws 2005, Ch. 104, § 3.

[1] 42 U.S.C.A. § 7545.

*For text of conditional amendments, see §§ –41–2124, post*

## § 41–2124. Area A; fuel reformulation; rules

*Text of conditional enactment by Laws 2004, Ch. 293, § 1, as amended by Laws 2005, Ch. 104, § 4*

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 § 211(c)(4) of the clean air act[1] as defined in § 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 § 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 § 41–2083, subsections D and F.

2. California phase 3 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, §§ 2261 through 2263, 2265 and 2266.5, in effect on May 1, 2003, including vapor pressure requirements contained in § 2262.4.

B. From and after November 1, 2000 through March 31, 2001 and from the period beginning November 1 through March 31 of each subsequent 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 § 211(c)(4) of the clean air act as defined in § 49–401.01, shall comply with standards for California phase 3 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, §§ 2261 through 2263, 2265 and 2266.5, in effect on May 1, 2003 and shall meet the maximum vapor pressure requirements in § 41–2083, subsections D and F. The fuel described in this subsection shall meet the requirements of § 41–2123, subsection A, paragraph 1.

C. From November 1, 2000 through March 31, 2001 and for each winter season of November through March thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of the department of environmental quality. The director of the department of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007 or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of § 41–2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 per cent by volume of ethanol.

4. Specify a time period for compliance with any provision of section 41–2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt rules to implement this section to be consistent with applicable federal and California state fuel formulation rules to the extent practicable.

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

Added by Laws 1997, Ch. 117, § 2, eff. April 20, 1997. Amended by Laws 1998, Ch. 171, § 1; Laws 1999, Ch. 295, § 13; Laws 2000, Ch. 405, § 21, eff. April 28, 2000; Laws 2004, Ch. 293, § 1; Laws 2005, Ch. 104, § 4.

[1] 42 U.S.C.A. § 7545.

*For text of section pending conditional amendments, see § 41–2124, ante*

*For text of other conditional amendments, see §§ 41–2124, post*

## § 41–2124. Area A; fuel reformulation; rules

*Text of conditional enactment by Laws 2004, Ch. 293, § 2, as amended by Laws 2005, Ch. 104, § 5*

A. From and after May 1, 1999, 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 § 211(c)(4) of the clean air act[1] as defined in § 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 § 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 § 41–2083, 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, §§ 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 § 41–2083, subsections D and F.

B. Beginning November 1 through January 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 § 211(c)(4) of the clean air act as defined in § 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, §§ 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in § 41–2083, subsections D and F. The fuel described in this subsection shall meet the requirements of § 41–2123, subsection A, paragraph 1.

C. For November 1, 2000 through January 31, 2001 and for each winter season of November through January thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of the department of environmental quality. The director of the department of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007 or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of § 41–2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 per cent by volume of ethanol.

4. Specify a time period for compliance with any provision of section 41–2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt rules to implement this section to be consistent with applicable federal and California state fuel formulation rules to the extent practicable.

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

Added by Laws 1997, Ch. 117, § 2, eff. April 20, 1997. Amended by Laws 1998, Ch. 171, § 1; Laws 1999, Ch. 295, § 13; Laws 2000, Ch. 405, § 21, eff. April 28, 2000; Laws 2004, Ch. 293, § 2; Laws 2005, Ch. 104, § 5.

[1] 42 U.S.C.A. § 7545.

*For text of section pending conditional amendments, see § 41–2124, ante*

*For text of other conditional amendments, see §§ 41–2124, ante and post*

## § 41–2124. Area A; fuel reformulation; rules

*Text of conditional enactment by Laws 2004, Ch. 293, §§ 1 and 2, as amended by Laws 2005, Ch. 104, § 6*

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 § 211(c)(4) of the clean air act[1] as defined in § 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 § 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 § 41–2083, subsections D and F.

2. California phase 3 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, §§ 2261 through 2263, 2265 and 2266.5, in effect on May 1, 2003, including vapor pressure requirements contained in § 2262.4.

B. Beginning November 1 through January 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 § 211(c)(4) of the clean air act as defined in § 49–401.01, shall comply with standards for California phase 3 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, §§ 2261 through 2263, 2265 and 2266.5, in effect on May 1, 2003 and shall meet the maximum vapor pressure requirements in § 41–2083, subsections D and F. The fuel described in this subsection shall meet the requirements of § 41–2123, subsection A, paragraph 1.

C. For November 1, 2000 through January 31, 2001 and for each winter season of November through January thereafter, the director of the department of weights and measures shall determine the average levels of the constituents in the gasoline sold or offered for sale in area A and shall provide the results of this determination to the director of the department of environmental quality. The director of the department of environmental quality shall analyze the data provided by the director of the department of weights and measures and, no later than July 1, 2001 and each July thereafter, shall determine the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season. If the average daily carbon monoxide reductions resulting from the use of the gasoline specified in subsection B of this section during the preceding winter season are less than ninety per cent of the goal of thirty-two tons per day in 2001, thirty-one tons per day in 2003, thirty tons per day in 2005, twenty-nine tons per day in 2007 or twenty-eight tons per day in 2009, the director of the department of environmental quality shall immediately notify the governor, the president of the senate and the speaker of the house of representatives.

D. Any registered supplier or oxygenate blender, as defined in department rules, may petition the director to request that all registered suppliers or oxygenate blenders be allowed to comply with any provision of § 41-2123, subsection A, provided the petitioner can demonstrate that ethanol supply shortages are imminent.

E. 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 per cent 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 per cent by volume of ethanol.

4. Specify a time period for compliance with any provision of section 41-2123, subsection A, not to exceed sixty days.

F. The director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the 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 director verifies that the basis for requesting the petition is factual.

G. The 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.

H. The director of the department of weights and measures shall consult with the director of the department of environmental quality prior to granting, reauthorizing or denying any such petition.

I. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt by rule:

1. Requirements to implement subsections A through E of this section.

2. Requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A through E of this section.

J. The director of the department of environmental quality in consultation with the director of the department of weights and measures shall adopt rules to implement this section to be consistent with applicable federal and California state fuel formulation rules to the extent practicable.

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

Added by Laws 1997, Ch. 117, § 2, eff. April 20, 1997. Amended by Laws 1998, Ch. 171, § 1; Laws 1999, Ch. 295, § 13; Laws 2000, Ch. 405, § 21, eff. April 28, 2000; Laws 2004, Ch. 293, § 1; Laws 2004, Ch. 293, § 2; Laws. 2005, Ch. 104, § 6.

[1] 42 U.S.C.A. § 7545.

*For text of section pending conditional amendments, see § 41-2124, ante*

*For text of other conditional amendments, see §§ 41-2124, ante*

# ARIZONA
# REVISED STATUTES

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# ANNOTATED

## 2008
## Cumulative Pocket Part

*For Use in 2008–2009*

Replacing 2007 Pocket Part supplementing 2004 main volume

## Volume 12C

**Title 41**
**§§ 41–1831 to 41–End**

Including Legislation Enacted Through
The Second Regular Session
of The Forty-Eighth Legislature (2008)

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C. School districts shall spend monies received under this program to implement the approved plans.

D. The program established by this section ends on September 1, 2009, pursuant to § 41-3102.

Added by Laws 2005, Ch. 328, § 6.

### Termination

*The program established by this section ends on September 1, 2009.*

### Historical and Statutory Notes

**Reviser's Notes:**

**2005 Note.** Pursuant to authority of § 41-1304.02, subsections D and E were relettered as subsections C and D, respectively.

## CHAPTER 15

## DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 1. GENERAL PROVISIONS

Section
41-2051. Definitions.
41-2052. Political subdivisions; taxis, livery vehicles and limousines.

ARTICLE 2. STATE ADMINISTRATION OF WEIGHTS AND MEASURES

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41-2065. Powers and duties; definition.
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ARTICLE 3. METHOD OF SALE OF COMMODITIES AND SERVICES

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ARTICLE 4. LICENSING, TESTING AND CERTIFICATION

41-2091. Licensing devices used for commercial purposes; authorization to test

Section
devices used for all other purposes; fees; certification; transaction privilege tax license records; notification; issuance and revocation of license.
41-2092. Licensing fees.
41-2095. Meters; duplicate receipts.
41-2096. Signage.

ARTICLE 5. REGULATION

41-2115. Civil penalties.

ARTICLE 6. MOTOR FUEL

41-2121. Definitions.
41-2122. Standards for oxygenated fuel; volatility; exceptions.
41-2122.01. Repealed.
41-2124. Area A; fuel reformulation; rules.
41-2124. Area A; fuel reformulation; rules.
41-2124. Area A; fuel reformulation; rules.
41-2124. Area A; fuel reformulation; rules.
41-2124.01. Area C; fuel reformulation; rules.
41-2124.01. Area C; fuel reformulation; rules.

## ARTICLE 1. GENERAL PROVISIONS

### § 41-2051. Definitions

In this chapter, unless the context otherwise requires:

1. "Biodiesel" means a diesel fuel substitute that is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and that meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to § 211 of the clean air act, as defined in § 49-401.01.

2. "Biodiesel blend" means a motor fuel that is comprised 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.

2. In letters at least three inches in height.

3. Readily visible and a minimum of one inch in height for fare information.

4. Accurately representative of all fares and the fare computation method.

C. For purposes of this section, a livery vehicle shall display exterior signage that is readily visible while the livery vehicle is not occupied by a paying passenger. The signage must contain the business name and the words "livery car" in letters at least three inches in height and shall include fare information at least one inch in height. When a livery vehicle has accepted a passenger and a fare has been determined, a livery vehicle may remove the exterior signage.

Added by Laws 2003, Ch. 168, § 18, eff. Jan. 1, 2005. Amended by Laws 2004, Ch. 323, § 15, eff. Jan. 1, 2005.

### Historical and Statutory Notes

Laws 2003, Ch. 168, § 19, as amended by Laws 2004, Ch. 323, § 16, provides:

**"Sec. 19. Effective date**

"This act is effective from and after December 31, 2004."

The 2004 amendment of this section by Ch. 323, § 15 explicitly amended the addition of this section by Laws 2003, Ch. 168, § 18.

Laws 2004, Ch. 323, § 19, provides:

**"Sec. 19. Effective date**

"Sections 1 through 15 of this act are effective from and after December 31, 2004."

## ARTICLE 5. REGULATION

### § 41–2115. Civil penalties

A. A person who violates this chapter, any rule of the department or any license requirement is subject to a civil penalty imposed by the director. A person who violates this chapter, any rule of the department or any license requirement may request a hearing to review a civil penalty imposed under this section. The department shall conduct the hearing in accordance with chapter 6, article 10 of this title.[1] Except as prescribed in subsection B 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.

B. The 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 stage II 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 per cent 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, 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.

C. 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 §§ 35–146 and 35–147, in the state general fund.

Added by Laws 1992, Ch. 176, § 11. Amended by Laws 1995, Ch. 39, § 1; Laws 1997, Ch. 221, § 197; Laws 2000, Ch. 193, § 463; Laws 2003, Ch. 79, § 2; Laws 2006, Ch. 303, § 1; Laws 2008, Ch. 291, § 5.

[1] Section 41–1092 et seq.

# STATE OF ARIZONA
## Department Of State

UNITED STATES OF AMERICA )
) SS.
STATE OF ARIZONA )

I, KEN BENNETT, SECRETARY OF STATE, DO HEREBY CERTIFY THAT THE ATTACHED IS A COMPLETE, TRUE, AND CORRECT COPY OF 20 A.A.C. 2, ARTICLE 7 FROM ARIZONA ADMINISTRATIVE CODE SUPPLEMENT 11-1.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Arizona. Done this 29th day of July, 2013.

Ken Bennett

KEN BENNETT
Secretary of State

R20-2-409. Repealed
R20-2-410. Repealed
R20-2-411. Repealed
R20-2-412. Repealed

**ARTICLE 5. PUBLIC WEIGHMASTERS**

Section
R20-2-501. Qualifications; License and Renewal Application Process
R20-2-502. Duties
R20-2-503. Grounds for Denying License or Renewal; and Disciplinary Action
R20-2-504. Scales and Vehicle Weighing
R20-2-505. Weight Certificates
R20-2-506. Seal of Authority
R20-2-507. Prohibited Acts

**ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES**

Section
R20-2-601. Qualifications; License and Renewal Application Process
R20-2-602. Duties
R20-2-603. Grounds for Denying License or Renewal; Disciplinary Action; and Certification of Standards and Testing Equipment
R20-2-604. Prohibited Acts
R20-2-605. Material Incorporated by Reference

**ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS**

*R20-2-204 and R20-2-205 and R20-2-701, R20-2-703 through R20-2-716 and R20-2-718 through R20-2-721 recodified from R4-31-204 and R4-31-205 and R4-31-701, R4-31-703 through R4-31-716, and R4-31-718 through R4-31-721 (Supp. 95-1).*

*Sections R4-31-204 and R4-31-205 renumbered without change as Sections R4-31-701, R4-31-703 through R4-31-716, and R4-31-718 through R4-31-721 (Supp. 89-1).*

Section
R20-2-701. Definitions
R20-2-702. Material Incorporated by Reference
R20-2-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers
R20-2-704. Price and Grade Posting on External Signs
R20-2-705. Price, Octane, and Lead Substitute Notification on Dispensers
R20-2-706. Unattended Retail Dispensers
R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB
R20-2-708. Gasoline Ethanol Blends
R20-2-709. Retail Oxygenated Fuel Labeling
R20-2-710. Blending Requirements
R20-2-711. Alcohol-oxygenated Gasoline Storage Tank Requirements
R20-2-712. Water in Service Station Motor Fuel Storage Tanks
R20-2-713. Motor Fuel Storage Tank Labeling
R20-2-714. Requirements for Motor Fuels Other than Arizona CBG
R20-2-715. Motor Fuel Quality Testing Methods and Requirements
R20-2-716. Sampling and Access to Records
R20-2-717. Hold-open Latch Exception
R20-2-718. Requirements for the Production, Transport, Distribution, and Sale of Biofuels
R20-2-719. Repealed
R20-2-720. Renumbered
R20-2-721. Renumbered
R20-2-722. Reserved
through
R20-2-748. Reserved
R20-2-749. Definitions Applicable to Arizona CBG and AZRBOB
R20-2-750. Registration Relating to Arizona CBG or AZRBOB
R20-2-751. Arizona CBG Requirements
R20-2-751.01. Repealed
R20-2-752. General Requirements for Registered Suppliers
R20-2-753. General Requirements for Pipelines and Third-party Terminals
R20-2-754. Downstream Blending Exceptions for Transmix
R20-2-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending
R20-2-756. Downstream Blending of Arizona CBG with Non-oxygenate Blendstocks
R20-2-757. Product Transfer Documentation; Records Retention
R20-2-758. Repealed
R20-2-759. Testing Methodologies
Table A. Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB
R20-2-760. Compliance Surveys
R20-2-761. Liability for Noncompliant Arizona CBG or AZRBOB
R20-2-762. Penalties
Table 1. Type 1 Arizona CBG Standards
Table 2. Type 2 Arizona CBG Standards
Table 3. Repealed

**ARTICLE 8. REPEALED**

*Article 8, consisting of Sections R20-2-801 through R20-2-812, repealed effective October 8, 1998 (Supp. 98-4).*

**ARTICLE 9. GASOLINE VAPOR CONTROL**

*R20-2-901 through R20-2-910 recodified from R4-31-901 through R4-31-910 (Supp. 95-1).*

*Article 9, consisting of Sections R4-31-901 through R4-31-910, adopted permanently effective August 31, 1993 (Supp. 93-3).*

*Article 9, consisting of Sections R4-31-901 through R4-31-909, adopted again by emergency action effective June 1, 1993, pursuant to A.R.S. § 41-1026 (Supp. 93-2).*

*Article 9, consisting of Sections R4-31-901 through R4-31-909, adopted again by emergency action effective February 22, 1993, pursuant to A.R.S. § 41-1026 (Supp. 93-1). Emergency expired.*

*Article 9, consisting of Sections R4-31-901 through R4-31-909, adopted by emergency action effective November 23, 1992, pursuant to A.R.S. § 41-1026 (Supp. 92-4).*

Section
R20-2-901. Material Incorporated by Reference
R20-2-902. Exemptions
R20-2-903. Equipment and Installation
R20-2-904. Application Requirements and Process for Authority to Construct Plan Approval
R20-2-905. Initial Inspection and Testing
R20-2-906. Fees
R20-2-907. Operation
R20-2-908. Training and Public Education
R20-2-909. Recordkeeping and Reporting
R20-2-910. Annual Inspection and Testing
R20-2-911. Compliance Inspections

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 made by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2).

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

***Editor's Note: The following Section was amended under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish these rules in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the rules (Supp. 97-3). The exempt amendment expired when the Section was permanently adopted with changes (Supp. 98-3).***

**R20-2-701. Definitions**

In addition to the definitions in R20-2-101, the following definitions apply to this Article unless the context otherwise requires:

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

"Area A" has the same meaning as in A.R.S. § 49-541.

"Area B" has the same meaning as in A.R.S. § 49-541.

"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. § 41-2124(J).

"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 fuel ethanol 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" means a diesel fuel substitute that is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to § 211 of the clean air act as defined in section 49-401.01.* A.R.S. § 41-2051

*"Biodiesel blend" means a motor fuel that is comprised 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.* A.R.S. § 41-2051

"Biodiesel (mono-alkyl ester)" means a biodiesel or fuel additive that:

Is registered as a motor vehicle fuel or fuel additive under 40 CFR 79,

Is a mono-alkyl ester,

Meets the standards in ASTM D6751,

Is intended for use in some engines designed to run on conventional diesel fuel, and

Is derived from nonpetroleum renewable resources.

"Biodiesel (mono-alkyl ester) blend" means a motor fuel composed of biodiesel (mono-alkyl ester) and diesel fuel and identified by the letter "B" and a numeric value indicating the volume percentage of biodiesel (mono-alkyl ester) in the blend.

"Biofuel" means a solid, liquid, or gaseous fuel that is derived from biomass or nonpetroleum renewable resources and can be used directly for heating or power or as a motor fuel.

"Biofuel blend" means a motor fuel composed of biofuel and petroleum-based motor fuel and identified by the letter "C" and a numeric value indicating the volume percentage of biofuel in the blend.

"Biomass" means biological material, such as animal or plant matter, that can be transformed into biofuel, excluding biological material that has been transformed by geological processes into a substance such as coal petroleum or a derivative of a substance resulting from geological processes.

"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.

"BQ9000" means the cooperative and voluntary program, implemented by the National Biodiesel Accreditation Commission, to accredit producers and marketers of biodiesel fuel using a combination of the ASTM standard for biodiesel (ASTM D6751) and a quality systems program of fuel management practices regarding storing, sampling, testing, blending, shipping, and distributing biodiesel fuel.

"CARB" means the California Air Resources Board.

"CARBOB Model" means the procedures incorporated by reference in R20-2-702(11).

"CARB Phase 2 gasoline" means gasoline that meets the specifications incorporated by reference in R20-2-702(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"* or "diesel fuel" *means a refined middle distillate that is used as a fuel in a compression-ignition inter-*

*nal combustion engine and that meets the specifications of ASTM D975.* A.R.S. § 41-2051

"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.

"E85" means a fuel ethanol gasoline blend that meets the specifications in ASTM D5798, which is incorporated by reference in R20-2-702.

"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 R20-2-702.

"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 specifications in ASTM D4806, which is incorporated by reference in R20-2-702.

"Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than .05 grams of lead for each United States gallon, 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 is commonly used as a fuel for spark-ignition internal-combustion engines. Gasoline does not include diesel fuel or E85.

"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" means a facility used only to develop complete motor vehicles, which are not currently available on the retail market, for an automotive manufacturer.

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

*"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 the ethanol blend E85 as defined in ASTM D5798.* A.R.S. § 41-2051

"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 R20-2-751(A)(1) through (7), R20-2-751(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" means a competition, including related practice and qualifying and demonstration laps that uses unlicensed motor vehicles designed and manufactured specifically for racing and is conducted on a public or private racecourse for the entertainment of the general public.

"MTBE" means methyl tertiary butyl ether.

"Neat" means pure or 100 percent; not blended with motor fuel.

"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" 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 is approved as a blending agent under the provisions of a waiver issued by the United State environmental protection agency pursuant to 42 United States Code §7545(f).* A.R.S. § 41-2121

"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.

"Petroleum-based renewable diesel" means diesel fuel or fuel additive that meets all of the following:

Is registered as a motor vehicle fuel or fuel additive under 40 CFR 79,

Is not a mono-alkyl ester,

Is intended for use in engines designed to run on diesel fuel,

Is derived from petroleum and nonpetroleum renewable resources,

Meets the requirements of ASTM D975, and

Is identified by the letter "R" and a numeric value indicating the volume percentage of the nonpetroleum renewable resources component in the blend.

"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.

"Pressurant" means a blendstock component of an E85 blend for sale within the CBG-covered area added specifically to ensure that the vapor pressure meets ASTM D5798 requirements.

"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 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" means a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other paper that is provided by the transferor at the time motor fuel is delivered and evidences that custody or title of the motor fuel is transferred to the transferee. A product transfer document is not required when motor fuel is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility.

"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.

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

"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 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.

"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 in A.R.S. § 49-541 except that a vehicle emissions control area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

"VOC" means volatile organic compound.

**Historical Note**

Former Section R4-31-204(K) and Section R4-31-205(A)(1) through (5) renumbered without change as Section R4-31-701 (Supp. 89-1). Amended as R4-31-204(O) and incorporated into R4-31-701 effective September 29, 1989 (Supp. 89-3). Amended effective October 12, 1990 (Supp. 90-4). Amended by emergency amendment effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency amendments adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Amended with changes effective August 17, 1992 (Supp. 92-3). R20-2-701 recodified from R4-31-701 (Supp. 95-1). Amended effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim amendment expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently amended October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 1025, effective February 9, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-702. Material Incorporated by Reference**

**A.** 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. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 1, 1998 Edition, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.
2. ASTM Standard D975, 2010 (ASTM D975-10), "Standard Specification for Diesel Fuel Oils," published April 2010, ASTM International (formerly American Society

for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

3. ASTM Standard D4806, 2009 (ASTM D4806-09), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," published July 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
4. ASTM Standard D4814, 2009b (ASTM D4814-09b), "Standard Specification for Automotive Spark-Ignition Engine Fuel," published September 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
5. 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.
6. ASTM Standard D5798, 2009b (ASTM D5798-09b), "Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines," published May 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
7. ASTM Standard D6751, 2009a (ASTM D6751-09a), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," published February 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
8. 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.
9. The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.
10. 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.
11. 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.
12. ASTM Standard D7467, 2009a (ASTM D7467-09a), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published June 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

**B.** Subsection (A)(11) will not become effective until Arizona's revised State Implementation Plan is approved by EPA.

**Historical Note**

Adopted by emergency amendment effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Adopted with changes effective August 17, 1992 (Supp. 92-3). R20-2-702 recodified from R4-31-702 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers**

**A.** After completing an inspection, the Department shall return all motor fuel to the owner or operator of the service station at the site where the Department collected the motor fuel.

**B.** After completing an inspection, if a motor fuel cannot be returned to the owner or operator of the service station at the site where the Department collected the motor fuel, the Department 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**

Former Section R4-31-204(A) renumbered without change as Section R4-31-703 (Supp. 89-1). Amended effective October 12, 1990 (Supp. 90-4). R20-2-703 recodified from R4-31-703 (Supp. 95-1). Amended by final rulemaking at 5 A.A.R. 4312, effective October 18. 1999 (Supp. 99-4).

**R20-2-704. Price and Grade Posting on External Signs**

**A.** A person who owns or operates a service station 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 diesel fuel as No. 1 diesel, #1 diesel, No. 2 diesel, #2 diesel, or biodiesel blend; and
7. Identifies the unit of measure of the price, if it is other than per gallon.

**B.** If the following terms are used in a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index:

| | 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 |

**Historical Note**

Former Section R4-31-204(B) renumbered without change as Section R4-31-704 (Supp. 89-1). Amended effective October 12, 1990 (Supp. 90-4). Amended effective August 17, 1992 (Supp. 92-3). R20-2-704 recodified from R4-31-704 (Supp. 95-1). Former Section R20-2-704 repealed; new Section R20-2-704 renumbered from R20-2-705 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-705. Price, Octane, and Lead-substitute Notification on Dispensers**

**A.** A service station owner or operator shall ensure that information regarding pricing, motor fuel grade, octane rating, and lead-substitute addition displayed on a service station motor fuel dispenser:
1. Is clean, legible, and visible at all times;
2. Is displayed electronically or with a sign or label on the upper 60 percent of each face of the dispenser;
3. Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes;
4. Displays the highest price of motor fuel sold from the dispenser if the dispenser is capable of dispensing and computing the price of multiple grades of motor fuel;
5. Displays a discount, if offered, in letters at least 1/4" in height on each face of the dispenser and next to the undiscounted price;
6. Displays both a cash and credit price on a dispenser that is capable of electronically displaying both cash and credit prices;
7. Posts both a cash and credit price on each face of a dispenser that is preset by the cashier if the dispenser is unable to display electronically and simultaneously both cash and credit prices;
8. Posts a price-per-gallon sign next to or on a non-price computing dispenser for a retail-only sale of liquefied petroleum gas used as an alternative motor fuel; and
9. Complies with the requirements of R20-2-704(A)(1), (A)(2), (A)(3), (A)(5), (A)(6), and (A)(7).

**B.** A person who owns or operates a service station shall ensure that:
1. The octane rating of each grade of gasoline is displayed on the upper 60 percent of each face of each dispenser, as prescribed by 16 CFR 306; and
2. The signs required by Handbook 130, for gasoline dispensers that dispense gasoline with lead substitute, are displayed on the upper 60 percent of each face of each dispenser in letters at least 1/4" in height.

**Historical Note**

Former Section R4-31-204(C) renumbered without change as Section R4-31-705 (Supp. 89-1). Amended effective August 17, 1992 (Supp. 92-3). R20-2-705 recodified from R4-31-705 (Supp. 95-1). Former Section R20-2-705 renumbered to R20-2-704; new Section R20-2-705 renumbered from R20-2-706 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2).

**R20-2-706. Unattended Retail Dispensers**

In addition to all labeling and sign requirements in this Article, an owner or operator of an unstaffed service station 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.

**Historical Note**

Former Section R4-31-204(D) renumbered without change as Section R4-31-706 (Supp. 89-1). Amended effective August 17, 1992 (Supp. 92-3). R20-2-706 recodified from R4-31-706 (Supp. 95-1). Former Section R20-2-706 renumbered to R20-2-705; new Section R20-2-706 renumbered from R20-2-707 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4).

**R20-2-707. 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;
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. Whether a lead substitute is present in the gasoline and the type of lead substitute present;
9. For a biofuel or biofuel blend, the percentage of biofuel in the finished product; and
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, the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;
    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), 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 Department'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 Department review.
G. The Department 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 R20-2-757.

**Historical Note**

Former Section R4-31-204(E) renumbered without change as Section R4-31-707 (Supp. 89-1). Amended effective August 17, 1992 (Supp. 92-3). R20-2-707 recodified from R4-31-707 (Supp. 95-1). Former Section R20-2-707 renumbered to R20-2-706; new Section R20-2-707 renumbered from R20-2-709 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-708. Gasoline Ethanol 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. § 41-2122. The maximum oxygen content of gasoline oxygenate blends shall not exceed 4.0 percent by weight for fuel ethanol oxygenate and as specified in A.R.S. § 41-2122 for other oxygenates.
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 gasoline ethanol blend shall contain fuel ethanol. The concentration of the fuel 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 percent by volume of the gasoline ethanol blend; and
      b. The fuel 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 and October.
   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 ration 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 ration 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 R20-2-707, the transferor of a gasoline ethanol blend shall ensure that the product transfer document contains a legible and conspicuous statement that the gasoline being transferred contains fuel ethanol and the percentage concentration of fuel ethanol.

**Historical Note**

Former Section R4-31-204(F) renumbered without change as Section R4-31-708 (Supp. 89-1). Amended effective October 12, 1990 (Supp. 90-4). R20-2-708 recodified from R4-31-708 (Supp. 95-1). Former Section R20-2-708 repealed; new Section R20-2-708 renumbered from R20-2-710 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-709. Retail Oxygenated Fuel Labeling**

A. The owner or operator of a motor fuel dispensing site shall ensure that a motor fuel dispenser that offers gasoline containing fuel ethanol that results in a gasoline blend containing 1.5 percent or more by weight of oxygen is clearly labeled with the fuel ethanol volume information. Each face of each motor fuel dispenser shall be clearly labeled with the oxygenate volume information if the percent by volume is more than 4.3 percent by volume of fuel ethanol.
B. The owner or operator of a motor fuel dispensing site shall ensure that labels required under subsection (A) are displayed on the upper 60 percent of each face of each motor fuel dispenser. The label indicating the maximum percent by volume of oxygenate contained in the oxygenated fuel shall state: "May contain up to _____ % fuel ethanol."
C. In the CBG-covered area and area B, the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each motor fuel dispenser contains the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles in the winter." The statement may be printed on the label required in subsection (B) or on a separate label. If the state-

ment is printed on a separate label, the label shall be displayed next to the label required in subsection (B).

**D.** The owner or operator of a motor fuel dispensing site shall ensure that:
1. The label required by subsection (B) is clean, legible, and visible at all times;
2. The label is printed in black or white block letters on a sharply contrasting background; and
3. The lettering on labels required by subsections (B) and (C) is no less than 1/4".

**Historical Note**

Former Section R4-31-204(G) renumbered without change as Section R4-31-709 (Supp. 89-1). Former R4-31-709 repealed, new Section R4-31-709 adopted by emergency action effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Former R4-31-709 repealed again, new Section R4-31-709 adopted again without change by emergency action effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Former R4-31-709 repealed again, new Section adopted again by emergency action without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Former Section R4-31-709 repealed, new Section R4-31-709 adopted with changes effective August 17, 1992 (Supp. 92-3). R20-2-709 recodified from R4-31-709 (Supp. 95-1). Amended effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim amendment expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently amended October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Former Section R20-2-709 renumbered to R20-2-707; new Section R20-2-709 renumbered from R20-2-711 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-710. 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. §§ 41-2122, 41-2123, 41-2125, or R20-2-751, the owner or operator of the motor fuel dispensing site shall do one of the following:
1. Add gasoline that contains no more than 20 percent by volume of the same oxygenate to the non-compliant oxygenated gasoline blend;
2. Add a gasoline blend that dilutes the non-compliant oxygenated gasoline blend to the level of oxygen content required by A.R.S. §§ 41-2122, 41-2123, 41-2125, or R20-2-751; or
3. Empty the storage tank and replace the non-compliant oxygenated gasoline blend with a required oxygenate blend.

**Historical Note**

Former Section R4-31-204(H) renumbered without change as Section R4-31-710 (Supp. 89-1). Amended effective February 21, 1990 (Supp. 90-1). See emergency amendment below (Supp. 92-1). Amended by emergency action effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency amendments adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Amended effective August 17, 1992 (Supp. 92-3). R20-2-710 recodified from R4-31-710 (Supp. 95-1). Former Section R20-2-710 renumbered to R20-2-708; new Section R20-2-710 renumbered from R20-2-713 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3).

**R20-2-711. Alcohol-oxygenated Gasoline Storage Tank Requirements**

**A.** Before a person adds an alcohol-oxygenated gasoline 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 alcohol-oxygenated gasoline in the fuel line of all motor fuel dispensers that dispense alcohol-oxygenated gasoline.

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

**Historical Note**

Former Section R4-31-204(I) renumbered without change as Section R4-31-711 (Supp. 89-1). Section repealed, new Section adopted effective February 21, 1990 (Supp. 90-1). Amended effective October 1, 1990 (Supp. 90-4). Amended by emergency action effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency amendments adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Amended with changes effective August 17, 1992 (Supp. 92-3). R20-2-711 recodified from R4-31-711 (Supp. 95-1). Former Section R20-2-711 renumbered to R20-2-709; new Section R20-2-711 renumbered from R20-2-715 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3).

**R20-2-712. Water in Service Station Motor Fuel Storage Tanks**

A service station owner or operator shall ensure that water in a service station 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 service station owner or operator shall remove all water from the tank before delivery or sale of motor fuel from that tank.

**Historical Note**

Former Section R4-31-204(J) renumbered without change as Section R4-31-712 (Supp. 89-1). Section repealed, new Section adopted effective February 21, 1990 (Supp. 90-1). Amended by emergency action effective September 20, 1991, pursuant to A.R.S. § 41-

1026, valid for only 90 days (Supp. 91-3). Emergency amendments adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Amended with changes effective August 17, 1992 (Supp. 92-3). R20-2-712 recodified from R4-31-712 (Supp. 95-1). Former Section R20-2-712 repealed; new Section R20-2-712 renumbered from R20-2-716 by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4).

**R20-2-713. 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 or #2 diesel fuel,
6. Gasoline vapor return,
7. Biodiesel blend, or
8. E85.

**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.

**Historical Note**

Adopted as R4-31-204(K) and renumbered as R4-31-713 effective September 29, 1989 (Supp. 89-3). Amended effective October 12, 1990 (Supp. 90-4). R20-2-713 recodified from R4-31-713 (Supp. 95-1). Former Section R20-2-713 renumbered to R20-2-710; new Section R20-2-713 renumbered from R20-2-717 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-714. Requirements for Motor Fuels Other than Arizona CBG**

**A.** A person that owns or operates a motor fuel dispensing site or transmix or production facility outside the CBG-covered area shall ensure that a motor fuel offered for sale at the motor fuel dispensing site or transmix or production facility meets all the appropriate specifications in R20-2-702 except that from May 1 through September 30, gasoline shall meet the specifications in ASTM D4814 except maximum vapor pressure shall be 9.0 pounds per square inch.

**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.** The owner or operator of a motor fuel dispensing site or transmix or production facility shall ensure that the minimum octane rating determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method, is:
1. 87 for unleaded or regular;
2. 88 for mid-grade, extra, or any other gasoline with an octane rating of 88 or higher; and
3. 90 for super, high performance, premium, or any other gasoline with an octane rating of 90 or higher.

**D.** Prohibited activities regarding a motor fuel sold or offered for sale outside the CBG-covered area.
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. § 41-2122.
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.

**Historical Note**

Adopted as R4-31-204(L) and renumbered as R4-31-714 effective September 29, 1989 (Supp. 89-3). R20-2-714 recodified from R4-31-714 (Supp. 95-1). Former Section R20-2-714 repealed; new Section R20-2-714 renumbered from R20-2-718 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-715. Motor Fuel Quality Testing Methods and Requirements**

**A.** Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, the producer of a motor fuel shall test the motor fuel for its motor fuel properties using the methodologies in R20-2-702 and ensure that the motor fuel meets the applicable specifications in the material incorporated by reference in R20-2-702.

**B.** Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the methodologies and meet the specifications of ASTM D975.

**C.** The owner or operator of a transmix or production facility shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating 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. The owner or operator of a motor fuel dispensing site shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating posted in accordance with 16 CFR 306.

**Historical Note**

Adopted as R4-31-204(M) and renumbered as R4-31-715 effective September 29, 1989 (Supp. 89-3). Amended effective October 12, 1990 (Supp. 90-4). Amended by emergency action effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency amendments adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Amended with changes effective August 17, 1992 (Supp. 92-3). R20-2-715 recodified from R4-31-715 (Supp. 95-1). Former Section 20-2-715 renumbered to R20-2-711; new Section R20-2-715 renumbered from R20-2-720 and

amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-716. Sampling and Access to Records**

**A.** The Department 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 Department inspection upon request.

**Historical Note**

Adopted as R4-31-204(N) and renumbered as R4-31-716 effective September 29, 1989 (Supp. 89-3). Repealed effective October 12, 1990 (Supp. 90-4). New Section R4-31-716 adopted effective August 17, 1992 (Supp. 92-3). R20-2-716 recodified from R4-31-716 (Supp. 95-1). Former Section R20-2-716 renumbered to R20-2-712; new Section R20-2-716 renumbered from R20-2-721 and amended by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3).

**R20-2-717. Hold-open Latch Exception**

If an owner or operator of a motor fuel dispensing site has 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.

**Historical Note**

Adopted effective October 19, 1989 (Supp. 89-4). Amended effective August 17, 1992 (Supp. 92-3). R20-2-717 recodified from R4-31-717 (Supp. 95-1). Section R20-2-717 renumbered to R20-2-713 by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). New Section made by final rulemaking at 10 A.A.R. 1690, effective June 5, 2004 (Supp. 04-2). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3).

**R20-2-718. Requirements for Production, Transport, Distribution, and Sale of Biofuels**

**A.** General requirements for producers and suppliers of biofuel or biofuel blends in Arizona.
1. Registration requirement.
   a. A producer, supplier, or person required to register with the EPA under 40 CFR 80, Subpart K, shall register with the Director, using a form prescribed by the 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 Director within 10 days after the effective date of a change in any of the information provided under subsection (A)(1)(a).
   c. Consequences of failing to register under subsection (A)(1)(a).
      i. If a producer fails to register, the Department shall presume that all biofuel or biofuel blend produced is noncompliant with the requirements of this Chapter from the date that registration should have occurred; and
      ii. If a supplier or person required to register with the EPA fails to register, the Director shall take action as allowed under A.R.S. § 41-2115 and R20-2-762.
   d. The Department 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 Department by the 15th of the month after producing or supplying biofuel or biofuel blend. The person shall:
      i. Report on a form prescribed by the Director;
      ii. Provide the information specified in subsections (B) and (C), as applicable;
      iii. Attest to the truthfulness and accuracy of the information submitted;
      iv. Consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article; and
      v. Ensure that the report form is signed by a corporate officer responsible for operations at the facility at or from which the biofuel or biofuel blend was produced or supplied.
   b. The Department 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.
3. Quality Assurance and Quality Control (QA/QC) program requirement.
   a. A person required to register under subsection (A)(1)(a) shall develop a QA/QC program to ensure the quality of a biofuel or biofuel blend produced in or supplied in or into Arizona.
   b. A person required to develop a QA/QC program under subsection (A)(3)(a) shall summarize the QA/QC program in a manual and submit the manual to the Director for approval at least three months before the person plans to produce or supply a biofuel or biofuel blend. The person shall ensure that the manual:
      i. Documents the manner in which the QA/QC program ensures that a biofuel or biofuel blend produced or supplied conforms to applicable ASTM specifications, is appropriately blended, and meets all customer-specific requirements;
      ii. Contains a policy and objectives that expressly commit the producer or supplier to ensure the

quality of the biofuel or biofuel blend produced or supplied;
iii. Contains procedures that will be used to determine and document that operational quality requirements are met; and
iv. Contains a provision for making, maintaining, and controlling documents and records regarding the QA/QC program.
c. A person that submits a manual under subsection (A)(3)(b) shall not produce or supply a biofuel or biofuel blend until the manual is approved by the Director.
d. The Director shall approve a manual submitted under subsection (A)(3)(b) only if the Director determines that the QA/QC program sufficiently ensures the quality of a biofuel or biofuel blend produced or supplied.

**B.** Specific requirements for producers or suppliers of E85.
1. The owner or operator of a motor fuel dispensing site at which E85 is dispensed shall ensure that:
a. Both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that:
i. Indicate E85 is not gasoline,
ii. Indicate E85 is intended for use only in a flexible-fuel vehicle, and
iii. State "Check your owner's manual to ensure that this fuel can be used in your vehicle," and
b. Any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements of this Chapter and A.R.S. § 41-2083.
2. Additional requirement for producing E85 for sale in the CBG-covered area. A producer of E85 for sale in the CBG-covered area shall:
a. Use Arizona CBG or AZRBOB and pressurant as needed to meet the hydrocarbon requirement of ASTM D5798; and
b. Ensure that the fuel ethanol used meets the standards in this Chapter.
3. Reporting requirement for a producer of E85. A producer of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the E85 produced:
a. The amount of fuel ethanol used to produce E85 in the previous month,
b. The amount of gasoline used to produce E85 in the previous month,
c. The total amount of E85 produced during the previous month,
d. The following fuel quality properties for the finished E85:
i. Appearance,
ii. American Petroleum Institute gravity,
iii. Organic chloride,
iv. Water content,
v. Vapor pressure, and
vi. Sulfur content.
4. Reporting requirement for a supplier of E85. A supplier of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
a. The amount of E85 sold during the previous month; and
b. A certification by the supplier of E85 that the E85 sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
5. Quality Assurance and Quality Control (QA/QC) program for a producer of E85. A producer of E85 shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which E85 is produced. The producer shall ensure that the sampling and testing protocol meets the following minimum standards:
a. All samples of E85 are collected after any applicable blend component is added,
b. All samples of E85 are collected using approved ASTM methods,
c. Sampling is done at one of the following rates:
i. If E85 is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
ii. If E85 is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 500 times E85 is blended or transferred or one sample per week, whichever is more frequent;
iii. If E85 is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 250 times E85 is blended or transferred or two samples per week, whichever is more frequent;
d. All testing of E85 is conducted using the appropriate ASTM test method outlined in ASTM D5798,
e. Test results are used to certify the quality of the E85 produced,
f. Sample handling and storage procedures are specified, and
g. Sample retention time-frames are specified.
6. Non-compliant E85. If test results for E85 shipped from a facility indicate that the E85 does not comply with the requirements of this Chapter, the producer of the E85 shall immediately:
a. Notify the Director of the test results,
b. Take all reasonable steps to stop the sale of the non-compliant E85, and
c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.

**C.** Specific requirements for producers or suppliers of biodiesel and biodiesel blends.
1. A person shall not sell or offer or expose for sale:
a. Neat biodiesel unless the neat biodiesel meets all specifications established by ASTM D6751,
b. Diesel fuel containing up to five percent by volume biodiesel unless the diesel fuel meets all specifications established by ASTM D975, and
c. A blend containing six percent through 20 percent biodiesel and diesel fuel unless the blend meets all specifications established by ASTM D7467.
2. The owner or operator of a motor fuel dispensing site shall ensure that:
a. Any motor fuel dispenser from which a biodiesel or biodiesel blend is dispensed:

i. Meets the labeling requirements established by A.R.S. § 41-2083(L),
ii. Is compatible with biodiesel or biodiesel blend, and
iii. Meets all requirements in this Chapter and A.R.S. § 41-2083; and

b. Any biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).

3. Additional requirement for producing biodiesel or biodiesel blend for sale in the CBG-covered area. A producer of biodiesel or biodiesel blend for sale in the CBG-covered area shall ensure that the diesel fuel used contains no more than 15 ppm of sulfur.
4. Reporting requirement for a producer of a biodiesel or biodiesel blend. A producer of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the biodiesel or biodiesel blend produced:
   a. The total amount of biodiesel or biodiesel blend produced in the previous month;
   b. The amount of biodiesel used to produce a biodiesel blend in the previous month;
   c. The following fuel quality properties, established by ASTM D6751, for the finished biodiesel:
      i. Flash point;
      ii. Water sediment;
      iii. Sulfur content,
      iv. Cold soak filterability;
      v. Cloud point;
      vi. Acid number;
      vii. Free glycerin;
      viii. Total glycerin; and
      ix. Distillation, 90 percent; and
   d. The following fuel quality properties, established by ASTM D7467, for the finished biodiesel blend that contains six percent through 20 percent biodiesel:
      i. Sulfur content,
      ii. Aromatic hydrocarbon content,
      iii. Cetane index,
      iv. Acid number,
      v. Distillation, and
      vi. American Petroleum Institute gravity.
5. Reporting requirement for a supplier of a biodiesel or biodiesel blend. A supplier of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
   a. The amount of biodiesel or biodiesel blend sold during the previous month; and
   b. A certification by the supplier of biodiesel or biodiesel blend that the biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
6. Quality Assurance and Quality Control (QA/QC) program for a producer of biodiesel or a biodiesel blend. Except as specified in subsection (C)(7), a producer of biodiesel or a biodiesel blend shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which biodiesel or a biodiesel blend is produced. The producer shall ensure that the sampling and testing protocol meets the following minimum standards:
   a. All samples of biodiesel or biodiesel blend are collected after any applicable blend component is added;
   b. All samples of biodiesel or biodiesel blend are collected using approved ASTM methods;
   c. Sampling is done at one of the following rates:
      i. If biodiesel or a biodiesel blend is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
      ii. If biodiesel or a biodiesel blend is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 20 times biodiesel or biodiesel blend is blended or transferred or one sample every two weeks, whichever is more frequent;
      iii. If biodiesel or a biodiesel blend is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 10 times biodiesel or biodiesel blend is blended or transferred or one sample per week, whichever is more frequent;
   d. All testing of biodiesel or biodiesel blend is conducted using the appropriate ASTM test method outlined in ASTM D6751, D975, or D7467;
   e. Test results are used to certify the quality of the biodiesel or biodiesel blend produced;
   f. Sample handling and storage procedures are specified; and
   g. Sample retention time-frames are specified.
7. A producer of biodiesel or a biodiesel blend that is accredited under the BQ9000 program shall, at least three months before planning to produce or supply a biodiesel or biodiesel blend, submit to the Director the quality manual developed and implemented under the BQ9000 program instead of the QA/QC manual required under subsection (C)(6). A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall not produce or supply a biodiesel or biodiesel blend until the quality manual developed under the BQ9000 program is approved by the Director. A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall, upon request, provide the Director with access to records relating to the accreditation and documentation relating to the precision and accuracy of any alternative test method used to meet the requirements of this Section. The Director has authority under A.R.S. §§ 41-2065(A)(4) and 41-2083(N) to audit the quality manual submitted under this subsection.
8. Non-compliant biodiesel or biodiesel blend. If test results for biodiesel or a biodiesel blend shipped from a facility indicate that the biodiesel or biodiesel blend does not comply with the requirements of this Chapter, the producer of the biodiesel or biodiesel blend shall immediately:
   a. Notify the Director of the test results,
   b. Take all reasonable steps to stop the sale of the non-compliant biodiesel or biodiesel blend, and

c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.

D. Specific requirements for producers or suppliers of petroleum-based renewable diesel. A producer or supplier of petroleum-based renewable diesel that is intended as a final product for the fueling of motor vehicles shall ensure that the petroleum-based renewable diesel:
1. Meets the standards in ASTM D975, and
2. Is identified as specified in R20-2-701.

**Historical Note**

Former Section R4-31-205(B) renumbered without change as R4-31-718 (Supp. 89-1). Amended as R4-31-205(B) and incorporated into R4-31-728 effective September 29, 1989 (Supp. 89-3). Amended effective February 21, 1990 (Supp. 90-1). Subsections (3) through (10) corrected (Supp. 91-3). Amended by emergency action effective September 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency amendments adopted again without change effective December 20, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency amendments adopted again without change effective March 20, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Amended with changes effective August 17, 1992 (Supp. 92-3). R20-2-718 recodified from R4-31-718 (Supp. 95-1). Section R20-2-718 renumbered to R20-2-714 by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). New Section made by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-719. Repealed**

**Historical Note**

Former Section R4-31-205(C) and (D) renumbered without change as R4-31-719 (Supp. 89-1). Amended as R4-31-205(C) and (D) and incorporated into R4-31-719 effective September 29, 1989 (Supp. 89-3). Amended effective August 17, 1992 (Supp. 92-3). R20-2-719 recodified from R4-31-719 (Supp. 95-1). Section repealed by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4). New Section made by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Section repealed by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**R20-2-720. Renumbered**

**Historical Note**

Former Section R4-31-205(E) renumbered without change as R4-31-720 (Supp. 89-1). Amended effective August 17, 1992 (Supp. 92-3). R20-2-720 recodified from R4-31-720 (Supp. 95-1). Section R20-2-720 renumbered to R20-2-715 by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4).

**R20-2-721. Renumbered**

**Historical Note**

Former Section R4-31-205(F) renumbered without change as R4-31-721 (Supp. 89-1). Amended as R4-31-205(F) and incorporated into R4-31-721 effective September 29, 1989 (Supp. 89-3). Amended effective October 12, 1990 (Supp. 90-4). Heading amended effective August 17, 1992 (Supp. 92-3). R20-2-721 recodified from R4-31-721 (Supp. 95-1). Amended effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim amendment expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently amended October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Section R20-2-721 renumbered to R20-2-716 by final rulemaking at 5 A.A.R. 4312, effective October 18, 1999 (Supp. 99-4).

**R20-2-722. Reserved**
**through**
**R20-2-748. Reserved**

**R20-2-749. Definitions Applicable to Arizona CBG and AZRBOB**

The following definitions apply only to R20-2-750 through R20-2-762, 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 fuel ethanol 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 fuel ethanol 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 Director under A.R.S. § 41-2124, 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 R20-2-751(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 Reformulated Gasoline Using the California Predictive Model," as adopted April 20, 1995, which is incorporated by reference in R20-2-702.

"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 R20-2-759:

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 R20-2-751(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 Director under R20-2-750.

"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.

"Type 1 Arizona CBG" means a gasoline that meets the standards contained in R20-2-751(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 R20-2-751(G), (H), and (I), and meets the requirements in:

R20-2-751(A) beginning April 1 through October 31 of each year, and

R20-2-751(B) beginning November 1 through March 31 of each year.

"Winter" means November 1 through March 31.

**Historical Note**

New Section made by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

***Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish these rules in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the rules (Supp. 97-3). The exempt rules expired when the Section was permanently adopted with changes (Supp. 98-3).***

**R20-2-750. Registration Relating to Arizona CBG or AZRBOB**

**A.** Each of the following shall register with the 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 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 R20-2-752(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 Department or its authorized agent to collect samples and access records as provided in R20-2-716.

**C.** A person registered under subsection (B) shall notify the 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 Department shall maintain a list of all registered suppliers.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3).

***Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish these rules in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the rules (Supp. 97-3). The exempt rules expired when the Section was permanently adopted with changes (Supp. 98-3).***

**R20-2-751. 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: 500 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 R20-2-708(B), during April and October only.
7. Oxygen and oxygenates:
   a. Minimum content:
      i. November 1 - March 31: 10 percent fuel ethanol by volume. If A.R.S. § 41-2124(E) petition in effect: 2.7 percent oxygen by weight as approved by the 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 as specified in A.R.S. § 41-2122 for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.
   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. § 41-2122.
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 - Ethanol;
   a. Minimum oxygenate content - 10 percent fuel ethanol by volume;
   b. Maximum oxygen content - 4.0 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 41-2123; and
   c. Alternative minimum fuel ethanol content may be used if approved by the Director under A.R.S. § 41-2124(D).

**C.** Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM D4806 and the following:
1. A sulfur content not exceeding 10 ppm by weight,
2. An olefins content not exceeding 0.5 percent by volume, and
3. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.

**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 Director on a form or in a format prescribed by the 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 R20-2-760. 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 Director on a form or in a format prescribed by the 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 R20-2-752 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 R20-2-702. 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 Department approves using the criteria stated in R20-2-759.

**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 Director by either:
   a. Submitting to the 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 Director, on a form prescribed by or in a format acceptable to the 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 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 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 R20-2-752 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 to 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 to September 15 during that same period.

**L.** Consequence of failure to comply with averages.
1. In addition to a penalty under R20-2-762, 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 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 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 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 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 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 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 R20-2-760 shows excess VOC emissions in the CBG-covered area, the VOC emissions performance reduction in R20-2-751(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 R20-2-760 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 - September 15, Table 1, column C; and
2. >6.8 percent for the NOx emissions reduction percentage, May 1 - 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 R20-2-751(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.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 1025, effective February 9, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

***Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish these rules in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the rules (Supp. 97-3). The exempt rules expired when the Section was repealed under the regular rulemaking process (Supp. 98-3).***

**R20-2-751.01. Repealed**

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption repealed October 1, 1998, under Laws 1997, Ch. 117, § 3; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3).

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**R20-2-752. 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 Director. The registered supplier shall include in the certification information on shipment volumes, fuel properties as determined under R20-2-759, and performance standards for each batch of Arizona CBG or AZRBOB. The registered supplier shall submit the certification to the 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 R20-2-759.
2. If Arizona CBG or AZRBOB produced or imported by a registered supplier is not tested and documented as required by this Section, the 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 R20-2-751 or the comparable PM averaging limits, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.
3. A registered supplier shall provide to the Director any records maintained by the registered supplier under this Section within 20 days of a written request from the Director. If a registered supplier fails to provide records for a blend or shipment of Arizona CBG or AZRBOB, the Director shall deem the final blend or shipment of Arizona CBG or AZRBOB in violation of R20-2-751, unless the registered supplier demonstrates to the 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 Director by fax 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 Director for approval at least three months before the registered supplier transports Arizona CBG or AZRBOB. The Director shall approve a QA/QC program only if the Director determines that the QA/QC program ensures that the registered supplier's laboratory testing procedures comply with R20-2-759 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 Director for review and approval. Within 30 days of receiving the changed QA/QC program, the Director shall determine whether the changed QA/QC program meets the original quality objectives. The 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 R20-2-759 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 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 Director or designee, analyze the sample using the methodology specified in R20-2-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.
2. The 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 Director or designee. The registered supplier shall submit a duplicate of the sample to the 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 Director under the registration requirements of R20-2-750.
   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 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 Director for up to 180 days;
   c. Submits to the Director a quarterly report on 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 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 submit-

ted to EPA under 40 CFR 80.65(f)(iv), are submitted to the 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. Vapor pressure: 0.3 psi,
   f. 50% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
   g. 90% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
   h. E200: 2.5% by volume,
   i. E300: 3.5% by volume, or
   j. 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**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

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**R20-2-753. 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 Department under R20-2-750; and
2. The registered supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the standards in R20-2-751(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 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 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 R20-2-751(A) or (B), as applicable, but is within reproducibility, the pipeline shall notify the Director by fax 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 R20-2-751(A) or (B), as applicable, including reproducibility, the pipeline or third-party terminal shall notify the Director by fax 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 R20-2-751(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 R20-2-751(A) or (B). A pipeline or third-party terminal shall submit the QA/QC program to the Director for approval at least three months before the pipeline or third-party terminal begins to transport Arizona CBG or AZRBOB. The Director shall approve a QA/QC program only if the 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 Director for review and approval. Within 30 days of receiving the changed QA/QC program, the Director shall determine whether the changed QA/QC program meets the quality objectives originally approved by the Department. The 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 R20-2-752 and oxygenate blenders in R20-2-755, as applicable.

**I.** A pipeline is not liable under R20-2-761 if it follows all of the procedures in this Section.

**Historical Note**

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**R20-2-754. 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 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 Department. 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**

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**R20-2-755. 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 amount of fuel ethanol to a representative sample of the AZRBOB and testing the resulting gasoline using the test methods in R20-2-759 or certifying the ARZBOB using the CARBOB model. If the registered supplier designates a range of amounts of fuel ethanol to be added to the AZRBOB, the minimum designated amount of fuel ethanol 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 Department shall determine whether the AZRBOB complies with applicable fuel properties and performance standards, excluding requirements for vapor pressure, without adding fuel ethanol to the AZRBOB.
   b. In determining whether AZRBOB complies with the Arizona CBG standards, the registered supplier shall ensure that the fuel ethanol added to the representative sample under subsection (A)(1)(a) is representative of the fuel ethanol 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 R20-2-751 by adding the minimum amount of fuel ethanol designated by the registered supplier. If a registered supplier fails to comply with this subsection, the Department shall calculate the volume of AZRBOB for purposes of compliance with applicable fuel properties and performance standards without adding the amount of fuel ethanol 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 fuel ethanol in the amount (or within the range of amounts) designated in R20-2-757 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 amount (or within the range of amounts) of fuel ethanol designated in R20-2-757 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 amount or range of amounts of fuel ethanol designated in R20-2-757 has 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. Fuel ethanol in the 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 fuel ethanol amount (or range of amounts) is specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility.

**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 Department. A copy may be obtained at the Government Printing 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 R20-2-759...;" 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 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 R20-2-759;
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 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 Director, within 30 days after submitting the report required under subsection (E)(10);
9. Permits a Department official to monitor sample collection, transportation, storage, and analysis at any time; and
10. Prepares and submits a report to the 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 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 Director. The Director shall inform the third party of the date selected at least 10 business days before sampling is to begin.

**G.** To obtain the 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 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 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 fuel ethanol to AZRBOB. If an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender represents that fuel ethanol will be added to the AZRBOB, the oxygenate blender shall add fuel ethanol to the AZRBOB in the 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 fuel ethanol 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 R20-2-759.
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 Department. A copy may be obtained at the Government Printing 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 R20-2-759...;" 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 fuel ethanol 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 fuel ethanol 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 R20-2-759; 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 fuel ethanol 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 fuel ethanol, and analyze the samples within 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
      iv. Notify the 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 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 R20-2-759, and
      vi. Results from all testing.
   b. The 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 R20-2-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the standards in R20-2-751.
   c. Within 20 days of the 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 Director shall deem that the blend or shipment of Arizona CBG violates R20-2-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the standards and limits under R20-2-751.
6. Notification requirement. An oxygenate blender shall notify the Director by fax 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 Director for approval at least three months before transporting Arizona CBG. The Director shall approve a QA/QC program only if the 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 R20-2-752(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 R20-2-752(F), to conduct the sampling and testing required under subsection (I)(7).
9. Within 24 hours of the 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 is approved by EPA.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

***Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish these rules in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the rules (Supp. 97-3). The exempt rules expired when the Section was permanently adopted with changes (Supp. 98-3).***

**R20-2-756. 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 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 R20-2-751(A) or (B) if the person obtains prior written approval from the 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 Department.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

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**R20-2-757. 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 minimum quantity of fuel ethanol contained in the Arizona CBG;
8. If the product transferred is AZRBOB for which fuel ethanol 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 fuel ethanol";
   b. Designation of the AZRBOB as suitable for blending with fuel ethanol;
   c. Fuel ethanol 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 fuel ethanol and weight percent oxygen content; and

d. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless the other AZRBOB has the same requirements for fuel ethanol amount or range of amounts; and

9. 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, the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;
   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 fuel ethanol that is intended for use as a blend component in AZRBOB or Arizona CBG, the person shall provide the transferee a document that prominently states that the fuel ethanol complies with the standards for fuel ethanol intended for use as a blend component in AZRBOB or Arizona CBG.

**H.** Upon request by the Director or designee, a person shall present product transfer documents to the Department within two working days of the request. Legible photocopies of the product transfer documents are acceptable.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

***Editor's Note: The following Section was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit these rules to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish these rules in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the rules (Supp. 97-3). The exempt rules expired when the Section was permanently adopted with changes (Supp. 98-3).***

**R20-2-758. Repealed**

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Section repealed by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3).

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**R20-2-759. 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 fuel ethanol 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 Department determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The Department 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 Department 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 Department shall approve a proposed test method only if the Department 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 is approved by EPA.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 1025, effective February 9, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

**Table A. Arizona Department of Weights and Measures 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) $^{0.5;\ \text{Footnote 1}}$ |
| 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 the CARB (vapor pressure = (0.972 X Ptot) - 0.715).

**Historical Note**

New Table A made by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

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**R20-2-760. Compliance Surveys**

**A.** A registered supplier that elects to certify that Arizona CBG or AZRBOB meets an averaging standard under R20-2-751 shall ensure that compliance surveys are conducted in accordance with a compliance survey program plan approved by the Director. The 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 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 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 R20-2-759. 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 Director to ensure the validity of analysis results.

**D.** If the Director determines that a sample used in a compliance survey does not comply with R20-2-751 or another requirement under this Article, the 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 R20-2-702;
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 between May 1 and 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 R20-2-702; and
2. The CBG-covered area fails the NOx series of compliance surveys conducted between May 1 and 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 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 Director, within 30 days following submission of the survey report required under subsection (G)(6);
5. Requires that the surveyor permit a Department 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 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 Director. The Director shall notify the surveyor of the date selected at least 10 business days before the survey is to begin.

**I.** To obtain the Director's approval of a compliance survey program plan, the person seeking approval shall:
1. Submit the plan to the 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 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**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 1025, effective February 9, 2001 (Supp. 01-1). Amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

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**R20-2-761. Liability for Noncompliant Arizona CBG or AZRBOB**

**A.** Persons liable. If motor fuel designated as Arizona CBG or AZRBOB does not comply with R20-2-751, 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 41, Chapter 15, 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 service station 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 R20-2-751; and
2. That each time Arizona CBG or AZRBOB is noncompliant with one of the requirements in R20-2-751:
   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**

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**R20-2-762. 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. § 41-2113(B)(4);
2. Civil penalties in the amount of $500 per violation under A.R.S. § 41-2115; and
3. Stop-use, stop-sale, hold, and removal orders under A.R.S. § 41-2066(A)(2).

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Section permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3).

***Editor's Note: The following Table was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit this Table to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish this Table in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the Table (Supp. 97-3). The exempt rules expired when the Section was permanently adopted with changes (Supp. 98-3).***

**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 (%)<br>May 1 - Sept. 15 | ≥ 27.5 | ≥ 29.0 | ≥ 25.0 | N/A |
| NOx Emission Reduction (%)<br>May 1 - Sept. 15 | ≥ 5.5 | ≥ 6.8 | N/A | N/A |
| NOx Emission Reduction (%)<br>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)<br>November 1 - March 31***<br>April 1 - October 31 | N/A<br>0.0* | N/A<br>N/A | N/A<br>0.0 | N/A<br>4.0 |
| Oxygen content: other than fuel ethanol, (% by weight)<br>November 1 - March 31***<br>April 1 - October 31 | N/A<br>0.0 | N/A<br>N/A | N/A<br>0.0 | N/A<br>**** |

* Maximum oxygen content shall comply with the EPA oxygenate waiver requirements and with A.R.S. § 41-2122.
** 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.
**** As specified in A.R.S. § 41-2122.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Table 1 permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 1025, effective February 9, 2001 (Supp. 01-1). Table 1 amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

***Editor's Note: The following Table was adopted under an exemption from the provisions of A.R.S. Title 41, Chapter 6, pursuant to Laws 1997, Chapter 117, § 3. Exemption from A.R.S. Title 41, Chapter 6 means the Department did not submit this Table to the Governor's Regulatory Review Council for review and approval. Although exempt from certain provisions of the Administrative Procedure Act, the Department was required to publish this Table in the Arizona Administrative Register and provide reasonable notice and at least one public hearing on the Table (Supp. 97-3). The exempt rules expired when the Section was permanently adopted with changes (Supp. 98-3).***

**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 vol. |
| April 1 - October 31 | | – | | |
| The maximum oxygen content EtOH year around | | | 4.0 | % by weight |

* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R20-2-751(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 as the oxygenate beginning November 1 through March 31. Alternative fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the Director under A.R.S. § 41-2124(D).
NOTE: Dates represent compliance dates for the owner of a motor fuel dispensing site or fleet vehicle fuel facility.

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effective date of September 12, 1997 (Supp. 97-3). Interim adoption expired and was automatically repealed on the date the permanent rules became effective pursuant to Laws 1997, Ch. 117; Table 2 permanently adopted with changes October 1, 1998; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 5 A.A.R. 4214, effective September 22, 1999 (Supp. 99-3). Amended by final rulemaking at 7 A.A.R. 1025, effective February 9, 2001 (Supp. 01-1). Table 2 amended by final rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Supp. 06-3). Amended by final rulemaking at 17 A.A.R. 190, effective March 12, 2011 (Supp. 11-1).

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**Table 3. Repealed**

**Historical Note**

Adopted effective under an exemption from the provisions of A.R.S. Title 41, Chapter 6, with an interim effec-

tive date of September 12, 1997 (Supp. 97-3). Interim adoption repealed October 1, 1998, under Laws 1997, Ch. 117, § 3; filed in the Office of the Secretary of State September 9, 1998 (Supp. 98-3).

**ARTICLE 8. REPEALED**

**R20-2-801. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted effective June 22, 1992 (Supp. 92-2). R20-2-801 recodified from R4-31-801 (Supp. 95-1). R20-2-801 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-802. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective June 22, 1992 (Supp. 92-2). R20-2-802 recodified from R4-31-802 (Supp. 95-1). R20-2-802 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-803. Repealed**

**Historical Note**

Emergency rule adopted effective October 12, 1990, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 90-4). Emergency expired. Emergency rule adopted again without change effective February 12, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-1). Emergency expired. Emergency rule adopted again with changes effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective June 22, 1992 (Supp. 92-2). R20-2-803 recodified from R4-31-803 (Supp. 95-1). R20-2-803 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-804. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective June 22, 1992 (Supp. 92-2). R20-2-804 recodified from R4-31-804 (Supp. 95-1). R20-2-804 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-805. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted effective June 22, 1992 (Supp. 92-2). R20-2-805 recodified from R4-31-805 (Supp. 95-1). R20-2-805 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-806. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted with changes effective June 22, 1992 (Supp. 92-2). R20-2-806 recodified from R4-31-806 (Supp. 95-1). R20-2-806 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-807. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3). Emergency rule adopted again without change effective October 16, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-4). Emergency rule adopted again without change effective January 9, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-1). Emergency expired. Emergency rule adopted again without change effective April 22, 1992, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 92-2). Adopted effective June 22, 1992 (Supp. 92-2). R20-2-807 recodified from R4-31-807 (Supp. 95-1). R20-2-807 repealed effective October 8, 1998 (Supp. 98-4).

**R20-2-808. Reserved**

**R20-2-809. Repealed**

**Historical Note**

Emergency rule adopted effective July 17, 1991, pursuant to A.R.S. § 41-1026, valid for only 90 days (Supp. 91-3).

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**ENCLOSURE 5**

**Public Hearing Documentation**

Public Notice
Publication Certification
Public Hearing Agenda
Public Hearing Sign-in Sheet
Public Hearing Transcript
Public Hearing Officer Certification
Responsiveness Summary

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ADEQ
Arizona Department of Environmental Quality
Janice K. Brewer, Governor
Henry R. Darwin, Director

# PUBLIC NOTICE

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY**
**30 DAY PUBLIC COMMENT PERIOD AND HEARING ON THE PROPOSED 2013 ARIZONA CLEANER BURNING GASOLINE PROGRAM ARIZONA STATE IMPLEMENTATION PLAN REVISION**

The Arizona Department of Environmental Quality (ADEQ) opens a thirty day public comment period with the publication of this notice on Wednesday, May 22, 2013, for the proposed 2013 Arizona Cleaner Burning Gasoline Program Arizona State Implementation Plan (SIP) Revision.

A public hearing on the proposed SIP revision will be held on Friday, June 21, 2013, at 2:30 p.m., in the ADEQ Conference Room 145, 1110 W. Washington St., Phoenix, AZ. All interested parties will be given an opportunity at the public hearing to submit comments, data, and views, orally and in writing. Written comments may be submitted prior to or during the public hearing and must be postmarked or received at ADEQ by 5:00 p.m. on June 21, 2013.

Written comments should be addressed, faxed, or e-mailed to John Englander, Air Quality Division, State Implementation Plan Section, Arizona Department of Environmental Quality, 1110 W. Washington St., Phoenix, AZ 85007, FAX: (602) 771-2366, E-Mail: englander.john@azdeq.gov

Copies of the proposed SIP are available for review, Monday through Friday, between 8:30 a.m. and 4:30 p.m., at the ADEQ Records Center, 1110 W. Washington St., Phoenix, AZ 85007, (602) 771-4712. The proposed SIP can also be viewed online at http://www.azdeq.gov/environ/air/plan/index.html by selecting Air Quality – Public Notices, Meetings, and Hearings.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Alicia Pollard, (602) 771-4791, via email pollard.alicia@azdeq.gov, TDD line for hearing impaired individuals, (602) 771-4829. Requests should be made as early as possible to allow time to arrange the accommodation.

**AFFIDAVIT OF PUBLICATION**

309 109

ADEQ
AIR QUALITY DIVISION
13 MAY 24 AM 10: 45

# THE ARIZONA REPUBLIC

6840 State Agency Public Notices

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY 30 DAY PUBLIC COMMENT PERIOD AND HEARING ON THE PROPOSED 2013 ARIZONA CLEANER BURNING GASOLINE PROGRAM ARIZONA STATE IMPLEMENTATION PLAN REVISION**

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Pub: May 22, 23, 2013

STATE OF ARIZONA
COUNTY OF MARICOPA } SS.

Ondrea Petty, being first duly sworn, upon oath deposes and says: That she is a Supervisor of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

**The Arizona Republic**

**5/22/2013**
**5/23/2013**

Ondrea Petty

Sworn to before me this
23RD day of
May A.D. 2013

BRIAN BILLINGS
Notary Public - Arizona
Maricopa County
My Comm. Expires Jul 25, 2014

Notary Public

ADEQ
AIR QUALITY DIVISION

13 MAY 24 AM 10: 45

6840 State Agency Public Notices

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Pub: May 22, 23, 2013

**AFFIDAVIT OF PUBLICATION**

309 109

# THE ARIZONA REPUBLIC

STATE OF ARIZONA
COUNTY OF MARICOPA } SS.

Ondrea Petty, being first duly sworn, upon oath deposes and says: That she is a Supervisor of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published at Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

**The Arizona Republic**

**5/22/2013**
**5/23/2013**

Ondrea Petty

Sworn to before me this
23RD day of
May A.D. 2013

BRIAN BILLINGS
Notary Public - Arizona
Maricopa County
My Comm. Expires Jul 25, 2014

Notary Public

ADEQ
Arizona Department of Environmental Quality
Janice K. Brewer, Governor
Henry R. Darwin, Director

# Public Hearing Agenda

**AIR QUALITY DIVISION**
**HEARING ON A PROPOSED 2013 UPDATE TO THE**
**ARIZONA STATE IMPLEMENTATION PLAN FOR THE**
**CLEANER BURNING GASOLINE PROGRAM**

**Friday, June 21, 2013, at 2:30 p.m.**
**Arizona Department of Environmental Quality, Conference Room 145**
**1110 W. Washington St., Phoenix, AZ 85007**

---

**Pursuant to 40 CFR § 51.102 notice is hereby given that the above referenced meeting is open to the public.**

1. Welcome and Introductions
2. Purposes of the Oral Proceeding
3. Procedure for Making Public Comment
4. Brief Overview of the Proposed SIP Revision
5. Question and Answer Period
6. Oral Comment Period
7. Adjournment of Oral Proceeding

Copies of the proposed SIP are available for review, Monday through Friday, between 8:30 a.m. and 4:30 p.m., at the ADEQ Records Center, 1110 W. Washington St., Phoenix, AZ 85007, (602) 771-4712. The proposed SIP can also be viewed online at http://www.azdeq.gov/environ/air/plan/index.html by selecting Air Quality – Public Notices, Meetings, and Hearings. For additional information regarding the hearing please call John Englander, ADEQ Air Quality Division, at (602) 771 - 4781 or 1-800-234-5677, Ext. 771-4781.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Alicia Pollard at (602) 771-4791, or via email: pollard.alicia@azdeq.gov. TDD line for hearing impaired individuals, (602) 771-4829. Requests should be made as early as possible to allow time to arrange the accommodation.

ADEQ
Arizona Department of Environmental Quality

# Air Quality Division Sign-In Sheet

## Please Sign In

SUBJECT: Proposed 2013 Update to the Arizona State Implementation Plan Revision for the Cleaner Burning Gasoline Program
DATE: June 21, 2013

| | NAME | ORGANIZATION | PHONE | E-MAIL (primary method of contact) |
|---|---|---|---|---|
| 1. | Michelle Wilson | A2DWM | 6027714933 | mwilson@A2DWM.GOV |
| 2. | Amanda Gray | APMA | 602 330 6762 | amanda@apma4u.org |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |

# PROPOSED ARIZONA AIR QUALITY
# STATE IMPLEMENTATION PLAN (SIP) REVISION

## HEARING ON THE PROPOSED 2013 UPDATE
## TO THE ARIZONA STATE IMPLEMENTATION PLAN FOR THE
## CLEANER BURNING GASOLINE PROGRAM

Oral Proceeding

Hearing Transcript

June 21, 2013

Wendy Flood: Good morning, thank you for coming. I now open this hearing on the proposed 2013 Update to the Arizona State Implementation Plan (or SIP) for the Cleaner Burning Gasoline Program.

It is now Friday, June 21, 2013; at 2:36 p.m.. The location is Arizona Department of Environmental Quality, 1110 West Washington St, Phoenix, AZ 85007, conference room number 145.

My name is Wendy Flood, and I have been appointed by the Director of the Arizona Department of Environmental Quality (ADEQ) to preside at this proceeding.

The purposes of this proceeding are to provide the public an opportunity to:

(1) hear about the substance of the proposed SIP revision;
(2) ask questions regarding the revision; and,
(3) present oral argument, data and views regarding the revision in the form of comments on the record.

John Englander and Michelle Wilson are here representing ADEQ from the Air Quality Division, State Implementation Plan Section and the Arizona Department of Weights and Measures, respectively.

Public notice appeared in the Arizona Republic and ADEQ's website beginning on May 22, 2013. Copies of the proposed SIP revision were made available at the ADEQ Phoenix Records Center and ADEQ's website beginning May 22, 2013.

The procedure for making a public comment on the record is straightforward. If you wish to comment, you need to fill out a speaker slip, which is available at the sign-in table, and give it to me. Using speaker slips allows everyone an opportunity to be heard and allows us to match the name on the official record with the comments. You may also submit written comments to me today.

Please note, the comment period for the proposed SIP revision ends today, June 21, 2013. All written comments whether they were sent via U.S. mail or via e-mail or via FAX must be postmarked or received by ADEQ by 5:00 p.m. today.

Comments made during the formal comment period are required by law to be considered by ADEQ when preparing the final SIP. This is done through the preparation of a responsiveness summary in which the Department responds in writing to written and oral comments made during the formal comment period.

The agenda for this hearing is simple. First, we will present a brief overview of the proposed revision to the SIP.

Second, I will conduct a question and answer period. The purpose of the question and answer period is to provide information that may help you in making comments on the proposed revision.

Thirdly, I will conduct the oral comment period to call speakers in the order that I have received their speaker slips.

Please be aware that any comments at today's hearing that you want the Department to formally consider must be given either in writing or on the record at today's hearing during the oral comment period of this proceeding.

At this time, Mr. Englander will give a brief overview of the proposal.

* * * * *

**John Englander: The Arizona Cleaner Burning Gasoline (CBG) program is a control measure introduced to reduce pollution from mobile sources in the Maricopa County metropolitan area and is relied on to aid the area in the reduction of ozone, carbon monoxide (CO), and particulate matter (PM) formation. This State Implementation Plan (SIP) revision provides an update of the Arizona CBG Program for federal approval and requests incorporation of Arizona's revised CBG related statutes and rules into the Arizona SIP.**

**The most recent Federal approval of Arizona CBG State Implementation Plan (SIP) elements occurred in 2004 and, since that action, Arizona statute and rules incorporated into the SIP were revised. Regulatory changes occurred through various legislative efforts and multiple rule revisions from the last federal approval. The legislative actions and rulemakings covered in this SIP update are:**

- **Laws 2003, Ch. 79, § 2 (SB 1307)**
- **Laws 2004, Ch. 293, § 5 (HB2207)**
- **Laws 2005, Ch. 104, § 7, subsections B through D (SB1275)**
- **Laws 2006, Ch. 303, § 1 (HB 2562)**
- **Laws 2007, Ch. 145, §§ 3 and 4, subsections B through D (SB 1455)**
- **Laws 2008, Ch. 291, § 5 (HB 2462)**
- **Final Rulemaking at 10 A.A.R. 1690, effective June 5, 2004**
- **Final Rulemaking at 12 A.A.R. 3722, effective September 12, 2006**
- **Final Rulemaking at 17 A.A.R. 190, effective March 12, 2011**

* * * * *

Ms. Flood: This concludes the explanation period of this proceeding on the proposed revision to the SIP.

* * * * *

Are there any questions before we move to the oral comment period?

Hearing none, this concludes the question and answer period of this proceeding on the proposed revision to the SIP.

* * * * *

I now open this proceeding for oral comments.

Seeing no speaker slips, this concludes the oral comment period of this proceeding.

* * * * *

If you have not already submitted written comments, you may submit them to me at this time. Again, the comment period for this proposed revision to the SIP ends today, June, 2013, at 5:00 p.m.

Thank you for attending.

The time is now 2:43 p.m.. I now close this oral proceeding.

ADEQ
Arizona Department of Environmental Quality

Air Quality Division

**Public Hearing Presiding Officer Certification**

I, Wendy Flood, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on June 21, 2013, at the Arizona Department of Environmental Quality, Conference Room 145, 1110 West Washington Street, Phoenix, Arizona, in accordance with public notice requirements by publication in *The Arizona Republic* beginning May 22, 2013. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

Dated this 17 day of July.

Wendy Flood

Wendy Flood

State of Arizona )
) ss.
County of Maricopa )

Subscribed and sworn to before me on this 17th day of JULY, 2013.

MARY A. MAAS
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
October 10, 2016

Mary A. Maas

Notary Public

My commission expires: _____

**RESPONSIVENESS SUMMARY**
**to**
**Testimony Taken at Oral Proceedings and Written Comments Received on the**
***Proposed 2013 Update to the Arizona State Implementation Plan for the***
***Cleaner Burning Gasoline Program***
***July 2013***

The oral proceeding on the *Proposed 2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program* was held on Friday, June 21, 2013, 2:300 p.m., at the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona. The public comment period closed on Friday, June 21, 2013. No oral or written comments were received during the comment period. During its final review of the proposed SIP, the Arizona Department of Environmental Quality determined no further clarifications were needed.

# Exhibit D-2: The 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program (Not for approval).

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

Janice K. Brewer
Governor

Henry R. Darwin
Director


**SUBMITTED VIA EMAIL AND FEDEX**

JUL 08 2014

Mr. Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency, Region IX
Mail Code: ORA-1
75 Hawthorne Street
San Francisco, CA 94105

RE: 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program

Dear ~~Mr. Blumenfeld~~ Jared:

Consistent with the provisions of the Arizona Revised Statues §§ 49-104, 49-106, 49-404, 49-406 and 49-425 (Enclosure 1) and the Code of Federal Regulations (CFR) Title 40, §§51.105 through 51.104, the Arizona Department of Environmental Quality (ADEQ) hereby adopts and submits to the U.S. Environmental Protection Agency (EPA) the *2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program* as a supplement to the Arizona State Implementation Plan (SIP).

This SIP supplement incorporates by reference rules previously submitted to EPA, but subsequently updated through the legislative and administrative rulemaking process. The document includes a history of Arizona's Cleaner Burning Gasoline (CBG) program, identification of requested updates to the program, and discussion of the changes in rules that are included for federal review with this submittal.

ADEQ requests that EPA approve this supplement to the Arizona State Implementation Plan. Enclosure 2 contains the SIP Completeness Checklist and Enclosure 3 contains one hard copy and an exact duplicate copy on CD of the SIP supplement. If you have any questions, please contact me at (602) 771-2288.

Sincerely,

Eric C. Massey, Director
Air Quality Division

cc: Michelle Wilson, Arizona Department of Weights and Measures
Lindy Bauer, Maricopa Association of Governments, w/o enclosures
Colleen McKaughan, EPA Region IX, w/o enclosures

Janice K. Brewer
Governor

# ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

Henry R. Darwin
Director

May 2, 2014

TO: Eric Massey
Division Director
Air Quality Division

Under A.R.S. §49-104(D)(2), I authorize you, Eric Massey, Division Director, Air Quality Division, Arizona Department of Environmental Quality, to perform any act, including execution of any pertinent documents, which I as Director of the Arizona Department of Environmental Quality am authorized or required to do by law with respect to A.R.S. Title 49, chapters 1 and 3 and any other acts relating to air quality including personnel actions.

This authority shall remain in effect until it is revoked or upon your separation from the Arizona Department of Environmental Quality. You may further delegate this authority in the best interest of the agency, however, those delegations must be in writing and you must forward a copy of any further delegations to me.

This delegation is effective May 2, 2014, and revokes all earlier delegations. I ratify all acts performed by you as Air Quality Division Director concerning the duties and functions in this delegation letter.

Henry R. Darwin
Director

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# ENCLOSURE 1

## Arizona Revised Statutes
## §§ 49-104, 49-106, 49-404, 49-406, and 49-425

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49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.

2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.

3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.

4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.

5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.

6. Promote and coordinate the management of air resources to assure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.

7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.

8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.

9. Assure the preservation and enhancement of natural beauty and man-made scenic qualities.

10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.

11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. Beginning in 2014, the department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.

12. Prevent pollution through the regulation of the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.

13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.

14. Assist the department of health services in recruiting and training state, local and district health department personnel.

15. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.

16. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.

17. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and no more stringent than the corresponding federal law that addresses the same subject matter. This provision shall not be construed to adversely affect standards adopted by an Indian tribe under federal law.

B. The department, through the director, shall:
1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.
2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.
3. Utilize any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.
4. Adopt procedural rules that are necessary to implement the authority granted under this title, but that are not inconsistent with other provisions of this title.
5. Contract with other agencies, including laboratories, in furthering any department program.
6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.
7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.
8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.
9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.
10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.
11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:
(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.
(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.
12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at such places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection H, paragraph 10.
13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:
(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.
(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.
(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.
(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.
14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules shall:
(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles

that do not comply with the minimum standards.
(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes shall be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. After the effective date of this amendment to this section, the department shall establish by rule a fee as a condition of licensure, including a maximum fee. As part of the rule making process, there must be public notice and comment and a review of the rule by the joint legislative budget committee. After September 30, 2013, the department shall not increase that fee by rule without specific statutory authority for the increase. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.
15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and title 26, chapter 2, article 3.
16. Approve remediation levels pursuant to article 4 of this chapter.
17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, article 8 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on:
(a) The direct and indirect costs of the department's relevant duties, including employees salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.
(b) The availability of other funds for the duties performed.
(c) The impact of the fees on the parties subject to the fees.
(d) The fees charged for similar duties performed by the department, other agencies and the private sector.
C. The department may:
1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203, except that state agencies are exempt from paying the fees. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.
2. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.
D. The director may:
1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.
2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

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49-106. Statewide application of rules

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.

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49-404. State implementation plan

A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.

B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.

C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.

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49-406. Nonattainment area plan

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.

E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.

F. At a minimum, the memorandum of agreement shall contain:

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:

(a) Demographics.
(b) Transportation.
(c) Emissions inventories.
(d) Assumptions used in developing the model.
(e) Results of modeling done in support of the plan.
(f) Monitoring data.

G. Each agency that commits to implement any emission limitation or other control

measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:
1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
2. A program for the enforcement of the limitation or measure.
3. The level of personnel and funding allocated to the implementation of the measure.
H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.
I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.
J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.
K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

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49-425. Rules; hearing

A. The director shall adopt such rules as he determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify, and amend reasonable standards for the quality of, and emissions into, the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions, and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.

B. No rule may be enacted or amended except after the director first holds a public hearing after twenty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.

C. The department shall enforce the rules adopted by the director.

D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge upon request.

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# ENCLOSURE 2

# SIP Completeness Checklist

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# STATE IMPLEMENTATION PLAN COMPLETENESS CHECKLIST

## Submittal of

***Arizona State Implementation Plan Revision for the 2014 Update to the Arizona State Implementation plan for the Cleaner Burning Gasoline Program***

40 CFR Part 51, Appendix V, *Criteria for Determining the Completeness of Plan Submissions*, contains the "minimum criteria for determining whether a State Implementation Plan submitted for consideration by EPA is an official submission for purposes of review under §51.103," *Submission of plans, preliminary review of plans*. Appendix V requires the following to be included in plan submissions for review by EPA:

1. **"A formal letter of submittal from the Governor or his designee, requesting EPA acceptance of the plan or revision thereof (hereafter ''the plan'')."** [Appendix V, 2.1(a)]

   See cover letter.

2. **"Evidence that the State has adopted the plan in the State code or body of regulations; or issued the permit, order, consent agreement (hereafter ''document'') in final form. That evidence shall include the date of adoption or final issuance as well as the effective date of the plan, if different from the adoption/issuance date."** [Appendix V, 2.1(b)]

   See cover letter.

3. **"Evidence that the State has the necessary legal authority under State law to adopt and implement the plan."** [Appendix V, 2.1(c)]

   See Enclosure 1.

4. **"A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as, redline/strikethrough) to the existing approved plan, where applicable ..."** [Appendix V, 2.1(d)]

   See Enclosure 3.

5. **"Evidence that the State followed all of the procedural requirements of the State's laws and constitution in conducting and completing the adoption/issuance of the plan."** [Appendix V, 2.1(e)]

   See Enclosure 3, Attachment B.

6. **"Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice."** [Appendix V, 2.1(f)]

   See Enclosure 3, Attachment B.

7. **"Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102."** [Appendix V, 2.1(g)]

   See Enclosure 3, Appendix B.

8. **"Compilation of public comments and the State's response thereto."** [Appendix V, 2.1(h)]

   See Enclosure 3, Appendix B.

9. **"Identification of all regulated pollutants affected by the plan."** [Appendix V, 2.2(a)]

   Ozone, carbon monoxide, and particulate matter ($PM_{10}$).

10. **"Identification of the locations of affected sources including the EPA attainment/nonattainment designation of the locations and the status of the attainment plan for the affected areas(s)."** [Appendix V, 2.2 (b)]

    See Enclosure 3.

11. **"Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision."** [Appendix V, 2.2(c)]

    Not applicable.

12. **"The State's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented. For all requests to redesignate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act."** [Appendix V, 2.2(d)]

    See Enclosure 3.

13. **"Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis."** [Appendix V, 2.2(e)]

    Not applicable.

14. **"Evidence, where necessary, that emission limitations are based on continuous emission reduction technology."** [Appendix V, 2.2(f)]

    Not applicable.

15. **"Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels."** [Appendix V, 2.2(g)]

    Not applicable.

16. **"Compliance/enforcement strategies, including how compliance will be determined in practice."** [Appendix V, 2.2(h)]

    See Enclosure 3.

17. **"Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary."** [Appendix V, 2.2(i)]

    No known deviation from U.S. EPA policy.

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# ENCLOSURE 3

## 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program

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ADEQ
Arizona Department
of Environmental Quality

# FINAL

# 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program

**Air Quality Division**
**June 2014**

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# 2014 UPDATE TO THE ARIZONA STATE IMPLEMENTATION PLAN FOR THE CLEANER BURNING GASOLINE PROGRAM

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## LIST OF ATTACHMENTS

Attachment A Notice of Final Rulemaking – 19 *A.A.R.* 3325 (October 23, 2013)

Attachment B Public Process Documentation

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## CHAPTER 1: Introduction

This document is a supplement to the Arizona State Implementation Plan (SIP) revision for the Cleaner Burning Gasoline Program (CBG) submitted to EPA August, 2013, and titled "2013 Update to the Arizona State Implementation for the Cleaner Burning Gasoline Program." It incorporates technical corrections to the Arizona Department of Weights and Measures (ADWM) rule, published October 25, 2013, and effective November 30, 2013. This rule was referenced in the August 2013 submittal, but not finalized for inclusion and EPA consideration at that time.

The CBG program outlines gasoline standards for different areas of the state beyond minimum federal standards and is a control measure for ozone, carbon monoxide (CO), and particulate matter ($PM_{10}$) applicable to gasoline sold within the boundaries of Maricopa County and any portion of a county within Area A[1]. Collectively, these regulatory boundaries are referred to as the "CBG covered area." Tailpipe emissions associated with vehicular travel is commonly identified as a factor contributing to nonattainment designations for all three pollutants, and the introduction of gasoline controls is one of many policies federal, state, and local governments adopted in ongoing efforts to reduce pollution and improve public health. Further information about the history and applicability of the Arizona CBG program is included in Chapter 1 of the 2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program.

The November 30, 2013 rulemaking made minor clerical corrections and a technical correction related to a correlation equation in a test method used by registered suppliers to test and certify Arizona Cleaner-Burning Gasoline (CBG). The Notice of Final Rulemaking, at Arizona Administrative Register (AAR), Volume 19, p. 3325, published October 25, 2013, and effective November 30, 2013, amended rules R20-2-708, R20-2-751, R20-2-752 and Table A.

[1]The current boundaries of Area A were established by the Arizona Legislature in 2001 (Laws 2001, Ch. 371, §8).

## CHAPTER 2: Updated Elements of the Arizona CBG Program

Table 2.1 outlines in table format the Arizona CBG Program Applicable SIP elements as well as changes in the August 2013 revision previously adopted and submitted for Federal consideration and approval. The statutes and rules are referenced by publication and state effective date.

**Table 2.1**
**Arizona Cleaner Burning Gasoline Program, as Updated in August 2013 Submittal**

| SIP Incorporated Element | Description | Publication/Codification Date |
|---|---|---|
| ***Statutory Elements*** | | |
| ARS 49-541(1)(a), (b), and (c) | Definition: "Area A" in (a) Maricopa County, (b) Pinal County, and (c) Yavapai County | Laws 2001, Ch. 371, § 8[2] |
| ARS 41-2124 | Area A; fuel reformulation; rules | Laws 2005, Ch. 104, § 3 |
| ARS 41-2123 | Area A; sale of gasoline; oxygen content | Laws 1999, Ch. 295, § 11 |
| ARS 41-2113(B)(4) | Violation; classification; jurisdiction | Laws 1998, Ch. 146, § 16 |
| ARS 41-2115 | Civil penalties | Laws 2008, Ch. 291, § 5 |
| ARS 41-2066(A) | Enforcement powers of the director and inspectors | Laws 2001, Ch. 164, § 3 |
| ***Rule Elements*** | | |
| R20-2-701 | Definitions | March 12, 2011 |
| R20-2-702(A)(3) and R20-2-702(A)(8) – (A)(11) | Materials Incorporated by Reference | March 12, 2011 |
| R20-2-708(B) | Gasoline Ethanol Blends | March 12, 2011 |
| R20-2-716 | Sampling and Access to Records | September 12, 2006 |
| R20-2-749 | Definitions Applicable to Arizona CBG and AZRBOB | March 12, 2011 |
| R20-2-750 | Registration Relating to AZ CBG or AZRBOB | September 12, 2006 |
| R20-2-751 | Arizona CBG Requirements | March 12, 2011 |
| R20-2-752 | General Requirements for Registered Suppliers | March 12, 2011 |
| R20-2-753 | General Requirements for Pipelines and 3rd-Party Terminals | September 12, 2006 |
| R20-2-754 | Downstream Blending Exceptions for Transmix | March 12, 2011 |
| R20-2-755 | Additional Requirements for AZRBOB and Downstream Oxygenate Blending | March 12, 2011 |
| R20-2-756 | Downstream Blending of AZ CBG with Nonoxygenate Blendstocks | March 12, 2011 |
| R20-2-757 | Product Transfer Documentation; Records Retention | March 12, 2011 |

[2] ARS § 49-541 was revised in 2007 under SB 1531, chaptered in Laws 2007 Ch. 171, § 3, effective 09/17/2007, the SIP incorporated sections §§ 49-541(1)(a),(b), and (c), however were not revised in the legislative action.

| Table 2.1<br>Arizona Cleaner Burning Gasoline Program, as Updated in August 2013 Submittal | | |
|---|---|---|
| **SIP Incorporated Element** | **Description** | **Publication/Codification Date** |
| R20-2-759 | Testing Methodologies | March 12, 2011 |
| Title 20, Ch. 2, Art. 7, Table A[3] | Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB | March 12, 2011 |
| R20-2-760 | Compliance Surveys | March 12, 2011 |
| R20-2-761 | Liability for Noncompliant Arizona CBG or AZRBOB | March 31, 2001 |
| R20-2-762 | Penalties | March 31, 2001 |
| Title 20, Ch. 2, Art. 7, Table 1 | Type 1 Gasoline Standards | March 12, 2011 |
| Title 20, Ch. 2, Art. 7, Table 2 | Type 2 Gasoline Standards | March 31, 2001 |

## 2.1 Changes in Arizona Rule

This SIP supplement incorporates the following revisions to the rule:

- Final Rulemaking at 19 A.A.R. 3325, effective November 30, 2013.

Under the Department of Weights and Measures Title 20 Article 7 Notice of Final Rulemaking there are amendments that affect the Arizona CBG program. These changes include amendments to: R20-2-708(B), R20-2-751, R20-2-752 and Table A. The following discussion provides an explanation of the changes made to each of the SIP incorporated Rules.

*R20-2-708(B)* Gasoline Ethanol Blends

- R20-2-708(B)(2)(b) changes were made to R20-2-708 to make the rules consistent with A.R.S. §§ 41-2083(D) and 41-2122(A), which limit the volatility of gasoline to 9 pounds psi from and after September 30 through March 31 of each year in a county with more than 1,200,000 persons and any portion of a county contained in Area A. Specifically R20-2-708(B)(2)(b) eliminated an allowance to exceed the 9.0 pound psi by 1.0 pound for gasoline ethanol blends in October, thus aligning the rule with the requirements outlined in Arizona statutes.
- R20-2-708(B)(3)(a)(ii) corrected a typographical error, changing the word "ration" to "ratio" for the minimum test temperature at which the vapor/liquid is equal to 20 is waived;

3 As submitted in the August 2013 SIP submittal, Table A was included in R20-2-759, and was not called out as a separate rule section. In the November 30, 2013 rulemaking Table A is listed as a separate rule section; therefore, for clarity purposes, it has been included in this submittal as a separate section.

- R20-2-708(B)(3)(c)(ii) corrected a typographical error, changing the word "ration" to "ratio" for the minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived.

*R20-2-751* Arizona CBG Requirements

- R20-2-751(6)(f) was modified in 2013 to eliminate the 1 pound psi waiver in October, consistent with the changes outlined in R20-2-708(B). There is no anticipated emission increase associated with the elimination of the 1 pound psi waiver for October.

*R20-2-752* General Requirements for Registered Suppliers

- R20-2-752(4)(c) was modified in 2013 to clarify that reports may be submitted to the Director on or before the 15th day of January, April and October and are not due precisely on the 15th day of the reporting month, for each sample of Arizona CBG or AZRBOB analyzed under subsection (F).

*Title 20, Chapter 2, Article 7, Table A* Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB

- Footnote 2 in Table A, Article 7, was modified in 2013 to correct a technical error. The only correlation equation to be used when determining vapor pressure is equation 1 in ASTM D5191-07, Section 14.2. Previously there was an expectation that a new equation for vapor pressure (referred to as the CARB correlation equation) would become effective once Arizona's Revised State Implementation Plan (SIP) to adopt CARB Phase 3 gasoline standards was approved by the Environmental Protection Agency (EPA). However, after extensive analysis of the emissions impact of the proposed update and in consultation with EPA, Arizona withdrew the request to update the CBG program. The withdrawl of the use of the CARB Phase 3 gasoline resulted in a technical error in the current Arizona CBG rule, which instructed registered suppliers to use an equation that is not allowed under the SIP. The Department sent a letter to the registered suppliers notifying them of the inconsistency and the requirement to use the previously-required vapor pressure equation, referred to as the ASTM equation. The November 30, 2013, rulemaking updates Table A, Footnote 2, to correct the inconsistency in the rule and require registered suppliers certifying Arizona CBG to use the appropriate ASTM equation for vapor pressure test methods, as previously required under the SIP.[4] These changes were discussed in the 2013 SIP revision, and it was indicated that the final rule would be submitted once adopted. The referenced footnote in Table A of Article 7 is highlighted in Table 2.2.

4 For more information on the history of the Arizona CBG program and additional details about the program applicability, please see Chapter 1.0, Regulatory History of Arizona Fuels regulations of the *2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program,* submitted to EPA August 2013.

| Table 2.2 – Title 20, Chapter 2, Article 7, Table A. | | | | | |
|---|---|---|---|---|---|
| **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; Foot- note 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 D5191-08, Section 14.2, ASTM equation ((.965X)-A).

## CHAPTER 3: Updated Revisions for Arizona CBG Program

Table 3.1 includes revised changes to the CBG program from the November 30, 2013 update (highlighted) and reflects the Arizona CBG program following EPA review and approval of this SIP revision.

| Table 3.1<br>Arizona Cleaner Burning Gasoline Program, as Updated in August 2013 Submittal | | |
|---|---|---|
| **SIP Incorporated Element** | **Description** | **Publication/Codification Date** |
| *Statutory Elements* | | |
| ARS 49-541(1)(a), (b), and (c) | Definition: "Area A" in (a) Maricopa County, (b) Pinal County, and (c) Yavapai County | Laws 2001, Ch. 371, § 8[5] |
| ARS 41-2124 | Area A; fuel reformulation; rules | Laws 2005, Ch. 104, § 3 |
| ARS 41-2123 | Area A; sale of gasoline; oxygen content | Laws 1999, Ch. 295, § 11 |
| ARS 41-2113(B)(4) | Violation; classification; jurisdiction | Laws 1998, Ch. 146, § 16 |
| ARS 41-2115 | Civil penalties | Laws 2008, Ch. 291, § 5 |
| ARS 41-2066(A) | Enforcement powers of the director and inspectors | Laws 2001, Ch. 164, § 3 |
| *Rule Elements* | | |
| R20-2-701 | Definitions | March 12, 2011 |
| R20-2-702(A)(3) and R20-2-702(A)(8) – (A)(11) | Materials Incorporated by Reference | March 12, 2011 |
| R20-2-708(B) | Gasoline Ethanol Blends | November 30, 2013 |
| R20-2-716 | Sampling and Access to Records | September 12, 2006 |
| R20-2-749 | Definitions Applicable to Arizona CBG and AZRBOB | March 12, 2011 |
| R20-2-750 | Registration Relating to AZ CBG or AZRBOB | September 12, 2006 |
| R20-2-751 | Arizona CBG Requirements | November 30, 2013 |
| R20-2-752 | General Requirements for Registered Suppliers | November 30, 2013 |
| R20-2-753 | General Requirements for Pipelines and 3rd-Party Terminals | September 12, 2006 |
| R20-2-754 | Downstream Blending Exceptions for Transmix | March 12, 2011 |
| R20-2-755 | Additional Requirements for AZRBOB and Downstream Oxygenate Blending | March 12, 2011 |
| R20-2-756 | Downstream Blending of AZ CBG with Nonoxygenate Blendstocks | March 12, 2011 |

[5] ARS § 49-541 was revised in 2007 under SB 1531, chaptered in Laws 2007 Ch. 171, § 3, effective 09/17/2007, the SIP incorporated sections §§ 49-541(1)(a),(b), and (c), however were not revised in the legislative action.

| Table 3.1<br>Arizona Cleaner Burning Gasoline Program, as Updated in August 2013 Submittal | | |
|---|---|---|
| **SIP Incorporated Element** | **Description** | **Publication/Codification Date** |
| R20-2-757 | Product Transfer Documentation; Records Retention | March 12, 2011 |
| ~~R20-2-758~~ | ~~Adoption of Fuel Certification Models~~ | ~~September 12, 2006~~[6] |
| R20-2-759 | Testing Methodologies | March 12, 2011 |
| Title 20, Ch. 2, Art. 7, Table A | Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB | November 30, 2013 |
| R20-2-760 | Compliance Surveys | March 12, 2011 |
| R20-2-761 | Liability for Noncompliant Arizona CBG or AZRBOB | March 31, 2001 |
| R20-2-762 | Penalties | March 31, 2001 |
| Title 20, Ch. 2, Art. 7, Table 1 | Type 1 Gasoline Standards | March 12, 2011 |
| Title 20, Ch. 2, Art. 7, Table 2 | Type 2 Gasoline Standards | March 31, 2001 |

[6] R20-2-758, Adoption of Fuel Certification Models was repealed; however the California Predictive Model and the Federal Complex Model were added to section R20-2-702, materials incorporated by reference. See Final Rulemaking at 12 A.A.R. 3722, effective September 12, 2006 (Attachment 9).

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# Attachment A

## Notice of Final Rulemaking

## 19 A.A.R. 3325 (October 23, 2013)

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**B.** SLMB. ~~The effective date of eligibility is the first day of the first month AHCCCS determines the person is eligible under this Article, but no earlier than the first day of the month of application.~~ Eligibility is effective on the first day of the month that all eligibility requirements are met, including the prior quarter period.

**C.** QI-1. ~~The effective date of eligibility is the first day of the first month AHCCCS determines the person is eligible under this Article, but no earlier than the first day of the month of application~~ Eligibility is effective on the first day of the month that all eligibility requirements are met, including the prior quarter period and no earlier than the first day of the current calendar year. QI-1 members are entitled to receive cost sharing assistance through the end of the calendar year in which they qualified for the program.

# NOTICE OF FINAL RULEMAKING

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

*Editor's Note: The following Notice of Final Rulemaking was reviewed per Executive Order 2012-03 as issued by Governor Brewer. (See the text of the executive order on page 3362.) The Governor's Office authorized the notice to proceed through the rulemaking process on April 2, 2013.*

[R13-185]

## PREAMBLE

**1. Articles, Parts, and Sections Affected (as applicable)**

| | **Rulemaking Action** |
|---|---|
| R20-2-708 | Amend |
| R20-2-709 | Amend |
| R20-2-718 | Amend |
| R20-2-751 | Amend |
| R20-2-752 | Amend |
| Table A | Amend |

**2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):**

Authorizing statute: A.R.S. § 41-2065(A)(4)

Implementing statute: A.R.S. §§ 41-2065(A)(16) and 41-2083

**3. The effective date for the rules:**

November 30, 2013

**a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Not applicable

**b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):**

Not applicable

**4. Citation to all related notices published in the *Register* to include the *Register* as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:**

Notice of Rulemaking Docket Opening: 19 A.A.R. 1601, June 14, 2013

Notice of Proposed Rulemaking: 19 A.A.R. 1590, June 14, 2013

**5. The agency's contact person who can answer questions about the rulemaking:**

Name: Michelle Wilson

Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302

Telephone: (602) 771-4933

Fax: (623) 939-7825

E-mail: mwilson@azdwm.gov

Web site: www.azdwm.gov

**6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**

The rulemaking makes minor clerical corrections and a technical correction related to a correlation equation in a test method used by refiners to test and certify Arizona Cleaner-Burning Gasoline (CBG). The Arizona Cleaner Burning Gasoline (CBG) program is a control measure used to reduce pollution from mobile sources in the Phoenix metropolitan area and is relied on in the area to reduce ozone, carbon monoxide (CO), and particulate matter (PM) formation.

The test methods used by refiners are specified in R20-2-759. Previously there was an expectation that a new equation for vapor pressure (referred to as the CARB correlation equation) would become effective once Arizona's Revised State Implementation Plan (SIP) was approved by the Environmental Protection Agency (EPA). However, it was determined by EPA that it could not approve the SIP revision because the revision would create a new fuel, which is prohibited by federal law.

The disapproval of the use of the vapor pressure CARB correlation equation resulted in a technical error in the current CBG rule, which instructs refiners to use an equation that is not allowed under the SIP. The Department sent a letter to the refiners notifying them of the inconsistency and the requirement to use the previously-required vapor pressure equation, referred to as the ASTM equation. This rulemaking corrects the inconsistency in the rule to require refiners certifying Arizona CBG to use the ASTM equation for vapor pressure test methods.

Changes are made to R20-2-708 and R20-2-751 to make the rules consistent with A.R.S. §§ 41-2083(D) and 41-2122(A), which limit the volatility of gasoline to 9 pounds psi from and after September 30 through March 31 of each year in a county with more than 1,200,000 persons and any portion of a county contained in Area A. Other minor changes are made to correct typographical errors and clarify requirements.

After this rulemaking is approved, the Department will submit the amended R20-2-708, R20-2-751, R20-2-752, and Table A to the EPA as part a revision of the SIP.

The Department was authorized by Steven Killian, Policy Advisor for the Governor, on April 2, 2013, to proceed with this rulemaking.

**7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review any study relevant to this rulemaking.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

Most of the economic impact from the rulemaking is the cost to the Department to make the clerical and technical corrections and eliminate the inconsistencies with statute. Refiners are already using the correct correlation equation because the Department instructed them to do so and because they are required to comply with federal and state law. The rulemaking adds greater flexibility for registered suppliers regarding the time for submitting quarterly reports to the Department. Owners of motor-fuel dispensing sites may incur minor costs to ensure that labels on each motor-fuel dispenser are accurate. However, this rulemaking modifies labeling requirements to reflect language currently used at most motor-fuel dispensing sites.

**10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**

No changes were made between the proposed and final rules.

**11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**

The Department received no public comments about the rulemaking. No one attended the oral proceeding that occurred on July 19, 2013.

**12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

Under A.R.S. § 41-2083(C) and (H), the director of the Department is required to consult with the director of the Department of Environmental Quality regarding the rules. This consultation has occurred. Under the state's implementation plan, changes regarding Arizona CBG will have to be submitted to the EPA for approval.

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

No permit is required.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal law regarding the SIP is at 40 CFR Part 51. This rulemaking ensures that the rules are consistent with the state's EPA-approved SIP. The rules are no more stringent than federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

No materials are incorporated by reference.

**14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**

None of the rules was previously made by emergency rulemaking.

**15. The full text of the rules follows:**

## TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

## CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section
R20-2-708. Gasoline Ethanol Blends
R20-2-709. Retail Oxygenated Fuel Labeling
R20-2-718. Requirements for Production, Transport, Distribution, and Sale of Biofuels
R20-2-751. Arizona CBG Requirements
R20-2-752. General Requirements for Registered Suppliers
Table A. Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB

## ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

**R20-2-708. Gasoline Ethanol Blends**

**A.** No change
**B.** No change
1. No change
   a. No change
      i. No change
      ii. No change
   b. No change
      i. No change
      ii. No change
2. No change
   a. No change
   b. Within the CBG-covered area during April ~~and October~~.
3. No change
   a. No change
      i. No change
      ii. The minimum test temperature at which the vapor/liquid ~~ration~~ ratio is equal to 20 is waived;
   b. No change
   c. No change
      i. No change
      ii. The minimum test temperature at which the vapor/liquid ~~ration~~ ratio is equal to 20 is waived.
4. No change

**C.** No change

**R20-2-709. Retail Oxygenated Fuel Labeling**

**A.** No change

**B.** No change
**C.** In the CBG-covered area and area B, the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each motor fuel dispenser contains the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles ~~in the winter~~." The statement may be printed on the label required in subsection (B) or on a separate label. If the statement is printed on a separate label, the label shall be displayed next to the label required in subsection (B).
**D.** No change
1. No change
2. No change
3. No change

**R20-2-718. Requirements for Production, Transport, Distribution, and Sale of Biofuels**
**A.** No change
1. No change
   a. A producer, supplier, or person required to register with the EPA under 40 CFR 80, Subpart K <u>or M</u>, shall register with the Director, using a form prescribed by the Director, before producing or supplying biofuel or biofuel blend in Arizona.
   b. No change
   c. No change
      i. No change
      ii. No change
   d. No change
2. No change
   a. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. No change
   b. No change
3. No change
   a. No change
   b. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
   c. No change
   d. No change
**B.** No change
1. No change
   a. No change
      i. No change
      ii. No change
      iii. No change
   b. No change
2. No change
   a. No change
   b. No change
3. No change
   a. No change
   b. No change
   c. No change
   d. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. No change
      vi. No change

4. No change
   a. No change
   b. No change
5. No change
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
   d. No change
   e. No change
   f. No change
   g. No change
6. No change
   a. No change
   b. No change
   c. No change

**C.** No change
1. No change
   a. No change
   b. No change
   c. No change
2. No change
   a. No change
      i. No change
      ii. No change
      iii. No change
   b. No change
3. No change
4. No change
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. No change
      vi. No change
      vii. No change
      viii. No change
      ix. No change
   d. No change
      i. No change
      ii. No change
      iii. No change
      iv. No change
      v. No change
      vi. No change
5. No change
   a. No change
   b. No change
6. No change
   a. No change
   b. No change
   c. No change
      i. No change
      ii. No change

iii. No change
d. No change
e. No change
f. No change
g. No change
7. No change
8. No change
a. No change
b. No change
c. No change

**D.** No change
1. No change
2. No change

**R20-2-751. Arizona CBG Requirements**

**A.** No change
1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. A gasoline ethanol blend in the CBG-covered area is subject to the 1 psi vapor pressure waiver, as described in R20-2-708(B), during April ~~and October~~ only.
7. No change
a. No change
i. No change
ii. No change
b. No change
c. No change
8. No change

**B.** No change
1. No change
2. No change
3. No change
4. No change
5. No change
6. No change
7. No change
a. No change
b. No change
c. No change

**C.** No change
1. No change
2. No change
3. No change

**D.** No change
1. No change
2. No change

**E.** No change
1. No change
2. No change

**F.** No change

**G.** No change

**H.** No change

1. No change
2. No change
   a. No change
   b. No change
      i. No change
      ii. No change
3. No change
4. No change
   a. No change
   b. No change
      i. No change
      ii. No change
      iii. No change
   c. No change
   d. No change
      i. No change
      ii. No change

**I.** No change
1. No change
2. No change
3. No change
4. No change
   a. No change
   b. No change

**J.** No change
**K.** No change
1. No change
2. No change
3. No change

**L.** No change
1. No change
   a. No change
   b. No change
2. No change
   a. No change
      i. No change
      ii. No change
   b. No change
   c. No change
   d. No change
3. No change
   a. No change
   b. No change
4. No change

**M.** No change
**N.** No change
**O.** No change
1. No change
2. No change

**P.** No change
1. No change
2. No change
3. No change

**Q.** No change

**R20-2-752. General Requirements for Registered Suppliers**
**A.** No change
**B.** No change
**C.** No change
1. No change

a. No change
b. No change
c. No change
d. No change
e. No change
2. No change
3. No change

**D.** No change
**E.** No change
**F.** No change
1. No change
a. No change
b. No change
i. No change
ii. No change
iii. No change
2. No change
3. No change
a. No change
b. No change
c. No change
i. No change
ii. No change
iii. No change
d. No change
e. No change
4. No change
a. No change
i. No change
ii. No change
iii. No change
iv. No change
v. No change
vi. No change
vii. No change
b. No change
c. Submits to the Director a quarterly report on <u>or before</u> 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. No change
ii. No change
d. No change

**G.** No change
**H.** No change
1. No change
a. No change
b. No change
c. No change
d. No change
e. No change
f. No change
g. No change
h. No change
i. No change
j. No change
2. No change
a. No change
b. No change

**Table A. Arizona Department of Weights and Measures 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 ~~the CARB (vapor pressure = (0.972 X Ptot) – 0.715)~~ equation 1 in ASTM D5191-07, Section 14.2, ASTM equation ((.965X)-A).

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# Attachment B

## Public Process Documentation

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ADEQ
Arizona Department of Environmental Quality
Janice K. Brewer, Governor
Henry R. Darwin, Director

# PUBLIC NOTICE

## 30 DAY PUBLIC COMMENT PERIOD AND PUBLIC HEARING ON THE PROPOSED 2014 ARIZONA STATE IMPLEMENTATION PLAN REVISION FOR THE CLEANER BURNING GASOLINE PROGRAM

The Arizona Department of Environmental Quality (ADEQ) opens a thirty-day public comment period with the publication of this notice on May 14, 2014, for the proposed Arizona State Implementation Plan (SIP) Revision for the Cleaner Burning Gasoline Program.

A public hearing on the proposed SIP revision will be held on June 16, 2014, at 2:00 p.m., in Conference Room 145 at ADEQ, 1110 W. Washington St., Phoenix, AZ 85007. All interested parties will be given an opportunity at the public hearing to submit comments, data, and views, orally and in writing. Written comments may be submitted prior to or during the public hearing and must be postmarked or received at ADEQ by 5:00 p.m. on June 16, 2014.

Written comments should be addressed, faxed, or e-mailed to Lynn Korn, Air Quality Division, State Implementation Plan Section, Arizona Department of Environmental Quality, 1110 W. Washington St., Phoenix, AZ 85007, FAX: (602) 771-2366, E-Mail: lk1@azdeq.gov.

Copies of the proposed SIP are available for review beginning Wednesday, May 14, 2014, Monday through Friday, between 8:30 a.m. and 4:30 p.m., at the ADEQ Records Center, 1110 W. Washington St., Phoenix, AZ 85007, (602) 771-4380. An electronic copy of the proposed SIP can also be viewed online at http://www.azdeq.gov/environ/air/plan/index.html by selecting Air Quality – Public Notices, Meetings, and Hearings.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Alicia Pollard at (602) 771-4791, or via email: pollard.alicia@azdeq.gov. TDD line for hearing impaired individuals, (602) 771-4829. Requests should be made as early as possible to allow time to arrange the accommodation.

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**AFFIDAVIT OF PUBLICATION**

325469

ADEQ
AIR QUALITY DIVISION

14 MAY 21 AM 10: 32

# THE ARIZONA REPUBLIC

6840 **State Agency Public Notices**

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Pub: May 14, 15, 2014

STATE OF ARIZONA
COUNTY OF MARICOPA } SS.

Brian Billings, being first duly sworn, upon oath deposes and says: That he is a legal advertising representative of the Arizona Business Gazette, a newspaper of general circulation in the county of Maricopa, State of Arizona, published in Phoenix, Arizona, by Phoenix Newspapers Inc., which also publishes The Arizona Republic, and that the copy hereto attached is a true copy of the advertisement published in the said paper on the dates as indicated.

**The Arizona Republic**

**May 14, 15, 2014**

Sworn to before me this
16TH day of
May A.D. 2014

MANUEL VARGAS
Notary Public - State of Arizona
MARICOPA COUNTY
My Commission Expires
November 30, 2015

Notary Public

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ADEQ
Arizona Department of Environmental Quality

# Air Quality Division Sign-In Sheet

## Please Sign In

SUBJECT: **Arizona State Implementation Plan Supplement for the Cleaner Burning Gasoline Program** DATE: June 16, 2014

| | NAME | ORGANIZATION | PHONE | E-MAIL (primary method of contact) |
|---|---|---|---|---|
| 1. | Stan Calderon | ADEQ | 602-771-2352 | snc@azdeq.gov |
| 2. | Michelle Wilson | AZDWM | 602-771-4933 | mwilson@azdwm.gov |
| 3. | Daniel Hazelline | ADEQ | 602 771 4210 | dmd@azdeq.gov |
| 4. | Lisa Tomczak | ADEQ | 602-771-4450 | lt5@azdeq.gov |
| 5. | | | | |
| 6. | | | | |
| 7. | | | | |

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ADEQ
Arizona Department of Environmental Quality
Janice K. Brewer, Governor
Henry R. Darwin, Director

# Public Hearing Agenda

**AIR QUALITY DIVISION**
**PUBLIC HEARING ON THE PROPOSED ARIZONA STATE IMPLEMENTATION PLAN SUPPLEMENT FOR THE CLEANER BURNING GASOLINE PROGRAM**

**Monday, June 16, 2014, at 2:00 p.m.**
**Arizona Department of Environmental Quality, Conference Room 145 (moved to 250)**
**1110 W. Washington St., Phoenix, AZ 85007**

---

**Pursuant to 40 CFR § 51.102 notice is hereby given that the above referenced meeting is open to the public.**

1. Welcome and Introductions
2. Purposes of the Oral Proceeding
3. Procedure for Making Public Comment
4. Brief Overview of the Proposed Arizona State Implementation Plan Supplement for the Cleaner Burning Gasoline Program SIP
5. Question and Answer Period
6. Oral Comment Period
7. Adjournment of Oral Proceeding

Copies of the proposed supplement SIP are available for review, Monday through Friday, between 8:30 a.m. and 4:30 p.m., at the ADEQ Records Center, 1110 W. Washington St., Phoenix, AZ 85007. To reach the Records Center, please call (602) 771-4380. An electronic copy of the proposed SIP can also be viewed on ADEQ's Website at http://www.azdeq.gov/environ/air/plan/index.html by selecting Air Quality – Public Notices, Meetings, and Hearings. For additional information regarding the hearing, please call Lisa Tomczak, ADEQ Air Quality Division, at (602) 771-4450 or 1-800-234-5677, Ext. 771-4450.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting Alicia Pollard at (602) 771-4791, or via email: pollard.alicia@azdeq.gov. TDD line for hearing impaired individuals, (602) 771-4829. Requests should be made as early as possible to allow time to arrange the accommodation.

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# PUBLIC HEARING ON THE PROPOSED ARIZONA STATE IMPLEMENTATION PLAN SUPPLEMENT FOR THE CLEANER BURNING GASOLINE PROGRAM

Oral Proceeding

Hearing Officer Script

June 16, 2014

[Danielle Hazeltine]

Good afternoon, thank you for coming. I now open this hearing on the proposed Arizona State Implementation Plan for the Supplement for the Cleaner Burning Gasoline Program.

It is Monday, June 16, 2014; the time is 2:04 p.m. The location is the Arizona Department of Environmental Quality, 1110 West Washington St, Phoenix, AZ 85007, conference room 250. This was originally scheduled in conference room 145 but we had to change due to that not being a conference room no more.

My name is Danielle Hazeltine, and I have been appointed by the Director of the Arizona Department of Environmental Quality (ADEQ) to preside at this proceeding.

The purposes of this proceeding are to provide the public an opportunity to:

1) hear about the substance of the proposed SIP;
2) ask questions regarding the SIP; and,
3) present oral arguments, data, and views regarding the SIP in the form of comments on the record.

Lisa Tomczak is here representing ADEQ from the Air Quality Division, State Implementation Plan Section.

Public notice appeared in the Arizona Republic and ADEQ's website beginning May 14, 2014. Copies of the proposed SIP revision were made available at the ADEQ Records Center and ADEQ's website beginning May 14, 2014.

The procedure for making a public comment on the record is straightforward. If you wish to comment, you need to fill out a speaker slip, which is available at the sign-in table, and give it to me. Using speaker slips allows everyone an opportunity to be heard and allows us to match the name on the official record with the comments. You may also submit written comments to me today.

Please note, the comment period for the proposed SIP revision ends today, June 16, 2014. All written comments whether they were sent via U.S. mail or via e-mail or via FAX must be postmarked or received by ADEQ at 5:00 p.m. today.

Comments made during the formal comment period are required by law to be considered by ADEQ when preparing the final SIP. This is done through the preparation of a responsiveness summary in which the Department responds in writing to written and oral comments made during the formal comment period.

The agenda for this hearing is simple. First, we will present a brief overview of the proposed SIP.

Second, I will conduct a question and answer period. The purpose of the question and answer period is to provide information that may help you in making comments on the proposed SIP.

Thirdly, I will conduct the oral comment period to call speakers in the order that I have received their speaker slips.

Please be aware that any comments at today's hearing that you want the Department to formally consider must be given either in writing or on the record at today's hearing during the oral comment period of this proceeding.

At this time, Ms. Tomczak will give a brief overview of the proposal.

[Lisa Tomczak]
In August 2013, the Arizona Department of Environmental Quality (ADEQ) submitted the State Implementation Plan called (SIP) Revision titled "*2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program*" to EPA. This revision provided an update to the Arizona Cleaner Burning Gasoline or (CBG) Program for federal approval and requested incorporation of Arizona's revised CBG related statutes and rules into the Arizona SIP.

The CBG program outlines gasoline standards for different areas of the state beyond minimum federal standards and is a control measure for ozone, carbon monoxide (CO), and particulate matter ($PM_{10}$) applicable to gasoline sold within the boundaries of Maricopa County and any portion of a county within Area A. Collectively, these regulatory boundaries are referred to as the "CBG covered area." Tailpipe emissions associated with vehicular travel is commonly identified as a factor contributing to nonattainment designations for all three pollutants, and the introduction of gasoline controls is one of many policies federal, state, and local governments have adopted in ongoing efforts to reduce pollution and improve public health. Further information about the history and applicability of the Arizona CBG program is included in the *2013 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program*.

This document is a supplement to the SIP revision for the CBG Program submitted to EPA in August 2013. It incorporates technical corrections to the Arizona Department of Weights and Measures (ADWM) rule, published October 25, 2013, and effective November 30, 2013. This rule was referenced in the August 2013 submittal, but not finalized for inclusion and EPA consideration at that time.

[Danielle Hazeltine]
This concludes the explanation period of this proceeding on the proposed SIP.

Are there any questions before we move to the oral comment period?

Hearing none, this concludes the question and answer period of this proceeding on the proposed SIP.

I now open this proceeding for oral comments.

Seeing no speaker slips this concludes the oral comment period of this proceeding.

If you have not already submitted written comments, you may submit them to me at this time. Again, the comment period for this proposed SIP ends today, June 16, 2014, at 5:00 p.m.

Thank you for attending.

The time is now 2:10 p.m. I now close this oral proceeding.

ADEQ
Arizona Department of Environmental Quality

## Air Quality Division

### Public Hearing Presiding Officer Certification

I, Danielle Hazeltine, the designated Presiding Officer, do hereby certify that the public hearing held by the Arizona Department of Environmental Quality was conducted on June 16, 2014, at the Arizona Department of Environmental Quality, Conference Room 250, 1110 West Washington Street, Phoenix, Arizona, in accordance with public notice requirements by publication in *The Arizona Republic*, *Casa and ADEQ website* beginning May 14, 2014. Furthermore, I do hereby certify that the public hearing was recorded from the opening of the public record through concluding remarks and adjournment, and the transcript provided contains a full, true, and correct record of the above-referenced public hearing.

Dated this 17 day of June 2014.

Danielle Hazeltine

State of Arizona )
) ss.
County of Maricopa )

Subscribed and sworn to before me on this 17 day of June 2014.

Notary Public State of Arizona
Maricopa County
Laura McFarland
My Commission Expires 04/02/2016

Laura McFarland
Notary Public

My commission expires: 04/02/2014

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# RESPONSIVENESS SUMMARY

## Testimony Taken at Oral Proceedings and Written Comments Received on the *Proposed 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program*

The oral proceeding on the *Proposed 2014 Update to the Arizona State Implementation Plan for the Cleaner Burning Gasoline Program* was held on Monday, June 16, 2014, 2:00 p.m., at the Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, Arizona. The public comment period closed on Monday, June 16, 2014. No oral or written comments were received during the comment period. During its final review of the proposed SIP, the Arizona Department of Environmental Quality determined no further clarifications were needed.