

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

PREAMBLE

1. Sections Affected

Article 13
R9-22-1301
R9-22-1302
R9-22-1303
R9-22-1304
R9-22-1305
R9-22-1306
R9-22-1307
R9-22-1308
R9-22-1309

Rulemaking Action

New Article
New Section
New Section

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. § 36-2903.01(H)

Implementing statute: A.R.S. § 36-2903.01(B)(4)

3. The effective date of the rules:

September 9, 1998

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

Notice of Rulemaking Docket Opening: 3 A.A.R. 1690, June 20, 1997, and 4 A.A.R. 933, April 17, 1998

Notice of Proposed Rulemaking: 4 A.A.R. 903, April 17, 1998

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

Name: Cheri Tomlinson, Federal and State Policy Administrator

Address: AHCCCSA, Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop 4200
Phoenix, Arizona 85034

Telephone: (602) 417-4198

Fax: (602) 256-6756

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

In response to a court order in *Perry v. Kelly*, case CV 95-140 TUC RMB, the AHCCCS Administration has added 9 A.A.C. 22, Article 13, Members' Rights and Responsibilities. The order requires the Administration, contractors, or an ALTCS contractor who renders a decision to deny, reduce, suspend, or terminate services, to provide individuals with written notice and an opportunity to an expedited hearing. The order also requires that services continue to be provided during the grievance and appeal process under certain circumstances. These and other requirements are detailed in 9 Sections (R9-22-1301 to R9-22-1309) in the Article.

7. 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.

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

It is anticipated that there will be a moderate impact on the Administration and contractors for administrative costs associated with complying with notification requirements to an individual when an adverse action is rendered. In August 1996, prior to the implementation of policy regarding the Perry v. Kelly order, a contractor who provides services to approximately 28% of the AHCCCS acute care population estimated that the annual impact could be \$200,000-\$500,000 resulting from 20,000-45,000 denial letters. However, since October 11, 1996, when contractors were directed to implement the new policy, significant concerns have not been raised by contractors.

During the same period, there has been a limited impact upon the number of hearings the Administration has conducted as a result of Perry v. Kelly-related appeals, although this could change as individuals receive more clarification of the written notification of the opportunity to an expedited hearing.

AHCCCS members benefit from the changes because members must be notified in writing of the opportunity to an expedited hearing and also are provided continued services pending a decision on the appeal under certain circumstances.

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

In addition to grammatical, tense, and punctuation changes, the Administration added language to clarify actions taken by the Administration or a contractor. R9-22-1307 was expanded to provide clarity and specificity for the expedited hearing process.

10. A summary of the principal comments and the agency response to them:

The major comments were questions regarding the time-frames, notices, requirements and processes of the expedited hearing process. Changes were made in the text to expand and clarify the expedited hearing process. The Administration held a conference call with each stakeholder to ensure that the changes in R9-22-1307 clarified the process. The stakeholders were satisfied with the changes.

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

Not applicable.

12. Incorporations by reference and their location in the rules:

None.

13. Was this rule previously adopted as an emergency rule?

No.

14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

**CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION**

ARTICLE 13. MEMBERS' RIGHTS AND RESPONSIBILITIES

Section

- R9-22-1301. General Intent and Definitions
- R9-22-1302. Denial of a Request for a Service
- R9-22-1303. Reduction, Suspension, or Termination of a Service
- R9-22-1304. Content of Notice
- R9-22-1305. Exceptions from an Advance Notice
- R9-22-1306. Notice in a Case of Probable Fraud
- R9-22-1307. Expedited Hearing Process
- R9-22-1308. Maintenance of Records
- R9-22-1309. Member Handbook

ARTICLE 13. MEMBERS' RIGHTS AND RESPONSIBILITIES

R9-22-1301. General Intent and Definitions

- A.** This Article defines the notice and appeal process when the Administration or a contractor reduces, suspends or terminates a service and provides a party with the opportunity for an expedited hearing.
- B.** Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the following meanings unless the context explicitly requires another meaning:
 - 1.** "Action" means termination, suspension, or reduction of a covered service as defined in R9-22-102.

- 2.** "Contractor" means a health plan, ALTCS program contractor, the Arizona Department of Health Services, or a Regional Behavioral Health Authority.
- 3.** "Date of action" means the effective date for a termination, suspension, or reduction.
- 4.** "Denial" means the decision not to authorize a requested service.
- 5.** "Notice" means a written statement that meets the requirements specified in R9-22-1304.
- 6.** "Party" means a member, contractor, or the Administration.
- 7.** "Request for a hearing" means a clear expression by a member or a member's authorized representative that the member wants the opportunity to present the member's case to a reviewing authority.

R9-22-1302. Denial of a Request for a Service

The Administration or a contractor shall provide a member with written notice no later than 3 business days from the date when authorization for a requested service is denied by the party giving notice.

R9-22-1303. Reduction, Suspension, or Termination of a Service

Except as permitted under R9-22-1305 and R9-22-1306, if the Administration or contractor reduces, suspends, or terminates a service currently provided by the Administration or contractor, the Administration or contractor shall provide the member written

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Notice of Intended Action at least 10 days prior to the effective date of the intended action.

R9-22-1304. Content of Notice

A Notice of Intended Action, required under R9-22-1302 or R9-22-1303 of this Article, shall contain the following:

1. A statement of the action the Administration or a contractor intends to take;
2. The succinct and specific reason for the intended action;
3. The specific law or rule that supports the action;
4. A change in federal or state law that requires an action;
5. An explanation of:
 - a. A member's right to request an evidentiary hearing; and
 - b. The circumstances under which the Administration or a contractor shall grant a hearing for an action based on a change in the law; and
6. An explanation of the circumstance under which the Administration or a contractor shall continue a covered service if a member appeals an action for a:
 - a. Reduction,
 - b. Suspension, or
 - c. Termination of a service.

R9-22-1305. Exceptions from an Advance Notice

The Administration or a contractor may mail a Notice of Intended Action for a reduction, suspension, or termination of a service not later than the date of action if the Administration or a contractor:

1. Has factual information confirming the death of a member;
2. Receives a written statement signed by the member that:
 - a. States services are no longer wanted; or
 - b. Provides information which requires a reduction or termination of a service and indicates that the member understands that a reduction or termination of a service shall be the result of providing that information;
3. Learns that a member has been admitted to an institution which makes the member ineligible for services;
4. Does not know the member's whereabouts and mail directed to the member is returned by the post office and no forwarding address is provided;
5. Has established the fact that the member has been approved for Medicaid services outside the state of Arizona;
6. Knows that a member's primary care provider has prescribed a change in the level of medical care; or
7. Knows the Notice of Intended Action involves an adverse determination for preadmission screening requirements specified in A.R.S. § 36-2936 for an ALTCS member.

R9-22-1306. Notice in a Case of Probable Fraud

The Administration or a contractor may shorten the advance notice period to 5 days before the date of action if:

1. The circumstances indicate that action should be taken because of probable fraud by a member; and
2. The facts have been verified through collateral resources, if possible.

R9-22-1307. Expedited Hearing Process

A. Alternative hearing process. This Section provides an alternative expedited hearing process for denials defined in R9-22-1301(B)(4) and an alternative expedited hearing process and continued services for actions defined in R9-22-1301(B)(1). Except as stated in this Section, the provisions of 9 A.A.C. 22, Article 8 do not apply. If the Administration

determines that a request for hearing filed according to this Section is not timely or not a proper appeal of a denial or action as defined in R9-22-1301(B), the request for hearing shall instead be considered a grievance according to 9 A.A.C. 22, Article 8 and, if appropriate, forwarded to the contractor within 10 business days from the date the Administration receives the request for processing according to 9 A.A.C. 22, Article 8. In this event, services shall not be continued as provided in this Section. If a member does not seek continued services or an expedited hearing, the member may file a grievance according to 9 A.A.C. 22, Article 8.

B. Time-frames. If the Administration or a contractor denies a service that requires authorization or reduces, suspends, or terminates existing service; and the member appeals the action and requests continued services during the hearing process or requests an expedited hearing of a denial for authorization, a member must file a request for hearing:

1. No later than 10 business days from the date of personal delivery of the Notice of Intended Action to the member; or
2. No later than 15 business days from the postmark date, if mailed, of the Notice of Intended Action.

C. Expedited hearing. A hearing under this Section shall be held no sooner than 20 days and not later than 40 days from the Administration's receipt of the request for hearing. Alternatively, the hearing may be held sooner than 20 days upon the agreement of all of the parties or upon written motion of 1 of the parties establishing, in the discretion of the Administration, extraordinary circumstances or the possibility of irreparable harm if the hearing is not held sooner.

D. Notice of hearing date. The Administration shall provide notice of the hearing date to the member or the authorized representative and to all other parties to the appeal.

E. Responsibilities of the Administration or a contractor. The Administration or a contractor shall provide the current level of an existing service during the expedited hearing process, if a request for expedited hearing and request to continue services are properly filed according to this Section.

F. Previously authorized service:

1. If a member's primary care provider orders a service that was previously authorized for the member, the Administration or a contractor may issue a written denial according to R9-22-1302, if the Administration or a contractor considers the request new and independent of any previous authorization. If the member's primary care provider asserts that the requested service or treatment is a necessary continuation of the previous authorization, and the member challenges the denial on this basis, then the service shall be continued pending appeal, unless:

- a. The parties reach some other agreement, or
- b. The Administration or contractor believes the primary care provider's request endangers the member.

2. Any dispute regarding reimbursement of a service under this Section is reserved until the provider submits a claim.

G. Responsibility of a member. A member whose service is continued during the expedited hearing process is financially liable for the service received if the Director upholds the decision to reduce, suspend, or terminate the service.

H. General provisions. The expedited hearing process shall be conducted according to R9-22-801 subsections (A) through (E) and (G) through (M).

R9-22-1308. Maintenance of Records

The party providing Notice of Intended Action shall maintain records of the written notification and the date of the notice given to the member.

R9-22-1309. Member Handbook

A contractor shall furnish each member with a handbook, as specified in contract, that explains a member's right to file a grievance or appeal concerning a denial or action that affects a member's receipt of medical services.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

**CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ARIZONA LONG-TERM CARE SYSTEM**

PREAMBLE

1. **Sections Affected**
Article 12
R9-28-1201
- Rulemaking Action**
New Article
New Section
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. § 36-2932(M)
Implementing statute: A.R.S. § 36-2932(I)(1)
3. **The effective date of the rules:**
September 9, 1998
4. **A list of all previous notices appearing in the Register addressing the final rule:**
Notices of Rulemaking Docket Opening: 3 A.A.R. 1690, June 20, 1997, and 4 A.A.C. 933, April 17, 1998
Notice of Proposed Rulemaking: 4 A.A.C. 906, April 17, 1998
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Cheri Tomlinson, Federal and State Policy Administrator
Address: AHCCCSA, Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop 4200
Phoenix, Arizona 85034
Telephone: (602) 417-4198
Fax: (602) 256-6756
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
In response to a court order in Perry v. Kelly, case CV 95-140 TUC RMB, the AHCCCS Administration added 9 A.A.C. 28, Article 12, Members' Rights and Responsibilities. The order requires ALTCS contractors who render a decision to deny, reduce, suspend, or terminate services, to provide individuals with written notice and an opportunity to an expedited hearing. The order also requires contractors to continue to provide services during the grievance and appeal process under certain circumstances. The language in R9-28-1201 cross-references the requirements in the 9 Sections in 9 A.A.C. 22, Article 13.
7. **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.
8. **The summary of the economic, small business, and consumer impact:**
By cross-referencing R9-28-1201 to R9-22-Article 13, there is a moderate impact on the Administration and contractors for administrative costs associated with complying with notification requirements to an individual when an adverse action is rendered. On October 11, 1996, contractors were directed to implement a new policy reflecting the Court's requirements, and significant concerns have not been raised by contractors. Since the policy took effect, there has been a limited impact upon the number of hearings the Administration has conducted as a result of Perry v. Kelly-related appeals but this could change as the individuals receive written notification of the opportunity to an expedited hearing.
ALTCS members benefit from the change because members must be notified in writing of the opportunity to an expedited hearing and also are provided continued services pending a decision on the appeal under certain circumstances.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
None.
10. **A summary of the principal comments and the agency response to them:**
None.

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- 11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable.
- 12. Incorporations by reference and their location in the rules:
None.
- 13. Was this rule previously adopted as an emergency rule?
No.
- 14. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 28. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ARIZONA LONG-TERM CARE SYSTEM

ARTICLE 12. MEMBERS' RIGHTS AND RESPONSIBILITIES

ARTICLE 12. MEMBERS' RIGHTS AND RESPONSIBILITIES

Section

R9-28-1201. Rights and Responsibilities

R9-28-1201. Rights and Responsibilities

The Administration and its contractors shall meet the requirements specified in 9 A.A.C. 22, Article 13.

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
PREMIUM SHARING DEMONSTRATION PROJECT

PREAMBLE

- | | |
|---|--|
| <p>1. <u>Sections Affected</u></p> <ul style="list-style-type: none"> Article 8 R9-30-801 R9-30-802 R9-30-803 R9-30-804 R9-30-805 R9-30-806 R9-30-807 R9-30-808 R9-30-809 | <p><u>Rulemaking Action</u></p> <ul style="list-style-type: none"> New Article New Section |
|---|--|
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):
 - Authorizing statute: Laws 1997, 1st Special Session, Ch. 186 § 3.
 - Implementing statute: Laws 1997, 1st Special Session, Ch. 186 § 3.
 - 3. The effective date of the rules:
September 9, 1998
 - 4. A list of all previous notices appearing in the Register addressing the final rule:
 - Notice of Rulemaking Docket Opening: 4 A.A.R. 934, April 17, 1998
 - Notice of Proposed Rulemaking: 4 A.A.R. 908, April 17, 1998
 - 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:
 - Name: Cheri Tomlinson, Federal and State Policy Administrator
 - Address: AHCCCS, Office of Policy Analysis and Coordination
801 East Jefferson, Mail Drop 4200
Phoenix, Arizona 85034
 - Telephone: (602) 417-4198
 - Fax: (602) 256-6756

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6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
In response to a court order in *Perry v. Kelly*, case CV 95-140 TUC RMB, the AHCCCS Administration added 9 A.A.C. 30, Article 8, Members' Rights and Responsibilities. The order requires a Premium Share contractor who renders a decision to deny, reduce, suspend, or terminate services, to provide individuals with written notice and an opportunity to an expedited appeal. The order also requires that services continue to be provided during the grievance and appeal process under certain circumstances. These and other requirements are detailed in 9 Sections (R9-30-801 to R9-30-809) in the Article.
7. **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.
8. **The summary of the economic, small business, and consumer impact:**
A moderate impact on Premium Share contractors is anticipated for administrative costs associated with complying with notification requirements to an individual when an adverse action is rendered. The Premium Sharing Administration (PSA) will be nominally impacted for the cost of hearings that may result from member appeals.

Premium Share members will benefit from the changes because members must be notified in writing of the opportunity to an expedited appeal and also are provided continued services pending a decision on the appeal under certain circumstances.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**
In addition to grammatical, tense, and punctuation changes, the Administration added language to clarify actions taken by the PSA or a contractor. R9-30-807 was expanded to provide clarity and specificity for the expedited hearing process.
10. **A summary of the principal comments and the agency response to them:**
The major comments were questions regarding the time-frames, notices, requirements, and processes of the expedited hearing process. Changes were made in the text to expand and clarify the expedited hearing process. The Administration held a conference call with each stakeholder to ensure that the changes in R9-30-807 clarified the process. The stakeholders were satisfied with the changes.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
None.
13. **Was this rule previously adopted as an emergency rule?**
No.
14. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

**CHAPTER 30. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
PREMIUM SHARING DEMONSTRATION PROJECT**

**ARTICLE 8. MEMBERS' RIGHTS AND
RESPONSIBILITIES**

Section	
<u>R9-30-801.</u>	<u>General Intent and Definitions</u>
<u>R9-30-802.</u>	<u>Denial of a Request for a Service</u>
<u>R9-30-803.</u>	<u>Reduction, Suspension, or Termination of a Service</u>
<u>R9-30-804.</u>	<u>Content of Notice</u>
<u>R9-30-805.</u>	<u>Exceptions from an Advance of Notice</u>
<u>R9-30-806.</u>	<u>Notice in a Case of Probable Fraud</u>
<u>R9-30-807.</u>	<u>Expedited Hearing Process</u>
<u>R9-30-808.</u>	<u>Maintenance of Records</u>
<u>R9-30-809.</u>	<u>Member Handbook</u>

**ARTICLE 8. MEMBERS' RIGHTS AND
RESPONSIBILITIES**

- R9-30-801. General Intent and Definitions**
- A. This Article defines the notice and appeal process when a Premium Share contractor denies, reduces, suspends, or terminates a service and provides a party with the opportunity for an expedited hearing.
 - B. Definitions. In addition to definitions contained in A.R.S. § 36-2901, the words and phrases in this Chapter have the fol-

lowing meanings unless the context explicitly requires another meaning:

1. "Action" means termination, suspension, or reduction of a covered service as defined in R9-30-102.
2. "Contractor" means a health plan, Arizona Department of Health Services, or a Regional Behavioral Health Authority.
3. "Date of action" means the effective date for a termination, suspension, or reduction.
4. "Denial" means the decision not to authorize a requested service.
5. "Notice" means a written statement that meets the requirements specified in R9-30-804.
6. "Party" means a member or contractor.
7. "Request for a hearing" means a clear expression by a Premium Share member or a member's authorized representative that the Premium Share member wants the opportunity to present the Premium Share member's case to a reviewing authority.

R9-30-802. Denial of a Request for a Service
A Premium Share contractor shall provide a Premium Share member with written notice no later than 3 business days from the date when authorization for a requested service is denied by the party giving notice.

R9-30-803. Reduction, Suspension, or Termination of a Service

Except as permitted under R9-30-805 and R9-30-806, if the Premium Share contractor reduces, suspends, or terminates a service currently provided by the Premium Share contractor, the Premium Share contractor shall provide the member written Notice of Intended Action at least 10 days prior to the date of the intended action.

R9-30-804. Content of Notice

A Notice of Intended Action, required under R9-30-802 or R9-30-803 of this Article, shall contain the following:

1. A statement of the action the Premium Share contractor intends to take;
2. The succinct and specific reason for the intended action;
3. The specific law or rule that supports the action;
4. A change in federal or state law that requires an action;
5. An explanation of:
 - a. A Premium Share member's right to request an evidentiary hearing; and
 - b. The circumstances under which the Premium Share contractor shall grant a hearing for an action based on a change in the law; and
6. An explanation of the circumstance under which the Premium Share contractor shall continue a covered service if a Premium Share member appeals an action for a:
 - a. Reduction,
 - b. Suspension, or
 - c. Termination of a service.

R9-30-805. Exceptions from an Advance Notice

A Premium Share contractor may mail a Notice of Intended Action for a reduction, suspension, or termination of a service not later than the date of action if the Premium Share contractor:

1. Has factual information confirming the death of a Premium Share member;
2. Receives a written statement signed by the Premium Share member that:
 - a. States services are no longer wanted; or
 - b. Provides information which requires a reduction or a termination of a service and indicates that the Premium Share member understands that a reduction or a termination of a service shall be the result of providing that information;
3. Learns that a Premium Share member has been admitted to an institution which makes the Premium Share member ineligible for further services;
4. Does not know the Premium Share member's whereabouts and mail directed to the Premium Share member is returned by the post office and no forwarding address is provided;
5. Has established the fact that a Premium Share member has been approved for Medicaid;
6. Knows that the Premium Share member's primary care provider has prescribed a change in the level of medical care.

R9-30-806. Notice in a Case of Probable Fraud

A Premium Share contractor may shorten the advance notice period to 5 days before the date of action if:

1. The circumstances indicate that action should be taken because of probable fraud by a Premium Share member; and
2. The facts have been verified through collateral resources, if possible.

R9-30-807. Expedited Hearing Process

- A. Alternative hearing process. This Section provides an alternative expedited hearing process for denials defined in R9-30-801(B)(4) and an alternative expedited hearing process and continued services for an action defined in R9-30-801(B)(1). Except as stated in this Section, the provisions of 9 A.A.C. 30, Article 6 do not apply. If the PSA determines that a request for hearing filed according to this Section is not timely or not a proper appeal of a denial or action defined in R9-30-801(B), the request for expedited hearing shall instead be considered a grievance according to 9 A.A.C. 30, Article 6 and, if appropriate, forwarded to the Premium Share contractor within 10 business days from the date the PSA receives the request for processing according to 9 A.A.C. 30, Article 6. In this event, services shall not be continued as provided in this Section. If a Premium Share member does not seek continued services or an expedited hearing, the Premium Share member may file a grievance according to 9 A.A.C. 30, Article 6.
- B. Time-frames. If the Premium Share contractor denies a service that requires authorization or reduces, suspends, or terminates existing service; and the Premium Share member appeals the action and requests continued services during the hearing process or requests an expedited hearing of a denial for authorization, the Premium Share member must file a request for hearing:
 1. No later than 10 business days from the date of personal delivery of the Notice of Intended Action to the Premium Share member; or
 2. No later than 15 business days from the postmark date, if mailed, of the Notice of Intended Action.
- C. Expedited hearing. A hearing under this Section shall be held no sooner than 20 days and not later than 40 days from the PSA's receipt of the request for hearing. Alternatively, the hearing may be held sooner than 20 days upon the agreement of all of the parties or upon written motion of 1 of the parties establishing, in the discretion of the PSA, extraordinary circumstances or the possibility of irreparable harm if the hearing is not held sooner.
- D. Notice of hearing date. The PSA shall provide notice of the hearing date to the Premium Share member or the authorized representative and to all other parties to the appeal.
- E. Responsibilities of the PSA or a contractor. The Premium Share contractor shall provide the current level of an existing service during the expedited hearing process, if a request for hearing and request to continue services are properly filed according to this Section.
- F. Previously authorized service.
 1. If a Premium Share member's primary care provider orders a service that was previously authorized for the Premium Share member, the Premium Share contractor may issue a written denial according to R9-30-802, if the Premium Share contractor considers the request new and independent of any previous authorization. If the Premium Share member's primary care provider asserts that the requested service or treatment is a necessary continuation of the previous authorization, and the member challenges the denial on this basis, then the service shall be continued pending appeal, unless:
 - a. The parties reach some other agreement, or
 - b. The Premium Share contractor believes the primary care provider's request endangers the Premium Share member.

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

The urbanized area of Maricopa County has been experiencing violations of the National Ambient Air Quality Standards (NAAQS) for ozone ever since the standard was adopted in the late 1970's. Under the federal Clean Air Act Amendments of 1990, this area was classified as a "moderate" nonattainment area for ozone by the Environmental Protection Agency (EPA). However, due to continuing exceedances of the ozone standard, the EPA redesignated the Phoenix airshed to a "serious" nonattainment area, effective on December 8, 1997.

In order to address the air quality problems, Governor Symington issued Executive Order (EO) 96-6 on May 24, 1996. EO 96-6 created a Task Force charged with evaluating and recommending measures that could be implemented to reduce the formation of ozone, particulate matter, and carbon monoxide. During the time period of August through September of 1996, the Task Force considered hundreds of suggestions by the general public, private businesses, and governmental entities. Additionally, the Task Force collected and evaluated information related to dozens of ozone control measures adopted by jurisdictions in every area of the country. Based on the evaluation of the information presented to them, on December 2, 1996, the Task Force released their report containing 35 recommended air pollution control measures.

Of the 35 control measures recommended by the Task Force, two measures ranked above the rest in their ability to reduce emissions of ozone-forming pollutants and their ability to be implemented in a short time period:

- Opt into the Federal Reformulated Gasoline (RFG) program beginning in the 1997 ozone season; and
- Selection of a gasoline formulation by 1999 for long-term use. Gasoline formulations recommended by the Task Force included 1) a performance-based gasoline capable of a 10% volatile organic compound (VOC) reduction; 2) Federal Phase II RFG; and 3) California Air Resources Board (CARB) Phase 2 RFG.

Governor Symington acted on the Task Force recommendation by sending a letter to the Environmental Protection Agency (EPA) on January 17, 1997, requesting that the Maricopa County ozone nonattainment area be included in the Federal RFG program beginning June 1, 1997. Opting into the Federal RFG program enabled the implementation of a control measure that had immediate air quality benefits for the 1997 ozone season.

The request by Governor Symington to opt into the Federal RFG program was contingent on the EPA's assurance that Arizona would be able to exit the program in 1998 and implement their own State-enforced program. The State program, if approved by EPA, would mandate the use of a long-term gasoline recommended by the Task Force. This was an important decision that allowed the State the flexibility to implement a program with greater environmental benefits at an earlier time period than would be achieved if Arizona were to remain in the Federal program.

During the 1997 regular legislative session, the choice of a long-term gasoline for the Maricopa County area was debated. Many issues played a key role in the decision of the type of gasoline to require, such as cost of production, cost to consumer, supply and transport issues, and environmental benefits. Based upon these considerations, the State Legislature passed House Bill (HB) 2307. This bill provides for increasing environmental benefits by requiring gasoline dispensed for use in motor vehicles within area A to meet the following formulations during the specified time periods. Area A is a term defined in statute to describe those portions of the Phoenix metropolitan and surrounding areas for which air pollutant control programs are necessary to protect air quality.

- From June 1, 1998, through September 30, 1998, gasoline must meet either CARB Phase 2 or Federal Phase I gasoline standards.
- From and after May 1, 1999, gasoline must meet either CARB Phase 2 or Federal Phase II gasoline standards.

Additionally, the gasoline must meet the maximum 7.0 psi summertime vapor pressure requirements contained in A.R.S. Section 41-2083(F) and wintertime oxygenate and vapor pressure requirements as provided in A.R.S. Sections 41-2123 and 41-2083(D), respectively.

To ensure that a State-enforced gasoline program was in place for the 1998 ozone season, HB 2307 was passed as an emergency measure, operative immediately. The bill required ADEQ, in consultation with the Arizona Department of Weights and Measures (ADWM), to adopt interim rules reflecting the 1998 and 1999 fuel requirements by September 15, 1997.

In order to meet the mandated deadline, ADEQ and ADWM held a series of ten public workshops with interested parties from May 22 through July 15, 1997, to develop a proposed interim rule that would achieve the following requirements:

- 1) Provide the maximum flexibility for producers and transporters of gasoline to minimize costs and to ensure that the supply of gasoline would not be disrupted;
- 2) Meet the requirements of HB 2307; and
- 3) Contain an enforceable program that meets EPA criteria for approval.

Arizona Cleaner Burning Gasoline (CBG) is the name chosen for the Arizona version of "reformulated gasoline". The Arizona CBG interim rule was proposed by publishing a notice in the newspaper on July, 15, 1997. A public hearing was held on the proposed interim rule at ADEQ on August 15, 1997, the date of close of the public comment period.

The Arizona CBG interim rule was adopted by ADEQ on September 12, 1997, and was submitted to EPA as a State Implementation Plan (SIP) revision. EPA proposed approval of the interim rules on November 20, 1997, and issued a notice of final rule-

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making (NFRM) approving the CBG program on February 12, 1998. The interim rules apply to gasoline distributed for use in motor vehicles in area A after June 1, 1998, and will remain in effect until October 1, 1998, the proposed effective date of this rule. This is the earliest possible date for this rule since the permanent rule must replace the interim rule and R20-2-751.01, et al, needs to be in effect until September 30, 1998. ADEQ plans to submit the permanent rule to EPA as a SIP revision when it becomes effective.

On May 29, 1998, Senate Bill (SB) 1427 was signed by Governor Hull, revising the definition of area A. Due to increasing population and the need for further control of air pollutant emissions, SB 1427 modified the definition of area A for most air quality programs to include additional areas of Maricopa County, as well as neighboring portions of Pinal and Yavapai counties. For the Arizona CBG program, which previously was effective for all of Maricopa County, the revised definition of area A will reduce the applicability of the program to only those portions included in the new area A definition. This change was effective on August 21, 1998, and applies automatically in the Arizona CBG rule. To avoid conflict between the statute and rule area A definitions, the area A definition contained in R20-2-701 has been deleted.

The rule contains requirements for every person in the gasoline distribution system to insure that area A will receive gasoline that meets the requirements mandated by HB 2307 and provides significant benefits to the air quality. The provisions of this rule will be enforced by the Department of Weights and Measures. A summary of each section of the rule is provided below.

Section-by-Section Explanation of the Final Rule

R20-2-701 This section contains definitions for CBG and for other ADWM motor fuels and petroleum products rules. This final CBG rule contains 4 definitions that are new from the interim rule. The total number of definitions added to this section for CBG is 38.

R20-2-709 This section existed before the CBG rule. It provides record retention requirements for service stations and fleet owners. For all motor fuels other than Arizona CBG, documentation to verify the quantity and grade of each motor fuel delivered shall be retained for at least the three most recent deliveries of each grade or motor fuel. For Arizona CBG, the product transfer documents (PTDs) for each shipment of gasoline delivered in the preceding 12 months is to be maintained. In the final rule, the PTDs for only the three most recent deliveries is to be maintained on the premises. This is consistent with federal regulations. The remainder of the documentation shall be available within 2 working days from the time of request by the Director.

R20-2-721 This section also existed before the CBG rule. It provides the methodology for sample collection and a list of facilities for which ADWM or its authorized agents shall collect and analyze samples. This section also provides that all documentation required by this Article shall be available for inspection by ADWM or its authorized agents. R20-2-721(B) has been deleted because it is outdated.

R20-2-750 This section provides registration requirements for refiners, importers, oxygenate blenders, pipelines, and 3rd-party terminals that will be producing, importing, or otherwise handling Arizona CBG or Arizona reformulated gasoline blendstock for oxygenate blending (AZRBOB). The registration is required to be on forms prescribed by the Director, and shall be resubmitted within 10 calendar days after the effective date of any changes.

R20-2-751 This section provides the standards that all Arizona CBG within the gasoline distribution system must meet on or after May 1, 1999. Additionally, producers or importers (referred to as registered suppliers) are required to meet more stringent standards than the standards that apply throughout the distribution system. Registered suppliers may elect the standards for which they will comply: Type 1 gasoline averaging option or non-averaging option, Type 2 gasoline averaging option, non-averaging option, or predictive model. This election is to be submitted to ADWM prior to transport of Arizona CBG to area A, and must be resubmitted when a change in the election occurs. This section outlines the requirements for meeting each of the standards chosen by the registered supplier, as well as the consequences of failing to meet the standards.

R20-2-752 This section requires all registered suppliers to:

- Certify each batch of Arizona CBG and to provide ADWM with the certification information on a monthly basis;
- Retain records regarding the sampling and analysis of Arizona CBG. These records shall be maintained for a period of five years and are to be submitted to ADWM within 20 working days of a written request;
- Notify ADWM by facsimile prior to transport of Arizona CBG or AZRBOB to area A by means other than a pipeline; and
- Conduct a quality assurance/quality control (QA/QC) program or an independent testing program, unless exempt under R20-2-752(G).

R20-2-753 This section includes requirements that must be met in order for a pipeline or 3rd-party terminal to accept Arizona CBG or AZRBOB for transport. Pipelines and 3rd-party terminals are required to collect a sample of each incoming batch of gasoline, notify the Director if the batch does not meet the standards applicable throughout the distribution system, and develop and submit a QA/QC program to ADWM for approval. Additionally, pipelines are required to conduct sample analysis at a frequency of no less than one sample from one batch completing shipment per supplier per day at each input location. A monthly report summarizing the pipeline's laboratory testing results is to be submitted to ADWM within 10 calendar days of the end of each month.

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R20-2-754 During the process of moving petroleum products, the interface where different petroleum products meet may create a mixture of petroleum distillate and gasoline that does not meet the Arizona standards for either petroleum distillate fuels or gasoline. This mixture is called transmix. This section allows pipelines to blend transmix into Arizona CBG or AZRBOB at a rate of no more than one quarter of one percent by volume and provides methods to be used to measure the rate of transmix blending.

R20-2-755 This section provides requirements for blending of oxygenate into AZRBOB, determining if the AZRBOB complies with the applicable standards, and recordkeeping and retention requirements. Registered suppliers that supply AZRBOB from their production or import facility are required to have a quality assurance sampling and testing program. Oxygenate blenders are required to add the specified types and quantities of oxygenate to the AZRBOB supplied by the registered supplier, following the requirements for terminal blending, blending into trucks, or in-line blending, if applicable. Oxygenate blenders are required to conduct an independent testing program or submit a QA/QC program demonstrating the accuracy and effectiveness of their laboratory testing to ADWM for approval. Additionally, this section provides restrictions for transferring AZRBOB and for blending AZRBOB with other products.

R20-2-756 This section provides restrictions on blending Arizona CBG with nonoxygenate blendstocks. This activity is allowed only under the following circumstances:

- The blendstock that is added to the Arizona CBG meets all of the Arizona CBG standards without regard to the properties of the gasoline to which the blendstock is added and the person meets all of the requirements applicable to producers of Arizona CBG; and
- The person obtains prior approval of the Director. This approval shall be based on a demonstration that adding the blendstock to previously certified batch or mixture of certified batches of Arizona CBG is a reasonable means of bringing the gasoline into compliance with the applicable standards for Arizona CBG. The reblended Arizona CBG shall be recertified by the oxygenate blender or registered supplier.

R20-2-757 On each occasion when custody or title of Arizona CBG or AZRBOB is transferred, the transferor is required to provide the transferee with a PTD. The PTD provides information related to the custody, transfer date, transfer volume, physical characteristics, oxygenate requirements, oxygenate content, as well as other information related to the Arizona CBG or AZRBOB. Additionally, this section includes record retention requirements for PTDs which, upon request, shall be presented to ADWM.

R20-2-758 This section incorporates by reference the California Predictive Model and the Federal Complex Model.

R20-2-759 This section provides the testing methodologies for analysis of gasoline samples.

R20-2-760 Each registered supplier that elects to comply with the averaging standards is required to conduct compliance surveys in accordance with a survey program plan approved by ADWM. The survey shall be planned and conducted by a person who is independent of the registered supplier. This section provides criteria for the number of surveys that shall be conducted, the time periods during which the surveys are to be conducted, general survey requirements, procedures for seeking Director approval of the survey plan, and methodology for determining survey results.

R20-2-761 This section outlines the liability of each person within the distribution system. Parties that would be liable under this section may be deemed to not be in violation if they can demonstrate that:

- The violation was not caused by the regulated party, its employee, or agent;
- PTDs account for all of the gasoline in the storage tank found in violation and indicate that the gasoline met applicable requirements; and
- The facility has conducted a quality assurance sampling and testing program; except that any person that transfers Arizona CBG or AZRBOB but does not assume title may rely on the quality assurance program carried out by another party, including the party that owns the Arizona CBG or AZRBOB in question, provided that the quality assurance program is carried out properly.

Additional defenses must be shown by facilities that are operating under the corporate, trade or brand name of a registered supplier in order for these facilities to be deemed not in violation.

R20-2-762 This section outlines the penalties applicable to any person who violates the provisions of this article.

7. **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.

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

I. Rule Identification

ADEQ, in consultation with ADWM, promulgated revisions to A.A.C. R20-2-701, 709, 721 and R20-2-750 through R20-2-762, known as the Arizona CBG rules. The statutory authority for this rule is contained in Laws 1997, Ch. 117 (House Bill 2307).

Title 20: Commerce, Banking, and Insurance

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Chapter 2: Department of Weights and Measures

Article 7: Motor Fuels and Petroleum Products, §§701-762

II. Introduction

The primary purpose of the Arizona CBG rule is to permanently implement the provisions of the interim Arizona CBG rule, adopted by ADEQ on September 12, 1997, and published in the *Arizona Administrative Register* on October 3, 1997. The Arizona CBG rule provides requirements for every person in the gasoline distribution system to ensure that area A will receive gasoline meeting stringent standards that provide for improved air quality. Air pollutants that will be reduced by the implementation of this rule include ozone-forming air pollutants such as volatile organic compounds (VOCs), carbon monoxide (CO), and nitrogen oxides (NOx), as well as particulate matter (PM).

Gasoline distribution for the Maricopa County area, as well as for Arizona, is dependent on out-of-state refiners and one pipeline company. Refiners transport the gasoline from either El Paso or Los Angeles to Arizona through the pipeline owned by Kinder Morgan Energy Partners, L.P. (Kinder Morgan pipeline), previously owned by the Santa Fe Pacific Pipeline Partners (SFPP). Virtually all of the gasoline shipped to area A is via the Kinder Morgan pipeline, which handles gasoline, as well as other refined fuels. In some instances, the supplying refiners may ship the gasoline to a community gasoline storage facility (known as 3rd-party terminals) prior to transport to the pipeline. At the 3rd-party terminal, gasoline from different refineries may be stored in common tankage. The gasoline distribution system is fungible, which means, gasoline of the same grade from different batches produced by the same refiner or batches from different refiners may be mixed together in the 3rd-party storage tanks or at breakout tankage at the pipeline. Once the gasoline arrives in area A, it is transferred from the pipeline to local bulk terminals which handle the distribution of the gasoline to tank wagon fleets. Finally, the gasoline is distributed to the retail outlets and fleet vehicle fueling stations. The Arizona CBG rule contains provisions for gasoline sampling and analysis, documentation, and recordkeeping to ensure that the gasoline meets the applicable standards at each step within the gasoline distribution system.

The Arizona CBG rule provides refiners and importers flexibility to produce gasoline that complies with standards similar to either the California Phase 2 Reformulated Gasoline (CARB Phase 2) or the Federal Phase II Reformulated Gasoline (Federal Phase II) standards. Additionally, the Arizona CBG rule allows gasoline producers or importers to choose to comply with either a per-gallon standard or an averaging compliance option. The per gallon standards require that every gallon of gasoline produced by the refiner meet a specified standard for each of the regulated gasoline components. The averaging compliance option allows facilities to produce gasoline that meets standards lower than the per gallon standard limits as long as the overall average of all gasoline produced by the facility for transport to area A meets a more stringent standard when averaged over a specified time-frame. This is referred to as the "Arizona average" since it requires refiners to track separately any gasoline produced for shipment to area A.

III. Classes of Persons Affected

Potential classes of persons affected by this rulemaking include: oil importing and refining companies (known in the Final rule as "registered suppliers"), the Kinder Morgan pipeline, 3rd-party terminals, bulk terminals, gasoline distributors, gasoline transporters, ADEQ as the adopting agency, ADWM as the implementing agency, and the general public of Maricopa County. These persons will be affected by the CBG rule in varying degrees both from one class to another and within certain classes. A brief discussion of the anticipated effects on each of these classes is provided in the following paragraphs.

A. REGISTERED SUPPLIERS AND 3rd-PARTY TERMINALS

The enforcement of gasoline standards within area A has, and will, rely heavily on collection and analysis of samples within the Maricopa County area. However, as stated previously, all of the oil refining and importing companies (registered suppliers) and 3rd-party terminals that currently produce, import, or otherwise handle gasoline for transport into area A are located outside of Arizona. For this reason, the Arizona CBG rule relies more heavily on sample analysis performed by each of these facilities, as well as recordkeeping and reporting to demonstrate that the gasoline is complying with the appropriate gasoline standards. Additionally, each of these facilities must demonstrate to ADWM that their laboratory is meeting minimum standards to ensure the accuracy of the laboratory analysis. This is done through the submittal to ADWM for approval of a laboratory quality assurance/quality control (QA/QC) plan. It is estimated that at least ten registered suppliers and three 3rd-party terminals will be affected by these requirements. In lieu of the QA/QC Plan requirements, registered suppliers may demonstrate the accuracy of the laboratory analysis and comply with the regulations by conducting an independent laboratory sampling program.

B. KINDER MORGAN PIPELINE

Ninety-nine percent of Arizona's gasoline is transported to area A through the Kinder Morgan pipeline. For liability reasons, the pipeline has implemented a laboratory testing program to verify that the gasoline input into the pipeline system meets the appropriate standards. The Arizona CBG rule does not contain any additional sampling and analysis requirements that were not previously performed by the pipeline. However, the rule does contain additional recordkeeping and reporting requirements that allow ADWM to utilize gasoline analysis information collected by Kinder Morgan.

C. GASOLINE DISTRIBUTORS, TRANSPORTERS, FLEET VEHICLE FUELING STATIONS, AND RETAIL FACILITIES

Anticipated effects from the implementation of this rule to gasoline distributors, transporters, fleet vehicle fueling stations and retail facilities are minimal. As with previous gasoline rules for area A, this final rule requires that a product transfer document

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(PTD) accompany the gasoline each time Arizona CBG is transferred. The PTD contains information relating to the physical characteristics of the gasoline and indicates that the gasoline is Arizona CBG for sale in area A. Each person handling gasoline within area A will be required to verify on the PTD that the gasoline is Arizona CBG and to maintain a copy of the PTD for a specified time period.

D. GOVERNMENTAL AGENCIES

Governmental agencies impacted by Arizona CBG include ADEQ and ADWM. ADEQ has adopted the permanent rule and will submit the rule to EPA as a SIP revision. Once adopted by ADEQ and approved by EPA, ADWM will implement and enforce the rule.

E. THE PUBLIC/ENVIRONMENT

Members of the public most affected by the implementation of the Arizona CBG rule include the residents of area A and surrounding areas (Maricopa County). Benefits to the health of the general public will be observed for all people who live in Maricopa and surrounding areas. Additionally, residents outside of but near Maricopa County and people that visit the Maricopa County area will experience improved air quality. Moreover, animal and environmental welfare affected by air pollution will be improved.

The general public also will be affected by the implementation of this rule because of the increased cost of production of the gasoline and the anticipated increase in gas consumption due to a minor reduction in fuel economy which, together, could range from \$0.04 to \$0.08 per gallon (see V.B.2 and V.B.5). Cost associated with the use of Arizona CBG will be limited to those people that purchase gasoline within area A. Exceptions include automobile racetracks and automobile proving grounds located in area A. Classes of consumers affected by the rule include:

- Motor vehicle operators;
- Lawn and landscaping equipment operators;
- Golf cart operators; and
- Operators of other gasoline-powered off-road equipment.

Approximate annual gasoline consumption in Maricopa County during the years 1993 through 1995 was (MathPro, November 7, 1996, p. 21):

- 1993 1,002.5 million gallons
- 1994 1,044.7 million gallons
- 1995 1,081.1 million gallons.

In addition to the residents of area A and surrounding areas, residents of other counties may be affected if they purchase gasoline in area A or during instances when Arizona CBG is sold outside area A.

IV. Anticipated Impacts on Employment, Revenues, and Expenditures

This rulemaking is expected to have minimal impacts on ADEQ and ADWM's employment requirements. In particular, ADEQ does not anticipate hiring additional staff due to the Arizona CBG rule. ADWM has hired one person to assist in implementing the rule.

This rulemaking will have no direct impact on state revenues because it is not a revenue-raising rule. However, the EPA and the Federal Highway Administration may withhold federal highway funds in the event that Maricopa County is unable to meet specified air quality requirements. Even though the production costs of CBG could result in a slight increase in its price as compared to the price of conventional gasoline, this additional cost is not expected to reduce gasoline sales. Thus, no decrease in gasoline tax revenues is predicted as a result of this price increase. However, it is possible that a minimal increase in tax revenues could accrue due to a slight increase in the volume of gasoline consumed because of the loss of fuel economy.

ADEQ anticipates that a small number of out-of-state jobs may be added at oil refineries to oversee the Arizona market. Additionally, out-of-state jobs may be added for the purpose of laboratory testing of gasoline and for conducting retail surveys. ADEQ expects employment levels at the retail level to remain unchanged.

V. Cost-Effectiveness Analysis

Based on data from Assessment of Fuel Formulations for Maricopa County (Mathpro; November 7, 1996), a study conducted for the State, the cost effectiveness for the production of gasoline meeting the Federal Phase II standards or the CARB Phase 2 standards ranges from \$22,000 to \$41,000 per ton of VOC reduced (See attached Exhibit 6.9). This cost effectiveness has been calculated by evaluating the costs associated with producing gasoline that meets the Federal Phase II standards or the CARB standards and comparing these costs with the anticipated emissions reductions.

A. BENEFITS

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The benefits resulting from the implementation of the Arizona CBG rule consist of benefits to humans, animals, trees, plants, and materials. Registered suppliers may benefit economically from slightly increased sales of gasoline due to loss in fuel economy.

1. Benefits to Humans

The primary purpose of Arizona CBG is to reduce ozone pollution, which reaches unhealthful levels in Maricopa County. Health effects of ozone include damage to the respiratory system, reduced breathing capacity and chest pain, headache, nasal congestion and sore throat. Individuals with chronic respiratory diseases are especially susceptible to ozone.

Unlike most air pollutants, ozone is not emitted directly into the air from tailpipes or smokestacks; ozone is formed when sunlight and heat act upon VOCs and NOx in a series of complex chemical reactions in the atmosphere. In Maricopa County, 35 percent of the manmade VOC emissions are caused by on-road vehicles (cars, trucks) and approximately 23 percent are from off-road sources (lawn mowers, trimmers, construction equipment, etc). The use of CBG is anticipated to reduce VOC emissions from vehicles and gasoline-powered equipment tailpipes by approximately 10 percent.

In addition to ozone, the use of Arizona CBG will reduce vehicle emissions of particulate matter (PM), which also reaches unhealthful levels in Maricopa County. Particulate matter causes irritation and damage to respiratory systems, resulting in difficult breathing, inducement of bronchitis, and aggravation of existing respiratory diseases. Epidemiological studies indicate increased health risks associated with exposure to PM, alone or in combination with other air pollutants. PM-related increases in individual health risks are small, but likely significant from an overall public health perspective because of the large numbers of individuals in susceptible risk groups that are exposed to ambient PM. PM₁₀ and indicators of fine particles are more consistently associated with health risks than indicators of coarse particles. See EPA (1996).

Carbon monoxide emissions will also be reduced due to the implementation of the Arizona CBG rule. During the summertime, CO contributes to the formation of ozone. During the winter, CO itself reaches unhealthy levels. Health effects of elevated CO levels include a reduction in the ability of blood to carry oxygen in the body.

An additional benefit to the implementation of the Arizona CBG rule may be a reduction in toxic air pollutants. This reduction in toxic air pollutants is not required by the Arizona CBG rule; however, the reduction may occur due to the new gasoline standards that will be required under the rule. Toxic air pollutants are chemicals which are of concern due to the potential to cause cancer, birth defects, damage to the nervous system, or which may be poisonous. Additionally, toxic air pollutants may cause adverse environmental effects. Toxic air pollutants that will be reduced by the use of CBG include benzene, a known carcinogen, and 1,3-butadiene. Aldehyde emissions increase slightly.

2. Benefits to Animals, Plants, Trees, and Materials

Ozone injures animals, certain plants and trees, and damages materials. Experiments indicate even at low concentrations, animals may be injured if exposed to the ozone for long periods (*Air Quality in Arizona*, May 1988). Injuries from ozone to plants include chlorosis, necrosis, and pigment formation (Godish, 1991). Impacts from ozone to materials include the fading of textile materials and cracking in rubber compounds stretched or under pressure (Godish, 1991). In particular, "rubber cracking was one of the first effects of smog observed in the Los Angeles area" (Godish, 1991).

B. COSTS

The social cost to society, namely Maricopa County residents, due to the implementation of this rule is mainly comprised of impacts on the gasoline distribution system, the costs of production of CBG, and reductions in fuel mileage. Other social costs include those incurred by ADWM as the implementing agency.

1. Adoption and Implementation Costs

As the adopting and implementing agencies, ADEQ and ADWM will experience costs with the implementation of the Arizona CBG rule. The state appropriated \$50,000 to ADEQ for the adoption of Arizona CBG rules and \$150,000 to ADWM for the implementation and enforcement of Arizona CBG rule. ADWM anticipates an annual cost of approximately \$290,000 for the implementation and enforcement of the rule. This cost includes the addition of one staff person, the cost of conducting audits of regulated facilities that are located outside of Arizona, and gasoline sampling and analysis.

2. Increased Cost of Arizona CBG

The cost to produce Arizona CBG is slightly more than the cost to produce conventional gasoline. The increased costs associated with producing gasoline that complies with the federal Phase II standards has been estimated at \$0.02-0.05 per gallon, while producing gasoline that complies with the CARB Phase 2 standards costs \$0.02-0.10 more per gallon (MathPro, 1996). Based on Maricopa County's annual gasoline consumption for 1995, the increased cost of production of Arizona CBG may be estimated at an additional \$19.8 - \$49.6 million per year, assuming the increased cost is comparable to those of the federal Phase II gasoline. This cost may be higher for those refiners that choose to produce gasoline that complies with the standards similar to the CARB Phase 2 standards. Due to competition among suppliers of gasoline, as well as market forces that impact the prices of gasoline, it is unknown how the cost differential will be allocated between producers and consumers. Although the Maricopa County gasoline market will determine this allocation, it is anticipated that registered suppliers will pass-on the increased costs of producing Arizona CBG to the consumer. However, historical gasoline pricing data from the Energy Information Administration for Texas and California indicate that the actual cost of reformulated gasoline passed-on to the consumer may be less than the associated cost of production. As shown in Tables 1 through 3, United States Department of Energy surveys indicate that the

price differential between reformulated and conventional gasolines averages \$0.02 - \$0.03 per gallon in other areas of the country where reformulated gasoline is marketed.

3. Give Away of Excess Quality

Excess quality give away occurs when county and statewide standards differ and those counties with less stringent standards receive higher-quality gasoline meeting more stringent State standards due to excess supply of the high quality gasoline. Math-Pro estimated that prior to the sale of reformulated gasoline in Maricopa County, the total cost of excess quality due to RVP and octane give-away in Arizona and other areas supplied through the Kinder Morgan southern pipeline system was approximately \$9-12 million, annually (MathPro, 1996).

Excess quality give away is a social cost, incurred by the whole society. It is unclear how the costs associated with excess quality give away will be allocated. This allocation may occur between refiners and consumers and/or between consumers inside and outside of area A. The gasoline distribution system as a whole has a financial interest in minimizing the extent of quality give-away. Currently, three companies that supply over one-half of the gasoline volume in the Maricopa County market have taken steps to minimize the excess quality (spill-over) in their supplies to areas outside of the Maricopa County. It is apparent that the logistics for segregation of area A product from non-area A product for the remainder of the suppliers have been resolved, as anecdotal information indicates that CBG was not delivered to refueling stations outside of Maricopa County on a routine basis within 4 to 6 weeks of its introduction into Arizona (July 1997). Two companies, which supply approximately 25 percent of the gasoline volume in the Phoenix and Tucson markets, have taken steps to minimize the excess quality in their supplies to the Phoenix and Tucson markets (MathPro, 1996).

4. Increased Distribution (Transportation/Pipeline) Costs

It is anticipated that transportation costs may increase slightly due to the implementation of the Arizona CBG rule. In particular, the pipeline must ensure that the batches of Arizona CBG are not mixed with conventional gasoline. However, the pipeline currently separates the various grades of conventional gasoline; therefore, this should not create a significant cost. The pipeline will incur a minimal increase in costs due to the need to train personnel on the PTD recordkeeping requirements and the locations where Arizona CBG and conventional gasoline are to be sold.

5. Reduced gas mileage with CBG

Because Arizona CBG contains slightly less energy than conventional gasoline, average fleet-wide fuel economy should be reduced. This loss in fuel economy represents a social cost. The anticipated loss in fuel economy has been predicted by two methods: scientific computer modeling and in-use vehicle testing programs. Scientific computer modeling has shown that the fuel economy reduction could range 3-4% (MathPro, 1996) during the summertime¹. These reductions were calculated utilizing a computer model and based upon energy density values for the summertime fuel formulation options. In-use vehicle testing programs have been conducted by both the EPA and the California Air Resources Board have shown fuel economy losses ranging from 1-3%.

Based upon the test data from the vehicle testing programs, ADEQ anticipates the fuel economy loss to be in the 2-3% range. This currently is equivalent to a \$0.02-0.03 increase in the cost per gallon of gasoline. This value range represents the anticipated increase in the cost to consumers that was added to the overall estimated price increase for consumers (see V.B.2.). For example, a person driving a vehicle that averages 17.5 miles per gallon for 9,000 miles during the summer months (April through October) with a 3% loss in fuel economy would require an additional 15 gallons of gasoline during those months.

C. FACTORS MITIGATING COSTS

The Arizona CBG rule has been designed to provide the greatest air quality benefits while ensuring maximum flexibility to those regulated by the rule. This flexibility that is provided to the regulated community should assist in mitigating the costs associated with the implementation of the rule. Examples of provisions within the rule which provide flexibility include:

- Registered suppliers may produce gasoline that meets standards similar to either the CARB Phase 2 or the Federal Phase II standards.
- Registered suppliers and oxygenate blenders may elect to comply with either averaging or non-averaging standards.
- Registered suppliers are permitted to choose between implementing an independent laboratory analysis testing program or submitting a QA/QC program to ADWM for approval. This flexibility should assist registered suppliers to minimize costs while maintaining the necessary level of testing and laboratory assurance to ensure that the gasoline shipped to area A meets the applicable standards.

An additional factor that will mitigate the costs associated with the implementation of this rule is the layout of the gasoline distribution system. Many refineries that currently supply conventional gasoline to Arizona already produce gasoline meeting the CARB Phase 2 and Federal Phase I standards for other reformulated gasoline markets. The implementation of Arizona CBG

1. The addition of oxygenates to gasoline is the primary cause of mileage loss because oxygenates typically have an energy density 25 - 30% lower than that of conventional gasoline. Since the late 1980's, all gasoline sold in Maricopa County during the wintertime is required to have an oxygen content of 2.7-3.5% by weight (approximately 10-15% by volume). Therefore, fuel economy losses during the wintertime due to the use of Arizona CBG would be minimal.

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will provide an additional market for these refineries that have already made capital investments to produce cleaner burning gasoline. Additionally, a growing number of refiners are supplying gasoline to the Maricopa County market, demonstrating the competitive nature of the gasoline market.

D. CONCLUSION

Based on all of the foregoing, ADEQ has determined that the benefits exceed the costs of this rule.

VI. General Impact on Small Businesses

The Arizona CBG rule may effect small businesses such as family-owned gas stations located in area A². For instance, consumers who cross the area A border daily may choose to purchase non-reformulated gasoline outside area A rather than buying higher-priced Arizona CBG. In addition, if higher gasoline production costs are passed on to the consumer, the implementation of the Arizona CBG rule could impact small businesses that purchase gasoline in area A.

This rulemaking has lessened the effect on small business by minimizing the paperwork and record-keeping requirements on gasoline retail outlets which may be small businesses.

A. RULE IMPACT REDUCTION ON SMALL BUSINESSES

A.R.S. § 41-1035 requires ADEQ to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. The five listed methods are:

1. Establish less stringent compliance or reporting requirements in the rule for small businesses.
2. Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
3. Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
4. Establish performance standards for small businesses to replace design or operational standards in the rule.
5. Exempt small businesses from any or all requirements of the rule.

B. THE STATUTORY OBJECTIVES WHICH ARE THE BASIS OF THE RULEMAKING

The general statutory objectives that are the basis of this rulemaking are contained in the statutory authority cited in number 2 of this preamble. Two objectives are stated in A.R.S. § 41-2124(C):

1. Achieve air quality benefits for the Maricopa County nonattainment area by following the two fuel formulation option prescribed A.R.S. § 41-2124(A) and (B).
2. Provide requirements for record keeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A and B.

The third statutory objective is stated in A.R.S. § 41-2124(A) and reinforced by section 4 of HB 2307. The fuel program should be constructed so that a waiver can be granted by EPA pursuant to section 211(c)(4) of the CAA. Among other things, EPA criteria require that a state fuels program be as effective and enforceable as the federal RFG program.

In light of the third statutory objective, ADEQ has determined that it is not legal or feasible to adopt any of the five listed methods to reduce the impact of these rules on small businesses. While attempting to create an enforceable program, ADEQ and ADWM focused much of their efforts on the large oil producers, all of which are out-of-state. Due in large part to the fact that these large producers are out-of-state, ADWM needs additional program components that focus on the smaller in-state fuel providers, including service stations, many of which are small businesses. Without the ability to stop the sale of off-spec gasoline, for example, something which may have a significant effect on a small service station, ADEQ and ADWM have determined that the CBG program would not be approvable by EPA. This determination may change if modifications are made to ADWM's penalty and enforcement authority. During the workshops on this rule, there was considerable discussion of, and support for, statutory changes which would augment ADWM's penalty and enforcement authority. Should such amendments take place, it is possible that it would be legal and feasible to reduce the impact of the CBG program on small businesses through one of the listed methods.

VII. Alternative Rulemaking Provisions

The Arizona CBG rule has been designed to achieve the following:

- Provide the maximum flexibility for producers and transporters of gasoline minimize costs and to ensure that the supply of gasoline would not be disrupted;
- Meet the requirements of HB 2307; and
- Contain an enforceable program that meets the EPA criteria for approval.

2. Also, family-owned gasoline stations outside area A may be affected if they receive excess quality gasoline. For instance, retail outlets outside of area A may receive excess CBG rather than conventional gasoline.

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In order to develop a rule which met all of these requirements, ADEQ and ADWM held a series of ten public workshops with interested parties during the time period from May 22 through July 15, 1997. During these public workshops, a variety of provisions from the California and federal reformulated gasoline control regulations were analyzed. Affected and interested parties, ADEQ and ADWM debated each of these provisions, and incorporated the most beneficial of the provisions into the Arizona CBG rule.

VIII. References

Air Quality in Arizona. 1988. Research report prepared by Center for Advanced Research in Transportation, Arizona State University, May 22-25, 1988 (52nd Arizona Town Hall)

Environmental Protection Agency. May 1996. Air Quality Criteria for Particulate Matter.

Godish, Thad. 1991. Air Quality, 2nd edition. Chelsea, Michigan: Lewis Publishers, Inc.

MathPro, Inc., November 7, 1996. Assessment of Fuel Formulation Options for Maricopa County.

Table 1

COMPARISON OF CONVENTIONAL AND REFORMULATED GASOLINE PRICES

TEXAS 1995	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January	59.4	65.8	6.4		52.9	58.9	6.0
February	61.5	67.1	5.6		54.7	60.1	5.4
March	61.2	64.6	3.4		54.8	57.4	2.6
April	70.7	72.9	2.2		63.5	65.7	2.2
May	75.8	78.8	3.0		68.9	71.3	2.4
June	70.2	74.0	3.8		63.1	66.3	3.2
July	63.0	66.8	3.8		55.4	58.9	3.5
August	64.3	67.3	3.0		56.8	59.9	3.1
September	64.1	67.0	2.9		56.8	59.8	3.0
October	59.4	61.5	2.1		51.6	54.3	2.7
November	59.3	61.1	1.8		52.0	53.9	1.9
December	61.8	64.2	2.4		54.3	56.9	2.6
AVERAGE	64.23	67.59	3.37		57.07	60.28	3.22

TEXAS 1996	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January	63.3	66.0	2.7		55.2	56.9	1.7
February	64.1	66.8	2.7		56.2	58.4	2.2
March	71.5	73.9	2.4		64.2	59.2	-5.0
April	80.1	83.3	3.2		72.4	66.2	-6.2
May	79.2	82.1	2.9		71.6	75.3	3.7
June	72.8	73.2	0.4		65.3	73.6	8.3
July	73.4	73.6	0.2		65.7	65.1	-0.6
August	72.9	73.0	0.1		65.1	66.3	1.2
September	73.4	74.5	1.1		65.7	65.7	0.0
October	75.8	77.3	1.5		68.2	66.7	-1.5
November	78.5	79.4	0.9		70.9	69.6	-1.3
AVERAGE	73.18	74.83	1.65		65.50	65.73	0.23

Source: U.S. Department of Energy, Energy Information Administration

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Table 2

COMPARISON OF CONVENTIONAL AND REFORMULATED GASOLINE PRICES

CALIFORNIA 1995	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January	71.5	69.7	-1.8		61.3	61.8	0.5
February	65.7	69.7	4.0		56.0	61.4	5.4
March	67.0	69.2	2.2		57.8	61.1	3.3
April	72.6	74.4	1.8		63.8	65.9	2.1
May	75.5	76.4	0.9		66.5	68.0	1.5
June	74.1	72.6	-1.5		64.6	63.6	-1.0
July	72.2	71.5	-0.7		62.8	62.4	-0.4
August	71.7	72.3	0.6		62.5	63.9	1.4
September	71.4	71.1	-0.3		62.4	62.6	0.2
October	72.7	70.9	-1.8		63.4	63.7	0.3
November		72.4				63.4	
December		71.4				63.0	-0.6
AVERAGE	71.44	71.80	0.34		62.25	63.40	1.15
CALIFORNIA 1996	Premium Conventional RACK	Premium RFG RACK	Price Difference		All Grades Conventional RACK	All Grades RFG RACK	Price Difference
January			0.0		61.8	62.4	0.6
February			0.0		60.0	65.8	5.8
March			0.0		71.6	72.5	0.9
April			0.0		83.4	90.1	6.7
May			0.0		95.3	87.4	-7.9
June			0.0		85.2	83.8	-1.4
July			0.0		79.1	82.5	3.4
August			0.0		78.7	67.3	-11.4
September			0.0		80.0	70.1	-9.9
October			0.0		75.4	69.4	-6.0
November			0.0		70.6	63.3	-7.3
AVERAGE					76.46	74.05	-2.41

Source: U.S. Department of Energy, Energy Information Administration

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Table 3

COMPARISON OF CONVENTIONAL AND REFORMULATED GASOLINE PRICES

ARIZONA 1995	All Grades Conventional RACK	Pipeline Tariff	Adjusted Price		California All Grades RFG RACK	Price Difference
January	60.1	2.7	57.4		61.8	4.4
February	60.7	2.7	58.0		61.4	3.4
March	61.6	2.7	58.9		61.1	2.2
April	67.9	2.7	65.2		65.9	0.7
May	71.2	2.7	68.5		68.0	-0.5
June	67.5	2.7	64.8		63.6	-1.2
July	64.7	2.7	62.0		62.4	0.4
August	64.3	2.7	61.6		63.9	2.3
September	65.0	2.7	62.3		62.6	0.3
October	63.0	2.7	60.3		63.7	3.4
November	61.1	2.7	58.4		63.4	5.0
December	62.1	2.7	59.4		63.0	3.6
AVERAGE	64.10		61.41		63.40	1.99
ARIZONA 1996	All Grades Conventional RACK	Pipeline Tariff	Price Difference		California All Grades RFG RACK	Price Difference
January	62.3	2.7	59.6		62.4	2.8
February	64.8	2.7	62.1		65.8	3.7
March	76.3	2.7	73.6		72.5	-1.1
April	84.0	2.7	81.3		90.1	8.8
May	84.5	2.7	81.8		87.4	5.6
June	78.9	2.7	76.2		83.8	7.6
July	79.7	2.7	77.0		82.5	5.5
August	75.1	2.7	72.4		67.3	-5.1
September	77.1	2.7	74.4		70.1	-4.3
October	72.2	2.7	69.5		69.4	-0.1
November	66.2	2.7	63.5		63.3	-0.2
AVERAGE	74.65		71.95		74.05	2.10

Source: U.S. Department of Energy, Energy Information Administration

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Exhibit 6.9: Cost-Effectiveness, Refining and Mileage Costs, and VOC, NO_x, and CO
Emission Reductions, by Fuel Reformulation Option - Summer Season

Measure	Baseline Emissions	Fuel Formulation Options						
		Federal RFG			California RFG	GAPEP	Low RVP	10% VOC Reduction
		Phase 1	Phase 1/7.0 RVP	Phase 2				
Cost-effectiveness (\$M/ton of VOCs) 1999								
Complex Model		\$63	\$28	\$25	\$41	\$18	-	\$18
Predictive Model		\$34	\$22	\$23	\$37	\$15	-	\$17
2010								
Complex Model		\$215	\$78	\$63	\$98	\$33	-	\$36
Predictive Model		\$113	\$62	\$56	\$73	\$24	-	\$36
Refining and Mileage Costs (\$/gal)								
Incremental Refining Cost		3.7	3.8	5.1	11.5	2.0	0.2	4.6
Cost of Mileage Loss*		3.7	3.7	4.2	5.8	0.2	-0.2	2.1
Total Unit Costs		7.4	7.5	9.3	17.3	2.3	-0.0	6.7
Maricopa County Cost (\$M/day)**								
1999		\$245	\$247	\$307	\$571	\$74	-	\$223
2010		\$474	\$474	\$571	\$981	\$105	-	\$376
Vehicle Emission Reductions (tons/day) VOCs 1999								
Complex Model	140.4	3.9	8.7	12.5	14.1	4.2	2.4	12.1
Predictive Model	140.5	7.2	11.0	13.3	15.5	5.0	0.5	12.9
2010								
Complex Model	100.1	2.2	6.1	9.0	10.0	3.2	2.2	8.8
Predictive Model	99.8	4.2	7.6	10.2	13.4	4.4	0.3	10.4
NO _x 1999								
Complex Model	96.6	0.3	0.2	2.0	8.2	1.3	-0.2	0.0
Predictive Model	96.2	1.1	1.1	2.8	8.8	2.6	-0.2	1.2
2010								
Complex Model	97.7	0.4	0.3	2.2	8.8	1.5	-0.2	0.1
Predictive Model	96.3	1.5	1.5	3.0	8.9	3.2	-0.1	1.2
CO								
1999	1048.5	108.8	118.6	143.3	198.3	44.5	20.4	38.6
2010	789.0	81.6	89.1	107.7	148.8	33.3	15.3	29.0

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

ADEQ has made several substantive changes to the proposed rule. A complete description of these changes appears, along with discussion of comments, in the next section, number 10.

After initial submittal to the council, but before being approved by the council, ADEQ made numerous nonsubstantive changes to the proposed rule to improve clarity and to conform to various rules regarding rule citation. In a large number of places, the style of referring to internal subsections of the same rule was changed to conform to R1-1-408(I). For example, in R20-2-752(F)(1)(b)(ii), "the total number of samples collected under subparagraph (b)(i) of this subsection" was changed to "the total number of samples collected under subsection (b)(i)". ADEQ also changed the definition of "Third-party Terminal" by adding "or 3rd-party Terminal" in the beginning of the definition. These changes are shown, separate from the changes made in response to comment, in Part III of the CES, which is available from ADEQ.

10. A summary of the principal comments and the agency response to them:

The Arizona Department of Environmental Quality (ADEQ) received written comments regarding the proposed permanent Arizona Cleaner Burning Gasoline (CBG) rule from one interested party during the public comment period of November 7, 1997, through January 5, 1998. In addition, one oral comment was received at the public hearing held in the ADEQ Public Meeting room on December 11, 1997. Each written and oral comment received has been addressed by ADEQ in consultation with the

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Arizona Department of Weights and Measures (ADWM) and is summarized in the following paragraphs. Finally, ADEQ and ADWM have made other changes to the rule for which no formal comment was received. A summary of these changes is provided at the end of this section.

Comment: The commenter states that the minimum oxygenate content that is required for Arizona CBG Type 1 gasoline during the time period of April 1 through October 31 of each year (See Article 7, Table 1) is preempted by the Clean Air Act and should be removed from the standards. It is further stated that this requirement has no significant impact on attainment, is cost prohibitive, and is unreasonable and impracticable. The commenter requests that ADEQ address the cost-effectiveness or justification versus other non-fuel ozone control measures not implemented such as controls on stationary sources and full implementation of an inspection and maintenance (I/M) program for all vehicles. Furthermore, it is stated that ADEQ overestimated the VOC reduction benefits of the use of oxygenates in addressing this comment in the interim CBG rule.

Response: The EPA redesignated the Maricopa County ozone nonattainment area from "moderate" to "serious", effective on December 8, 1997. Despite the efforts of two Governor's Air Quality Strategies Task Forces and other ongoing endeavors, attainment can not yet be demonstrated. Modeling performed by ADEQ (Reanalysis of the Metropolitan Phoenix Voluntary Early Ozone Plan, October 1997), has shown that even with the implementation of Federal Phase II RFG or CARB Phase 2 RFG in addition to 15 stationary, area, and mobile source control measures under consideration, Maricopa County would still fail to attain the ozone NAAQS. Based on this modeling demonstration, all components of the Arizona CBG program are necessary to make progress toward ozone attainment.

The commentator suggests that the appropriate test of the oxygenate standard would be to compare modeled ozone concentrations with and without its implementation. ADEQ's experience, similar to that of most other ozone nonattainment areas, is that modeled ozone concentrations are relatively insensitive to even moderate emissions reductions. Using such an approach would discount the need for any individual emissions control program, even the entire CBG program.

In the Final Rule for the approval of the Arizona CBG Program (63 FR 6653, February 10, 1998), EPA indicated that they did not need to address whether a State requirement for oxygen is preempted under the Clean Air Act, section 211(c)(4)(C). The notice stated that if the standard is not preempted, there is no bar to EPA approving it in the SIP revision. Additionally, if the State shows that the requirement is necessary to meet the ozone NAAQS as required under section 211(c)(4)(C), EPA does not need to address whether a summertime oxygenate requirement is preempted.

As stated in the Final Rule, the Type 1 gasoline standards will achieve VOC reductions through a VOC performance standard and an oxygen content standard. EPA indicated that further analysis would need to be performed before they could formulate any conclusions regarding the quantitative estimate of VOC emission reductions due to the use of summertime oxygenates. However, the federal complex model indicates that an increase in oxygen weight percent leads to a reduction in total VOC emissions. EPA determined that the VOC and oxygen content standards are necessary to achieve the ozone NAAQS based on a finding that there are no other reasonable and practicable measures available to the State that would fill the projected emissions reduction shortfall.

Comment: In the July 1997 Reformulated Gasoline Notice of Proposed Rulemaking, EPA proposed the removal of the nitrogen oxide (NOx) minimum per gallon requirement. The commenter requests that ADEQ include this revision in the final Arizona CBG rule. [EPA published the final rule on December 31, 1997.]

Response: The authority for ADEQ and ADWM to implement the Arizona CBG program is contained in House Bill (HB) 2307. This bill requires that ADEQ, in consultation with the ADWM, develop rules that require sale of gasoline from and after May 1, 1999, that meets the following fuel reformulation options:

- California Phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California Air Resources Board Pursuant to the California Code of Regulations, Title 13, Sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, that meets the maximum 7.0 psi summertime vapor pressure requirements in A.R.S. § 41-2083 (F).
- Gasoline that meets the standards for Federal Phase II reformulated gasoline, as provided in 40 CFR 80.41, paragraphs (a) through (h), in effect on January 1, 1997, that meets the maximum 7.0 psi summertime vapor pressure requirement in A.R.S. § 41-2083 (F).

Due to the fact that HB 2307 only authorizes ADEQ and ADWM to adopt CARB and Federal standards that are effective as of January 1, 1997, ADEQ is unable to incorporate any changes that have occurred during recent Federal rulemaking.

CHANGES TO PERMANENT RULE WITHOUT COMMENTS

Issue: R20-2-759(B) contained a typographical error which has been corrected as follows:

B. Except as provided in subsection (C), Arizona CBG or AZRBOB certified as meeting standards under Table 2 shall be tested with methods under required by 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.

Issue: ADEQ received a comment one month after the close of the public comment period regarding the independent testing requirements for oxygenate blenders. Although, due to the late submittal, ADEQ is not considering this comment as a formal public comment for the rulemaking, we do believe the issue raised by the commenter is valid, and should be addressed in this

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rulemaking. Specifically, the commenter recommended the deletion of R20-2-755(E)(7), which requires oxygenate blenders to develop a Quality Assurance/Quality Control (QA/QC) program in lieu of the independent testing requirements of R20-2-752(F). The reasons cited include:

- 1) Due to the regulatory definition of a batch, independent laboratory testing for oxygenate blenders is not a viable option. A batch is defined as a quantity of gasoline which is homogeneous with regard to those properties specified for Arizona CBG. Therefore, for an oxygenate blender it could be inferred that a batch consists of a transport truck compartment. This interpretation could increase the cost of the independent testing option for an oxygenate blender to 47 - 933 times the cost for a registered supplier.
- 2) The independent testing option is an inappropriate option for oxygenate blenders.
- 3) It is appropriate to have different requirements for registered suppliers and oxygenate blenders.
- 4) Removing the requirement for a QA/QC program will have little impact on the quality of CBG or the enforceability of the rule.
- 5) Lack of consistent regulatory language in Sections R20-2-752 and R20-2-755(E)(7) may indicate that the application of the requirement for a QA/QC program to oxygenate blenders is unintended.

Response: The QA/QC or independent testing requirements for oxygenate blenders are one of the requirements of the Arizona CBG program that helps to ensure the quality of the CBG. For this reason, we are not removing the QA/QC and/or independent laboratory requirements for oxygenate blenders. However, ADEQ and ADWM agree that the independent testing requirements for oxygenate blenders may be unclear considering the regulatory definition of a batch, as provided in R20-2-701(4). In order to clarify the requirements, R20-2-755(E) has been revised as follows:

7. Quality Assurance/Quality Control (QA/QC) Program. ~~An Each oxygenate blender who conducts laboratory sampling and analysis required under subsection (E) in their own laboratory shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the oxygenate blender's laboratory testing of Arizona CBG or AZRBOB. The QA/QC program shall be submitted to the Director director for approval at least 3 months before prior to transport of Arizona CBG. Instead of a In-lieu-of-the QA/QC program, an the oxygenate blender blenders may opt to comply with the independent testing requirements of R20-2-752 (F), except that the minimum number of samples collected and analyzed by the independent laboratory shall be 10% of the number of samples required to be analyzed under subsection (E).~~

8. Each oxygenate blender who does not conduct the laboratory sampling and analysis required under this subsection in its own laboratory shall designate an independent laboratory, as required in R20-2-752(F), to conduct all of the laboratory sampling and analysis required under subsection (E).

9. A portion of any sample collected under subsections (7) or (8) shall be submitted to the Director within 24 hours of the Director or designee's written request.

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

None.

12. Incorporations by reference and their locations in the rules:

<u>Incorporation</u>	<u>Location</u>
API Manual of Petroleum Measurement Standards, Chapters 3.1A and 3.1B;	R20-2-754(B)
40 CFR 80.69(a)(7);	R20-2-755(D)
40 CFR 80.69(e)(2);	R20-2-755(E)(3)
California Procedures for Evaluating Alternative Specifications for Phase	
2 Reformulated Gasoline Using the California Predictive Model;	R20-2-758(A)(1)
The "Federal Complex Model" as contained in 40 CFR 80.45;	R20-2-758(A)(2)
13 California Code of Regulations, Section 2263;	R20-2-759(A)

13. Was this rule previously adopted as an emergency rule?

No. However, most rule text that is being amended, and all that is being repealed, was previously adopted as an exempt rule. See 3 A.A.R. 2665, October 3, 1997.

14. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section	
R20-2-701.	Definitions
R20-2-709.	Record Retention Requirements for Service Stations and Fleet Owners
R20-2-721.	Sampling and Access to Records
R20-2-750.	Registration <u>Relating Pertaining</u> to Arizona CBG or AZRBOB
R20-2-751.	Area A Arizona CBG Requirements - 1999 and later
R20-2-751.01	Area A Arizona CBG Requirements 1998
R20-2-752.	General Requirements for Registered Suppliers
R20-2-753.	General Requirements for Pipelines and 3rd-Party Terminals
R20-2-754.	Downstream Blending Exceptions for Transmix
R20-2-755.	Additional Requirements <u>for Pertaining to</u> 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.	Adoption of Fuel Certification Models
R20-2-759.	Testing Methodologies
R20-2-760.	Compliance Surveys
R20-2-761.	Liability for Noncompliant Gasoline
R20-2-762.	Penalties
Table 1	Type 1 Gasoline Standards
Table 2	Type 2 Gasoline Standards
Table 3	Type 3 Gasoline Standards

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-701. Definitions

The following definitions and definitions contained in A.R.S. §§ 41-2051, 41-2121, and Article 1 of this Chapter shall apply to this Article unless the context otherwise requires:

1. ~~"Area A" means a county with a population of 1,200,000 or more persons that contains a carbon monoxide vehicle emissions control area.~~
- 1.2. "Arizona Cleaner Burning Gasoline" or "Arizona CBG" means a gasoline blend that meets the requirements of this Article for gasoline produced and shipped to Maricopa County and sold or offered for sale for use in motor vehicles in area A.
- 2.3. "AZRBOB" or "Arizona Reformulated Blendstock for Oxygenate Blending" means a petroleum-derived fuel liquid which is intended to be or is represented as a fuel product that constitutes will constitute Arizona CBG upon the addition of a specified type and percentage (or range of percentages) of oxygenate to the product after the fuel product has been supplied from the production or import facility at which it was produced or imported.
- 3.4. "Batch" means a quantity of gasoline which is homogeneous for with regard to those fuel properties which are specified for Arizona CBG certified under R20-2-751 or R20-2-751.01.
- 4.5. "Beginning of Begin transport" means the point at which:

- a. A registered supplier relinquishes custody of Arizona CBG or AZRBOB to a transporter or a 3rd-party terminal, or
 - b. A registered supplier who retains custody commences transfer of Arizona CBG or AZRBOB into a vessel, tanker, or other container for transport to area A.
5. "Blendstock" means any liquid compound which is blended with other liquid compounds to produce gasoline. Deposit control additives or other similar additives are not considered blendstocks.
 6. "Conventional gasoline" means a gasoline blend which conforms with the requirements of this Chapter for sale or use in Arizona, but does not meet the requirements of Arizona CBG or AZRBOB.
 7. "Co-solvent" means a chemical compound soluble in, and with good solvent properties that is added to, a methanol-gasoline blend to prevent phase separation, reduce corrosion, and improve lubrication. A co-solvent may be any 1 or a mixture of the following:
 - a. Ethanol,
 - b. ~~Any propanol~~ Propanols,
 - c. ~~Any butanol~~ Butanols, or
 - d. Gasoline grade tertiary butyl alcohol.
 8. "Designated alternative limit" means a fuel property specification limit, 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, which is assigned by a registered supplier to a final blend of Type 2 CBG or AZRBOB for purposes of compliance with the averaging standards in Table 2, Column B or the Predictive Model.
 - 9.8. "Diesel fuel" means a hydrocarbon fuel that is suitable for use as a fuel in a diesel engine.
 - 10.9. "Downstream blending" means blending fungible Arizona CBG from AZRBOB and an oxygenate.
 - 11.10. "EPA waiver waivers" means a waiver mean waivers granted by the Environmental Protection Agency in the document entitled "Waiver Requests under Section 211(f) of the Clean Air Act", which is and incorporated by reference in R20-2-702.
 - 12.11. "Final distribution facility" means the stationary gasoline transfer point from which Arizona CBG or AZRBOB is transferred into the cargo tank truck, pipeline, or other delivery vessel from which the gasoline will be delivered to a the facility where at which the gasoline is will be dispensed into motor vehicles; A except that a cargo tank truck is a the final distribution facility if where the cargo tank truck transports gasoline or is used to transport AZRBOB and gasoline and carries written documentation demonstrating that the designated 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 prior to delivery of the resulting gasoline from the cargo tank truck to the facility where at which the gasoline is will be dispensed into motor vehicles.
 - 13.12. "Fuel" means any material which is capable of releasing energy or power by combustion or other chemical or physical reaction.

14. "Fuel property" means any characteristic listed in R20-2-751(A)(1) through (A)(7) or Table 2.
- 15.13. "Importer" means any person who assumes title or ownership of Arizona CBG or AZRBOB that was produced by an unregistered supplier.
- 16.14. "Lead" means the lead compound in gasoline, including and can be tetraethyl lead, tetramethyl lead, physical mixtures of tetraethyl lead and tetramethyl lead, and reacted mixtures of tetraethyl lead and tetramethyl lead.
- 17.15. "Motor vehicle" means any vehicle equipped with a spark-ignited internal combustion engine except:
- Vehicles that run on, or are guided by, rails; or
 - Vehicles that are designed primarily for travel through air or water.
- 18.16. "MTBE" means methyl tertiary butyl ether.
- 19.17. "NO_x" means oxides of nitrogen.
- 20.18. "Octane", "octane number", or "octane rating" mean the anti-knock characteristic of gasoline as determined by adding the research octane number and the motor octane number numbers and dividing by 2, or (R+M)/2.
- 21.19. "Oxygenate" means any oxygen-containing, ashless, organic compound including aliphatic alcohols and aliphatic ethers, which is able to may be used as a fuel or as a gasoline blending component and which is approved as a blending agent under the provisions of a waiver issued by the EPA United States Environmental Protection Agency pursuant to 42 USC 7545(f).
- 22.20. "Oxygenate blending facility" means any facility (including a truck) where at which oxygenate is added to Arizona CBG or AZRBOB, and at which the quality or quantity of gasoline is not altered in any other manner except for the addition of deposit control additives or other similar additives.
- 23.21. "Oxygenate blender" means any person who owns, leases, operates, controls, or supervises an oxygenate blending facility, or who owns or controls the blendstock or gasoline used or the gasoline produced at an oxygenate blending facility.
- 24.22. "Oxygenated Arizona CBG" means Arizona CBG with a minimum oxygen content of 2.7% which is produced and shipped to Maricopa County and sold or offered for sale for use in motor vehicles in area A from November 1 through March 31 of each year.
- 25.23. "Oxygen content" means:
- For area A, the percentage by weight of oxygen contained in a gasoline oxygenate blend as calculated by ASTM D4815-96 D-4815-96; or
 - For all other areas other than area A, the percent by weight of oxygen as calculated by multiplying the following oxygen weight of any oxygenate as listed herein; by the volumetric percent of that oxygenate in the blend. Weight of oxygen for:
 - Methyl Tertiary Butyl Ether: 18.2%,
 - Ethanol: 34.7%,
 - Methanol: 49.9%, and
 - Other oxygenates as listed in the Merck Index incorporated by reference in R20-2-702.
26. "Performance standard" means the VOC and NO_x emission reduction percentages in R20-2-751(A)(8), R20-2-751(A)(9), or Table 1.
- 27.24. "Pipeline" means a transporter who that owns or operates an interstate common-carrier pipe used to transport that transports motor fuels into the state of Arizona.
- 28.25. "PM" or "Predictive Model Procedures" means the California Predictive Model, 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, and incorporated by reference in R20-2-758.

- 29.26. "PM alternative gasoline formulation" means a final blend of Arizona CBG or AZRBOB that is subject to a set of PM alternative specifications gasoline produced and shipped to Maricopa County and sold or offered for sale for use in motor vehicles in area A that is subject to a set of PM alternative specifications.
- 30.27. "PM alternative specifications" means the specifications for the following fuel gasoline properties, as determined in accordance with 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.
- 31.28. "PM averaging compliance option" means, with reference to a specific fuel gasoline property, the compliance option for PM alternative gasoline formulations through under which final blends of gasoline are assigned designated alternative limits in accordance with R20-2-751(C) (D), (E), and (F) and R20-2-751.01(F).
- 32.29. "PM averaging limit" means a PM alternative specification that is subject to the PM averaging compliance option.
- 33.30. "PM flat limit" means a PM alternative specification that is subject to the PM flat limit compliance option.
- 34.31. "PM flat limit compliance option" means, with reference to a specific fuel gasoline property, the compliance option under which each gallon of gasoline must meet the specification for the fuel property contained in the PM alternative specifications.
- 35.32. "Produce" means:
- Except as otherwise provided in subsections (b) or (c) of this definition, to convert liquid compounds which are not Arizona CBG or AZRBOB into Arizona CBG or AZRBOB. If When a person blends volumes of blendstocks which are not Arizona CBG or AZRBOB with volumes of Arizona CBG or AZRBOB acquired from another person, and the resulting blend is Arizona CBG or AZRBOB, the person conducting the such blending produces has produced only the portion of the blend which was not previously Arizona CBG or AZRBOB. If When a person blends Arizona CBG or AZRBOB with other volumes of Arizona CBG or AZRBOB in accordance with this Article these rules, without the addition of blendstocks which are not Arizona CBG or AZRBOB, that person is not a producer of the person does not produce Arizona CBG or AZRBOB.
 - If Where a person supplies Arizona CBG or AZRBOB to a refiner who agrees in writing to further process the Arizona CBG or AZRBOB at the refiner's refinery and to be treated as the producer of the Arizona CBG or AZRBOB, the refiner shall

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be deemed for all purposes under this Article to be the producer of the Arizona CBG or AZRBOB.

- c. ~~If Where~~ an oxygenate blender blends oxygenates into AZRBOB ~~which has already been~~ 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 gasoline as certified by a registered supplier in any other manner except for the addition of deposit control additives or other similar additives, then the oxygenate blender is not a producer of producing any portion of the resulting gasoline, and the producer or importer of the AZRBOB shall be considered is treated as the producer or importer of the full volume of the resulting gasoline.

36.33: "Producer" means a refiner or other person who produces Arizona CBG or AZRBOB.

37.34: "Production facility" means a facility where at which 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 which:

- a. Is is owned or leased by the producer,
- b. Is is operated by or at the direction of the producer, and
- c. Is is not used to store or distribute Arizona CBG or AZRBOB that is not supplied only from the production facility.

38.35: "Refiner" means any person who owns, leases, operates, controls, or supervises a refinery in the United States of America, including its trust territories.

39.36: "RVP" means Reid vapor pressure.

40.37: "Refinery" means a facility that produces liquid fuels, including Arizona CBG or AZRBOB, by distilling petroleum.

38: "Service station" means a place operated for the purpose of delivering motor fuel into the fuel tanks of motor vehicles.

41.39: "Registered supplier" means any producer or importer who supplies Arizona CBG or AZRBOB and is has registered with the Director as required in R20-2-750.

42: "Service station" means a place operated for the purpose of delivering motor fuel into the fuel tanks of motor vehicles.

43.40: "Supply" means to provide or transfer a product to a physically separate facility, vehicle, or transportation system.

44.41: "Third-party terminal" or "3rd-party terminal" means an owner or operator of a gasoline storage tank facility that a terminal that accepts custody, but not ownership, of Arizona CBG or AZRBOB from a registered supplier and relinquishes custody of Arizona CBG or AZRBOB to a transporter for interstate transport into Arizona.

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

46.43: "Transporter" means any person who is not a producer or importer and who:

- a. Effects transport of Arizona CBG or AZRBOB into Arizona the state; and
- b. Does not acquire assume title or assume ownership of the that Arizona CBG or AZRBOB.

47.44: "Type 1 gasoline" means a gasoline that meets the standards contained in R20-2-751(A) and Table 1.

48.45: "Type 2 gasoline" means a gasoline that meets the standards contained in R20-2-751(A) and Table 2, or is certified using the PM according to in accordance with the requirements of R20-2-751(D), (E) and (F).

46: "Type 3 gasoline" means a gasoline that meets the standards contained in subsection (A) and Table 3 of R20-2-751.01.

49.47: "VOC" means volatile organic compound.

R20-2-709. Record Retention Requirements for Service Stations and Fleet Owners

A. Service station operators stations and fleet owners shall retain, on the premises to which motor fuel has been delivered, written documentation of to verify the quantity and identity of each grade of motor fuel delivered. The documentation shall be retained for at least the 3 4 most recent deliveries of each grade of or motor fuel and shall, upon request, be presented to any Department official for review.

B. For all motor fuels other than Arizona CBG, the documentation shall be on a the bill of lading, loading ticket, manifest, delivery receipt, invoice, or other documentation used in customary business practice of the petroleum industry and shall provide the following information:

1. Vendor's name,
2. Point of origin,
3. Manifest or loading ticket number,
4. Date of delivery,
5. Quantity of each grade of product,
6. For gasoline, the octane Octane rating of the product, and
7. For gasoline, type Type of oxygenate and volume of oxygenate as a percent of the total blend under pursuant to R20-2-712.
8. For gasoline in In area A between June 1, 1998, and September 30, 1998, and beginning on May 1, 1999, the statement "This gasoline is not intended for sale in area A."

C. Service station operators stations and fleet owners in area A shall retain product transfer documents as provided for in R20-2-757, for each shipment of gasoline delivered during the preceding 12 months preceding that shipment. The documentation for the 3 4 most recent deliveries shall be maintained on the service station or fleet owner's premises. Documentation for the remainder of all deliveries for the same preceding 12 months shall be available within 2 working days from the time of request by the Director.

D. All documents requested for review by a Department official, upon request, shall be photocopied and presented to the Department. Legible photocopies shall be acceptable.

R20-2-721. Sampling and Access to Records

A. Samples of motor fuel for testing shall be obtained by the Department or its authorized agents from:

1. The same dispensing device used for sales to customers,
2. The same dispensing device used for dispensing motor fuel into fleet vehicles,
3. Any bulk storage facility,
4. Any common carrier having custody of handling motor fuel, including Arizona CBG,
5. Any transporter of Arizona CBG or AZRBOB,
6. Any final distribution facility,
7. Any 3rd-party terminal having custody of handling Arizona CBG or AZRBOB, or
8. Any oxygenate blender or registered supplier.

B. Samples shall be taken in the following manner:

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1. ~~The testing sample shall be collected in a clear or brown glass bottle or a metal container approved for such use.~~
2. ~~The container shall be sealed immediately after the testing sample has been taken.~~
3. ~~At a gasoline dispenser, the testing sample shall be collected after at least 1/2 gallon has been dispensed. This sample shall be considered representative of the product dispensed.~~

B.C. ~~The documentation and records pertaining~~ Records relating to the production, importation, blending, transport, distribution and delivery of Arizona CBG and AZRBOB required to be kept by this Article shall be available for inspection at any reasonable time by the Department or its authorized agents.

R20-2-750. Registration Pertaining Relating to Arizona CBG or AZRBOB

- A.** Each of the following persons shall register with the Director ~~by January 30, 1998, or~~ in advance of the 1st date that the ~~such~~ person will produce or import Arizona CBG or AZRBOB:
1. Any refiner who produces ~~will produce~~ Arizona CBG or AZRBOB for sale on or after June 1, 1998;
 2. Any importer who imports ~~will import~~ Arizona CBG or AZRBOB for sale on or after June 1, 1998;
 3. Any oxygenate blender who blends ~~will blend~~ oxygenate with AZRBOB to produce Arizona CBG for sale on or after June 1, 1998; ~~or~~
 4. Any pipeline or 3rd-party terminal who has ~~will have~~ custody of Arizona CBG or AZRBOB on or after June 1, 1998.
- B.** Registration shall be on forms prescribed by the Director and shall include the following information:
1. The business name and ~~business address of the person registered in subsection (A) and a~~ contact name, and telephone number of the person required to be registered ~~in subsection (A).~~;
 2. For each separate refinery and oxygenate blending facility, the facility name, physical location, contact name, telephone number, and type of facility; ~~and~~
 3. For each separate refinery and oxygenate blending facility, and for each importer and for each importer's operations:
 - a. The location of the records required under this Article ~~Whether records are kept on-site or off-site of the refinery or oxygenate blending facility, or in the case of importers, the registered address;~~
 - b. If records are kept off-site, the primary off-site storage facility name, physical location, contact name, and telephone number; ~~and~~
 - b.e. If an independent laboratory is used to meet the requirements of R20-2-752(F). ~~The~~ the name, address, contact name, and telephone number of the independent laboratory, ~~if used to meet the requirements of R20-2-752(F).~~
 4. If required under 40 CFR 80.76(d), ~~the~~ The EPA registration number; and supplied under 40 CFR 80.76(d), ~~if any.~~
 5. A statement of the registrant's ~~by the registrant~~ consent that the Department or its authorized agent shall be permitted to collect samples and access ~~documentation and~~ records as provided in R20-2-721.
- C.** Changes to any information ~~submitted~~ in subsection (B) shall be sent to the Director not later than 10 ~~calendar~~ days after the effective date of the ~~such~~ change.
- D.** ~~If~~ Whenever a refiner, importer, or oxygenate blender fails to register under this Section, all Arizona CBG or AZRBOB

transported to area A ~~is~~ shall be presumed to be noncomplying from the date that the registration should have occurred.

E. The department ~~Department~~ shall maintain a listing of all registered suppliers.

R20-2-751. Area A Arizona CBG Requirements - 1999 and Later

A. In addition to the other requirements of this Article, from and on or ~~on or~~ after May 1, 1999, all Arizona CBG shall meet all of the following requirements: The dates in this subsection are compliance dates for service station operators and fleet owners.

<u>Fuel Property/Performance Standard</u>	<u>Limits</u>
1. Sulfur	500 ppm by weight (max)
2. Aromatics	50% volume (max)
3. Olefins	25% by volume (max)
4. E200	70-30% volume
5. E300	100-70% volume
6. Maximum Vapor Pressure	
a. Oct. 1 - March 31	9.0 pounds per square inch (psi)
b. April	10.0 psi
c. May	9.0 psi
d. June 1 - Sept. 30	7.0 psi
7. Oxygen and Oxygenates	
a. Minimum Content:	
i. Nov. 1 - March 31	10% ethanol by volume 2.7% oxygen by weight (other than ethanol)
ii. April 1 - Oct. 31	0% by weight
b. The maximum oxygen content shall not exceed 4.0% by weight for ethanol and 3.5% by weight for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.	
8. Federal Complex Model VOC Emissions Performance Reduction	
May 1 through Sept. 15	≥ 25.0% (Federal Complex Model settings: Summer, Area Class B, Phase 2)
9. Federal Complex Model NOx Emissions Performance Reduction	
a. May 1 - Sept. 15	≥ 3.0% (Federal Complex Model settings: Summer, Area Class B, Phase 2)
b. Sept. 16 - April 30	≥ -2.5% (Federal Complex Model settings: Winter, Area Class B, Phase 2)
10. Dates represent compliance dates for service stations and fleet owners.	
B. All registered suppliers shall make an initial election, and subsequent elections if when a change occurs, before <u>prior to</u> the beginning of transport of the Arizona CBG or AZRBOB. <u>Registered suppliers shall make the election with the and notify the Director on a form or in a format prescribed by the Director. The election shall state:</u>	
1. Whether the registered supplier (at each point where the gasoline is certified) will supply Arizona CBG or AZRBOB that complies with the Type 1 gasoline, Type 2 gasoline, or the PM alternative gasoline formulation requirements; and	
2. For each <u>applicable fuel property or performance standard with respect to the type of Arizona CBG or AZR-</u>	

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BOB, 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 supplier is in compliance with R20-2-760.

C. Registered suppliers shall certify Arizona CBG or AZRBOB ~~under in accordance with the provisions of R20-2-752 as meeting all requirements of applicable to the election made in subsection (B). Type 1 gasoline shall comply with the applicable requirements in either column A, or columns B and C in addition to the oxygen requirements in columns C and D of Table 1, and shall be certified using the Federal Complex Model. For each fuel property, Type 2 gasoline shall comply with the applicable requirements of columns Columns A and B (averaging options), or column Column C (Non-averaging option) in Table 2. The PM alternative gasoline formulation shall meet the requirements of subsections (D), (E), and (F) of this Section, and column A of Table 2, column A.~~

D. Certification and Use of Predictive Model for Alternative PM Gasoline Formulations.

1. Except as provided in subsections ~~(D)(4) (3)~~ and (F), the use of 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 in 1 of the following ways:~~

a. ~~Submitting Submittal to the Director of a complete copy of the documentation provided to the executive officer of the California Air Resources Board in accordance with 13 California Code of Regulations, Section 2264 to the Director; or~~

b. ~~Notifying The registered supplier shall notify the Director, on a form prescribed by or in a format acceptable to prescribed by the Director, of:~~

i. The PM alternative specifications that will apply to the final blend, including for each specification whether it ~~is applies as 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 as determined in accordance with the Predictive Model Procedures.

~~3. The certification shall be received by the Director before prior to the beginning of transport of the PM alternative gasoline formulation.~~

~~4.3. Restrictions for associated with elections to sell or supply final blends as PM alternative gasoline formulations.~~

a. A registered supplier may 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 is subject to any outstanding requirements to provide offsets for fuel properties at the same production or import facility under subsection (G) pursuant to any provision in R20-2-751(G) or R20-2-751.01(F).~~

b. ~~If Once a registered supplier elects has elected 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 1 or more fuel properties, the registered supplier may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding~~

~~requirements to provide offsets for fuel such property or properties exist under the pursuant to the applicable provisions of subsection (G) in R20-2-751(G) or R20-2-751.01(F). This However, this subsection (b) shall not preclude a registered supplier under the circumstances described above from electing another PM alternative gasoline formulation if where:~~

~~i. The only changes are that either PM flat limit limits for 1 or more fuel property is properties are changed to a PM averaging limit limits, or a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit;~~

~~ii. There are no changes to the PM alternative specifications for the remaining fuel properties; and~~

~~iii. The new PM alternative formulation meets the criteria for approval in the Predictive Model Procedures.~~

c. ~~Once a registered supplier elects has elected to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier may not use a any previously assigned designated alternative limit for a fuel property to provide offsets under subsection (G), pursuant to R20-2-751(G) or R20-2-751.01(F) for any final blend sold or supplied from the production or import facility subsequent to the election.~~

d. ~~If Once a registered supplier notifies has notified the Director under subsection (B) pursuant to R20-2-751(B) or R20-2-751.01(B) that a final blend of Arizona CBG is being 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 shall be 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 (B) in accordance with R20-2-751(B) or R20-2-751.01(B) to have a final blend at that facility subject to a flat limit compliance option options or an averaging compliance option options.~~

E. Prohibited activities regarding PM alternative gasoline formulations.

1. ~~A No registered supplier shall not sell, offer for sale, supply, or offer for supply from its production or import facility Arizona CBG which is reported as a PM alternative gasoline formulation under R20-2-752 pursuant to R20-2-751(B) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:~~

a. ~~The elected identified PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures; or~~

b. ~~The registered supplier is was prohibited by subsection (D)(4)(a) R20-2-751(D)(3)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or~~

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- c. The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications election; or
- d. With respect to any fuel property for which the registered supplier elects ~~has identified~~ a PM averaging limit,
 - i. The gasoline exceeds the applicable PM average limit, and no designated alternative limit for the fuel property is ~~has been~~ established for the gasoline in accordance with R20-2-751(D)(2) or R20-2-751.01(D)(2) subsection (D)(2); or
 - ii. A designated alternative limit for the fuel property is ~~has been~~ established for the gasoline in accordance with subsection (D)(2) R20-2-751(D)(2) or R20-2-751.01(D)(2), and either of the following occur: the gasoline exceeds the designated alternative limit for the fuel property; or where the designated alternative limit for the fuel property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with subsection (G) the applicable provisions in R20-2-751(G) or R20-2-751.01(F).
- F. All alternative PM gasoline formulations from November 1 through March 31 shall comply with oxygen content requirements for area A. Regardless of the oxygen content, ~~of the final alternative PM gasoline formulation, it~~ shall be certified:
 - 1. Using the PM with an oxygen content of 2.7% by weight; or
 - 2. According to ~~In accordance with~~ subsection (D)(2)(a).
- G. Offsetting Fuel Physical Properties and Performance Standards. Beginning April 1, 1999, each registered supplier who elects ~~has elected~~ to comply with the averaging standards for any of the fuel physical properties or performance standards contained in Tables 1 or 2, or the PM, shall complete physical transfer from the same production or import facility of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount ~~extent~~ to which the gasoline exceeds the ~~exceeded~~ each averaging standard according to the following schedule:
 - 1. Registered suppliers electing averaging standards contained in Table 2 or the PM shall offset each the exceeded average standard within 90 days before or after the beginning of transport of any final blend of Arizona CBG or AZRBOB ~~from a production or import facility; of any final blend of Arizona CBG or AZRBOB~~.
 - 2. Registered suppliers electing to comply with the averaging standard for the VOC Emission Reduction contained in Table 1, column ~~Column~~ B, shall offset an any ~~any~~ exceedance of the standards occurring from ~~during the period of~~ May 1 to September 15 of each calendar year during that same time period; and
 - 3. Registered suppliers electing to comply with the averaging standard for the NO_x Emission Reduction contained in Table 1, column ~~Column~~ B, shall offset an any ~~any~~ exceedance of the summer standard occurring from ~~during the period of~~ May 1 to September 15 of each calendar year during that same time period; and
 - 4. Registered suppliers electing to comply with the averaging standard for the NO_x Emission Reduction contained in Table 1, column ~~Column~~ B, shall offset an any ~~any~~ exceedance of the winter standard occurring from ~~during the period of~~ September 16 to April 30 during that same time period.
- H. Consequence ~~Consequences~~ of failure to comply with averages.
 - 1. In addition to a penalty ~~penalties~~, if any, under R20-2-762, a any registered supplier who fails to comply with the requirements of subsection (G) shall meet the applicable per-gallon standards contained in Table 1, Table 2, or for any alternative PM gasoline formulation, for a probationary period as follows:
 - a. For persons electing to comply with the standards contained in Table 1, the probationary period shall begin on the 1st first day of the next corresponding similar averaging season and end on the last day of that averaging season if the conditions of subsection (2) are met.
 - b. For persons electing to comply with the standards contained in Table 2, the probationary period shall ~~will~~ begin no later than 90 days after the registered supplier determines, or receives ~~they receive~~ a notice from the Director, that the registered supplier did not ~~has failed to~~ comply with the requirements of subsection (G). 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 will last for~~ 90 calendar days.
 - 2. A registered supplier may not produce ~~begin producing~~ or import ~~importing~~ Arizona CBG or AZRBOB under an averaging compliance election until: the registered supplier demonstrates to the Director's satisfaction that measures necessary to prevent future noncompliance have been implemented and that facility compliance with averaging will be achieved.
 - a. The registered supplier submits a compliance plan to the Director that includes:
 - i. An implementation schedule for actions that will be taken to prevent noncompliance, and
 - ii. Reporting requirements that will document that the plan is being implemented;
 - b. The plan is approved by the Director;
 - c. The plan is implemented; and
 - d. Compliance is achieved.
 - 3. If a registered supplier fails to comply with the requirements of subsection (G) within 1 year of the end of a probationary period provided ~~under~~ subsection (H)(1), the registered supplier shall comply with applicable per-gallon standards for a probationary period of at least 2 years, or ~~and~~ until the conditions in subsection (H)(2) are satisfied, whichever is later.
 - a. If a registered supplier elects compliance ~~For persons electing to comply with the standards contained in Table 1, the probationary period shall begin on the 1st day of the next corresponding similar averaging season.~~
 - b. If a registered supplier elects compliance ~~For persons electing to comply with the standards contained in Table 2, the probationary period shall begin no later than 90 days after the registered supplier determines, or receives notice from the Director, that the registered supplier did not has failed to comply with the requirements of subsection (G). Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period.~~

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4. If a registered supplier fails to comply with the requirements of subsection (G) within 1 year of the end of a probationary period provided under subsection (H)(3), the registered supplier shall permanently comply with applicable per-gallon standards.
- I. Effect of VOC survey failure. ~~Each time~~ ~~On each occasion~~ that area A fails a Federal Complex Model VOC emissions reduction survey on or after May 1, 1999, conducted under pursuant to R20-2-760, the Federal Complex Model 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%, not to exceed the VOC percent emissions reduction per-gallon standard in Table 1, column A.
- J. Effect of NO_x survey failure. ~~Each time~~ ~~On each occasion~~ that area A fails a Federal Complex Model NO_x emissions reduction survey on or after November 1, 1999, conducted pursuant to R20-2-760, the Federal Complex Model NO_x emissions performance reduction in R20-2-751(A)(9)(b) and the minimum per-gallon NO_x emission reduction percentage applicable to the period of September 16 through April 30 in Table 1, column C shall be increased by an absolute 1.0%, not to exceed the NO_x percent emissions reduction per-gallon standard applicable to the same time period in Table 1, column A.
- K. Subsequent survey compliance. ~~If in the event that~~ the minimum VOC or NO_x emissions reduction has been made more stringent according to in accordance with subsections (I) or (J) and area A passes all emissions reduction surveys for the VOC or NO_x emission reduction pollutant for 2 consecutive years, the applicable VOC or NO_x emissions reduction adjusted standard shall be reduced by an absolute 1%, but not below the applicable minimum Federal Complex Model emission reduction performance standard in Table 1, column C beginning in the year following the 2nd second year of the compliant survey series.
- L. ~~If in the event that~~ the required VOC or NO_x emissions reduction has been made less stringent pursuant to under subsection (K) and area A fails a subsequent VOC or NO_x emissions reduction survey:
1. The applicable minimum emission reduction standard in Table 1, column C and subsection (A), for the pollutant shall be increased by an absolute 1.0%, not to exceed the applicable minimum Federal Complex Model emission reduction performance per gallon per gallon standard in Table 1, column A beginning in the year after the survey following this subsequent failure; and
 2. The minimum emission reduction for the performance standard pollutant thereafter shall not be made less stringent regardless of the results of subsequent surveys for that performance standard pollutant.
- M. Effective date for more stringent standards. ~~If in the case of~~ any standard is made that is changed to be more stringent by operation of subsections (I), (J), or (K), the effective date for the such change shall begin with the next averaging season for which the that standard is applicable.

R20-2-751.01. Area A Arizona CBG Requirements—1998

A. In addition to the other requirements of this Article, from June 1, 1998, through September 30, 1998, all Arizona CBG shall meet all of the following requirements:

Property	Limits
1. Sulfur	500 ppm by weight (max)
2. Aromatics	50% by volume (max)
3. Olefins	25% by volume (max)
4. E200	70-30% volume

5. E300 100-70% volume
6. Maximum Vapor Pressure
June 1—Sept. 30 7.0 psi
7. Oxygen and Oxygenates
a. Minimum Content:
June 1—Sept. 30 0% by weight
b. Maximum Content:
June 1—Sept. 30 4.0% by weight for ethanol and 3.5% by weight for all other oxygenates
8. Federal Complex Model VOC Emissions Performance Reduction
June 1—Sept. 30 \geq 32.6% (Federal Complex Model settings: Summer, Area Class B, Phase 1)
9. Federal Complex Model NO_x Emissions Performance Reduction
June 1—Sept. 30 \geq 2.5% (Federal Complex Model settings: Summer, Area Class B, Phase 1)
10. Dates represent compliance dates for service stations and fleet owners.
- B. All registered suppliers shall make an initial election, and subsequent elections when a change occurs, prior to the beginning of transport of the Arizona CBG or AZRBOB and notify the Director on a form or in a format prescribed by the Director:
1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply gasoline that complies with the Type 2 gasoline, Type 3 gasoline, or the PM alternative gasoline formulation requirements.
 2. For each property, whether average standards or per-gallon standards shall be applied. A registered supplier shall not elect to comply with average standards unless the supplier is in compliance with R20-2-760.
- C. Registered suppliers shall certify Arizona CBG or AZRBOB in accordance with the provisions of R20-2-752 as meeting all requirements applicable to the election made in subsection (B). Type 2 gasoline shall comply with the applicable requirements of columns A and B (averaging options) or Column C (Non-averaging options) in Table 2 of R20-2-751. Type 3 gasoline shall comply with the applicable requirements in either column A, or columns B and C in addition to the oxygen requirements in columns C and D of Table 3, and shall be certified using the Federal Complex Model. The PM alternative gasoline formulation shall meet the requirements of subsection (D) of this Section, and Table 2, Column A of R20-2-751.
- D. Certification and Use of PM for Alternative PM Gasoline Formulations
1. Except as provided in subsection (3), the use of 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 in 1 of the following ways:
 - a. Submittal to the Director of a complete copy of the documentation provided to the executive officer of the California Air Resources Board in accordance with 13 California Code of Regulations, Section 2264; or

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- b. The registered supplier shall notify the director, on a form or in a format prescribed by the Director, of:
- i. The PM alternative specifications that will apply to the final blend, including for each specification whether it applies as 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 as determined in accordance with the Predictive Model Procedures.

The certification shall be received by the director prior to the beginning of transport of the PM alternative gasoline formulation.

3. Restrictions associated with elections to sell or supply final blends as PM alternative gasoline formulations.

- a. A registered supplier may 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 is subject to any outstanding requirements to provide offsets at the same production or import facility pursuant to any provision in R20-2-751(E) or R20-2-751.01(E).
- b. Once a registered supplier has elected 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 1 or more properties, the registered supplier may not elect any other compliance option, including another PM alternative gasoline formulation, if there are outstanding requirements to provide offsets for such property or properties pursuant to the applicable provisions in R20-2-751(E) or R20-2-751.01(E). However, this subparagraph shall not preclude a registered supplier under the circumstances described above from electing another PM alternative gasoline formulation where:
- i. The only changes are that either PM flat limits for 1 or more properties are changed to PM averaging limits, or a single PM averaging limit for which there are no outstanding requirements to provide offsets is changed to a PM flat limit;
 - ii. There are no changes to the PM alternative specifications for the remaining properties; and
 - iii. The new PM alternative formulation meets the criteria for approval in the Predictive Model Procedures.
- c. Once a registered supplier has elected to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier may not use any previously assigned designated alternative limit for a property to provide offsets pursuant to R20-2-751(E) or R20-2-751.01(E) for any final blend sold or supplied from the production or import facility subsequent to the election.
- d. Once a registered supplier has notified the director pursuant to R20-2-751(B) or R20-2-751.01(B) that a final blend of Arizona CBG is being sold or supplied from a production or import facility as a PM alternative gasoline formulation, all final blends of Arizona CBG subsequently sold or supplied from that production or import

facility shall be 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 in accordance with R20-2-751(B) or R20-2-751.01(B) to have a final blend at that facility subject to flat limit compliance options or averaging compliance options.

4. Prohibited activities regarding PM alternative gasoline formulations.

- a. No registered supplier shall sell, offer for sale, supply, or offer for supply from its production or import facility Arizona CBG which is reported pursuant to R20-2-751.01(B) as a PM alternative gasoline formulation subject to PM alternative specifications if any of the following occur:
- i. The identified PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures; or
 - ii. The registered supplier was prohibited by R20-2-751.01(D)(3)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation; or
 - iii. The gasoline fails to conform with any PM flat limit in the identified PM alternative specifications; or
 - iv. With respect to any property for which the registered supplier has identified a PM averaging limit:
 - (1.) The gasoline exceeds the applicable PM average limit, and no designated alternative limit for the property has been established for the gasoline in accordance with R20-2-751(D)(2) or R20-2-751.01(D)(2); or
 - (2.) A designated alternative limit for the property has been established for the gasoline in accordance with R20-2-751(D)(2) or R20-2-751.01(D)(2), and either of the following occur:
 - a. The gasoline exceeds the designated alternative limit for the property; or
 - b. Where the designated alternative limit for the property exceeds the PM averaging limit, the exceedance is not fully offset in accordance with the applicable provisions in R20-2-751(E) or R20-2-751.01(E).
- E. Offsetting Physical Properties. Between May 1, 1998, through September 30, 1998, each registered supplier who has elected to comply with the averaging standards for any of the physical properties contained in Tables 2 or 3, or the PM, shall complete physical transfer from the same production or import facility of certified Arizona CBG or AZRBOB in sufficient quantity to offset the extent to which the gasoline exceeded each averaging standard according to the following schedule:
- 1. Registered suppliers electing averaging standards contained in R20-2-751, Table 2, or the PM shall offset each exceeded average standard within 90 days before or after the beginning or transport from a production or import facility of any final blend of Arizona CBG or AZRBOB.
 - 2. Registered suppliers electing to comply with the averaging standard for the VOC Emission Reduction contained

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in Table 3, Column B, shall offset any exceedance of the standards during the period of June 1, 1998, to September 30, 1998.

3. Registered suppliers electing to comply with the averaging standard for the NO_x Emission Reduction contained in Table 3, Column B, shall offset any exceedance of the standard during the period of June 1, 1998, to September 30, 1998.

F. Consequences of failure to comply with averages.

1. In addition to penalties, if any, under R20-2-762, any registered supplier who fails to comply with the requirements of subsection (E) shall meet the applicable per-gallon standards contained in R20-2-751, Table 2, Table 3, or for any alternative PM gasoline formulation, for a probationary period as follows:

a. For persons electing to comply with the standards contained in Table 3, the probationary period shall begin on the 1st day of the next similar averaging season and end on the last day of that averaging season if the conditions of paragraph (2) of this subsection are met.

b. For persons electing to comply with the standards contained in R20-2-751 Table 2, the probationary period will begin no later than 90 days after the registered supplier determines, or they receive a notice from the director, that the registered supplier has failed to comply with the requirements of subsection (E). 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 will last for 90 calendar days.

2. A registered supplier may not begin producing or importing Arizona CBG or AZRBOB under an averaging compliance election until the registered supplier demonstrates to the director's satisfaction that measures necessary to prevent future noncompliance have been implemented and that facility compliance with averaging will be achieved.

R20-2-752. General Requirements for Registered Suppliers

- A. Each batch of Arizona CBG or AZRBOB transported for sale or use in area A from June 1 through September 30, 1998, or from and after May 1, 1999, shall be certified as meeting the standards in this Article.

- B. Certification shall be made by the registered supplier producer or the importer. Certification shall be on a form or in a format and in a medium prescribed by the Director and shall include a statement signed by the responsible party that the Arizona CBG or AZRBOB meets the applicable standards of this Article. The certification shall include information on fuel properties and performance standards for each batch properties of Arizona CBG or AZRBOB. For each batch transported, certification all required data shall be received by the Director on or before the 15th day of each month for the Arizona CBG or AZRBOB transported during the previous month.

C. Recordkeeping and Records Retention.

1. Each registered supplier who samples and analyzes required to sample and analyze a final blend or shipment of Arizona CBG or AZRBOB under this Section pursuant to this subsection (C) shall maintain, for 5 years from the date of each sampling, records of the following: showing the

- a. Sample sample date;,
b. Identity identity of blend or product sampled;,
c. Container container or other vessel sampled;.

- d. The the final blend or shipment volume; and
e. The the sulfur, aromatic hydrocarbon, olefin, oxygen, RVP, and as applicable, T50, T90, E200 and E300 as determined in accordance with R20-2-759.

2. All Arizona CBG or AZRBOB produced or imported by a the registered supplier, which is and not tested as required by this Section, shall be deemed to have a RVP, sulfur, aromatic hydrocarbon, olefin, oxygen, T50 and T90 exceeding the standards specified in R20-2-751 and R20-2-751.01, or exceeding the comparable PM averaging limits if applicable, unless the registered supplier importer demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable these standards and limits for fuel properties and performance standards.

- 3.2. A registered supplier shall provide to the Director any records required to be maintained by the registered supplier under pursuant to this subsection (C) within 20 days of a written request from the Director if the request is received before expiration of the period during which the records are required to be maintained. Whenever If a registered supplier fails to provide records for regarding a blend or shipment of Arizona CBG or AZRBOB in accordance with the requirements of under this Section, the final blend or shipment of Arizona CBG or AZRBOB shall be deemed supplied presumed to have been sold by the registered supplier in violation of the standards in R20-2-751, and R20-2-751.01, or exceeding the comparable PM averaging limits, if applicable, unless the registered supplier importer demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable these standards and 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 Arizona CBG or AZRBOB into area A by a means other than a pipeline.

- E. Quality Assurance/Quality Control (QA/QC) Program. A Each 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 QA/QC program shall be submitted to the Director for approval at least 3 months before prior to transport of Arizona CBG or AZRBOB. Instead of a in-lieu of the QA/QC program, a registered supplier suppliers may opt to comply with the independent testing requirements of subsection (F).

F. Independent testing.

1. A Any registered supplier of Arizona CBG or AZRBOB who that does not comply with the requirements of subsection (E) shall conduct carry out a program of independent sample collection and analyses for the Arizona CBG or AZRBOB produced or imported it produces or imports, which complies with meets the requirements of 1 of the following two options:

a. Option 1. A The registered supplier shall, for each batch of Arizona CBG or AZRBOB that is 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 performance standard for which the Arizona CBG or AZRBOB is has been certified.

b. Option 2. A The registered supplier shall have an independent testing program carried out for all Ari-

zona CBG or AZRBOB produced or imported, which ~~consists~~ shall consist 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 (b)(i); and
- iii. The designated independent laboratory shall, for each sample identified by the Director or designee, analyze the sample using methodology specified in R20-2-759 for compliance with each fuel property or performance standard for which ~~the that~~ batch is ~~was~~ certified.

The Director or designee may request a portion of the batch sample collected under this subsection for analysis by a laboratory selected by the Director or designee. The sample shall be submitted to the Director within 24 hours of written request.

2. Designation of Independent Laboratory.

- a. ~~A Any~~ registered supplier ~~who that~~ does not comply with subsection (E) shall designate 1 independent laboratory for each production or import facility at which Arizona CBG or AZRBOB is produced or imported. ~~The This~~ independent laboratory shall ~~will~~ collect samples and perform analyses in compliance with the requirements of ~~this~~ subsection (F).
- b. ~~A Any~~ registered supplier shall identify ~~the this~~ designated independent laboratory to the Director under the registration requirements of R20-2-750.
- c. ~~A laboratory is in order to be~~ considered independent ~~if~~:
 - i. The laboratory ~~is shall~~ not be operated by ~~a any~~ registered supplier, and ~~is shall~~ not be operated by ~~a any~~ subsidiary or employee of ~~a any~~ registered supplier;
 - ii. The laboratory ~~does not have shall be free from~~ any interest in any registered supplier; and
 - iii. The registered supplier ~~does not have shall be free from~~ any interest in the laboratory.

Notwithstanding the restrictions in subsections items (F)(2)(c)(i) through (iii), a laboratory shall be considered independent if it is owned or operated by a gasoline pipeline company owned or operated, regardless of ownership or operation of the gasoline pipeline company by producers or importers, provided that the such pipeline company is owned and operated by 4 or more producers or importers.

- d. Use of a laboratory that is debarred, suspended, or proposed for debarment according to ~~pursuant 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), is non-compliant shall be deemed noncompliance with the requirements of ~~this~~ subsection (F).

3. ~~A Any~~ registered supplier shall cause its designated independent laboratory:

- a. At the time the designated independent laboratory collects a representative sample from a batch of Arizona CBG or AZRBOB, to record the following information:

- 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~~ was collected;
- iv. The date and time the batch became finished Arizona CBG or AZRBOB, and the date and time the sample ~~is~~ was collected;
- v. The grade of the batch (~~e-g. for example~~, unleaded premium, unleaded mid-grade, or unleaded); and
- vi. ~~For In the case of~~ Arizona CBG or AZRBOB produced ~~by through~~ 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. To retain each sample collected under pursuant to ~~the requirements of this subsection for a period of~~ at least 45 days, except that ~~this time may period shall be extended to a period of~~ up to 180 days upon request by the Director;

- c. To submit to the Director periodic reports, ~~as follows~~:

- i. ~~From June 1, 1998, through September 30, 1998, reports shall be submitted on the 15th of every month for samples collected and analyzed during the previous month.~~

- ii. ~~From May 1, 1999, and after, reports shall be submitted on the 15th day of the month following the previous 3 month reporting period. The Each report shall include, for each sample of Arizona CBG or AZRBOB that was analyzed pursuant to the requirements of this under subsection (F):~~

- i. ~~(1) The results of the independent laboratory's analyses for each fuel property; and~~

- ii. ~~(2) The information specified in this subsection (F)(3)(a) for each such sample; and~~

- d. To supply to the Director, upon ~~the Director's~~ request, a portion of ~~the any such~~ sample.

G. Exemptions to QA/QC and Independent Laboratory Testing Requirements

- 1. ~~A Any~~ registered supplier ~~who that~~ produces or imports Arizona CBG using computer-controlled in-line blending equipment and is operating under an exemption from EPA under in accordance with 40 CFR 80.65(f)(4), is exempt from the requirements of subsections R20-2-752 (E) and (F).
- 2. Reports of the results of the independent audit program of the refiner's computer-controlled in-line blending operation ~~that are~~ submitted to EPA under 40 CFR 80.65(f)(4), shall also additionally be submitted to the Director by March 1 of each year.

R20-2-753. General Requirements for Pipelines and 3rd-party Terminals

- A. ~~A The~~ pipeline or 3rd-party terminal shall not accept Arizona CBG or AZRBOB for transport unless:

- 1. The supplier is registered with the Department ~~depart-~~ment; and
- 2. The supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the applicable standards in either R20-2-751(A) without or R20-2-751.01(A) with no reproducibility or numerical

rounding. For the purposes of this Section, reproducibility means the testing method margin of error as provided in the ASTM or other testing method required under this Article.

- B. ~~A~~ Any pipeline or 3rd-party terminal that transports Arizona CBG or AZRBOB shall collect a sample of each incoming batch. The pipeline or 3rd-party terminal shall retain ~~the~~ each sample collected pursuant to the requirements of this subsection for a period of at least 30 days, except that this time ~~may~~ period shall be extended for individual samples to a period of up to 180 days upon request by the Director.
- C. ~~A~~ Any pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of no less than 1 sample from 1 batch completing shipment per supplier per day at each input location.
- D. The pipeline shall provide the Director with a report summarizing the laboratory testing results required in subsection (C) within 10 days of the end of each calendar month. The report shall contain the quantity of Arizona CBG or AZRBOB, and date tendered, whether ~~it~~ the Arizona CBG or AZRBOB was transported by the entered-a pipeline, present sample location of fuel sample, and laboratory analysis results.
- E. ~~If~~ For any batch that does not meet the applicable standards in either R20-2-751(A) or R20-2-751.01(A), but is within reproducibility, the pipeline shall notify the Director by facsimile within 48 hours with the batch volume quantity and date tendered, proposed date of shipment date, whether ~~the~~ batch was transported by ~~the~~ it entered-a pipeline, present batch location of fuel, and laboratory analysis results.
- F. ~~If~~ For any batch that does not meet the applicable standards in either R20-2-751(A) or R20-2-751.01(A), including reproducibility, the pipeline or 3rd-party terminal shall notify the Director by facsimile within 24 hours with the quantity and date tendered, proposed date of shipment date, whether ~~the~~ batch was transported by ~~the~~ it entered-a pipeline, present batch location of fuel, and laboratory analysis results. If the product batch is in still within the pipeline or 3rd-party terminal's control, ~~the pipeline or 3rd-party terminal shall~~ measures shall be taken to stop the release of the batch from a distribution point until it is product from a distribution point until such time as it can be certified as meeting the standards in R20-2-751(A) and R20-2-751.01(A).
- G. ~~A~~ The Director will not consider the pipeline shall not to be liable under R20-2-761 if ~~it~~ the pipeline has complied with all of the procedures in this Section.
- H. The pipeline or 3rd-party terminal shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the pipeline's pipeline or 3rd-party terminal's laboratory testing. ~~The QA/QC program for~~ In addition, 3rd-party terminals shall include a description of the laboratory testing protocol used to verify that the gasoline transported being supplied for transport to area A, meets the applicable standards in either R20-2-751(A) or R20-2-751.01(A). ~~The QA/QC program shall be submitted to the Director for approval by January 30, 1998, for any pipeline or 3rd-party terminal that will be transporting Arizona CBG or AZRBOB any time prior to May 30, 1998. For any pipeline or 3rd-party terminal that registers after January 30, 1998, the~~ The QA/QC program shall be submitted to the Director for approval at least 3 months before in advance of the 1st date the pipeline or 3rd-party terminal such registrant transports Arizona CBG or AZRBOB.
- I. ~~A~~ portion of a facility that a Units within a 3rd-party terminal uses for used as production, import, or oxygenate blending is exempt facilities shall be exempted from the provisions of this Section, but shall be operated in compliance comply with

applicable requirements for facilities subject to rules for registered suppliers or oxygenate blenders.

R20-2-754. Downstream Blending Exceptions for Transmix

- A. Pipelines may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of 1% by volume. Each pipeline shall document the transmix blending (recording each batch and volume of transmix blended) and maintain the records at the terminal for 2 years from the date of blending.
- B. One of 2 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), which is incorporated by reference and is on file with the Secretary of State. This incorporation by reference contains no future editions or amendments.

R20-2-755. Additional Requirements for Pertaining to AZRBOB and Downstream Oxygenate Blending

- A. Application of Arizona CBG standards to or AZRBOB.
1. Determining whether AZRBOB complies with the standards for Arizona CBG standards.
 - a. ~~If~~ Where a registered supplier designates has designated a final blend as AZRBOB and complies has complied with the all-applicable provisions of this Section, the fuel properties and performance standards of the final blend for purposes of compliance with Tables 1, or 2, or 3 in R20-2-751 and R20-2-751.01 shall be determined by adding the specified type and amount of oxygenate to a representative sample of the AZRBOB and determining the fuel properties and performance standards and characteristics of the resulting gasoline according to the in accordance with an applicable test methods method identified in R20-2-759. ~~If~~ Where the registered supplier designates designated a range of amounts of oxygenate or more than 1 oxygenate type to be added to the AZRBOB, the minimum designated amount of the oxygenate having the smallest designated volume shall be added to the AZRBOB to determine when determining the fuel properties and performance standards and characteristics of the final blend. ~~If~~ a the registered supplier does has not comply complied with any applicable provisions of this subsection, compliance of the final blend with applicable fuel property standards Section, the properties of the final blend for purposes of the producer's or importer's compliance with R20-2-751 and R20-2-751.01, excluding requirements for RVP, shall be determined without adding oxygenate to the AZRBOB gasoline.
 - b. In determining whether AZRBOB complies with the standards for Arizona CBG standards, the oxygenate added shall must be representative of the oxygenate the registered supplier reasonably expects will be subsequently added to the final blend.
 2. Calculating the volume of a final blend of AZRBOB. ~~If~~ Where a registered supplier designates has designated a final blend as AZRBOB and complies has complied with all-applicable provisions of this Section, the volume of a final blend shall be calculated for compliance purposes under as contained in R20-2-751 and R20-2-

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751.01 by adding the minimum designated amount of the oxygenate having the smallest volume designated by the registered supplier. If ~~a the registered supplier does~~ has not ~~comply~~ ~~complied~~ with any applicable provisions of this ~~subsection~~ ~~Section~~, the volume of the final blend for purposes of compliance with applicable fuel property standards ~~the volume of the final blend for purposes of the producer's or importer's compliance with R20-2-751 and R20-2-751.01~~ shall be calculated without adding the amount of oxygenate to the AZRBOB.

B. Restrictions on transferring AZRBOB

1. No person may transfer ownership or custody of AZRBOB to any other person unless the transferee has notified the transferor in writing that either:
 - a. The transferee is a registered oxygenate blender and will add oxygenate of the types and amount (or within the range of amounts) designated in ~~accordance with 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 assure that the AZRBOB is transferred to a registered oxygen blender who adds the type and amount (or within the range of amounts) of oxygenate designated in ~~accordance with R20-2-757~~ to the AZRBOB before the AZRBOB is transferred from a final distribution facility.
2. No person may sell or supply AZRBOB from a final distribution facility ~~if where~~ the type and amount or range of amounts of oxygenate designated in ~~accordance with R20-2-757~~ have ~~has~~ not been added to the AZRBOB.

C. Restrictions on blending AZRBOB with other products. No person may combine any AZRBOB that has been supplied from the facility at which it ~~is~~ was produced or imported with any other AZRBOB, gasoline, blendstock or oxygenate, except:

1. Oxygenate of the type and amount (or within the range of amounts) specified by the registered supplier at the time the AZRBOB ~~is~~ was supplied from the production or import facility, or
2. Other AZRBOB for which the same oxygenate type and amount (or range of amounts) ~~is~~ was specified by the registered supplier at the time the AZRBOB ~~is~~ was supplied from the production or import facility.

D. Quality Assurance Sampling and Testing ~~audit~~ requirements for a registered supplier supplying AZRBOB from ~~a~~ its production or import facility. ~~A~~ Each registered supplier supplying AZRBOB from ~~a~~ its production or import facility shall conduct a quality assurance sampling and testing program which meets substantially satisfying the requirements of ~~in~~ 40 CFR 80.69(a)(7), as it existed on July 1, 1996, but modified as follows:

1. Change "RBOB" to "AZRBOB"; and
2. Change in the 1st paragraph "...using the methodology specified in § 80.46..." to "...using the methodology specified in R20-2-759..." and
3. Change in paragraph (a)(7)(ii) "(within the correlation ranges specified in § 80.65(e)(2)(I))" to "(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.

E. Requirements for oxygenate blenders.

1. Requirement to add oxygenate to AZRBOB. ~~If~~ ~~When-~~ ~~ever~~ an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender has represented that oxygenate will be added to the AZRBOB, the oxygenate blender shall ~~must~~ add ~~to the AZRBOB~~ oxygenate of the types and amount (or within the range of amounts) identified in the documentation accompanying the AZRBOB to the AZRBOB.
2. Additional requirements for terminal blending. ~~An~~ ~~Any~~ oxygenate blender who makes a final blend of Arizona CBG by blending ~~an~~ ~~any~~ oxygenate with any AZRBOB in ~~a~~ ~~any~~ gasoline storage tank, other than a truck used for delivering gasoline to retail outlets or bulk purchaser-consumer facilities, shall, for each ~~such~~ final blend, determine the oxygen content and volume of the final blend before shipping the final blend prior to its leaving the oxygen blending facility, by collecting and analyzing a representative sample of gasoline taken from the final blend, using the methodology set forth in R20-2-759.
3. Additional requirements for oxygenate blending ~~blenders who blend oxygenate~~ in trucks. ~~An~~ ~~oxygenate~~ ~~Any~~ oxygen blender who obtains any AZRBOB in any gasoline delivery truck shall conduct a quality assurance sampling and testing which meets program substantially satisfying the requirements in 40 CFR 80.69(e)(2), as it existed on July 1, 1996, but modified as follows:
 - a. Change "RBOB" to "AZRBOB"; and
 - b. Change in paragraph (e)(2)(iv), "... using the testing methodology specified at § 80.46 ..." to "... using the testing methodology specified in R20-2-759..."; and
 - c. Change in paragraph (e)(2)(v) "(within the ranges specified in § 80.70(b)(2)(I),)" to "(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.
4. Additional requirements for oxygenate blenders who in-line ~~blend~~ oxygenate blending in ~~to~~ pipelines using computer controlled blending.
 - a. ~~An~~ ~~Any~~ oxygenate blender who produces Arizona CBG by blending oxygenate with AZRBOB into a pipeline using computer-controlled in-line blending shall, for each batch of Arizona CBG produced:
 - i. Obtain a flow proportional composite sample of the blended Arizona CBG after subsequent ~~to~~ the addition of oxygenate and before ~~prior~~ to combining the resulting Arizona CBG with any other gasoline;
 - ii. Determine the oxygen content of the Arizona CBG by analyzing the composite sample within 24 hours of blending using the methodology in ~~of~~ R20-2-759; and
 - iii. Determine the volume of the Arizona CBG.
 - b. ~~If~~ ~~In~~ ~~the~~ ~~event~~ the ~~test~~ testing results for the Arizona CBG indicate that it does not contain the specified type and amount of oxygenate 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 ~~tankage~~ upon arrival in Arizona;

- ii. ~~Notify the Director and begin an investigation to determine the cause of the noncompliance, and~~
- iii. ~~Collect spot samples each 2 hours during each in-line blend of AZRBOB and oxygenate, and analyze these spot samples within 12 hours, until the cause of the noncompliance has been determined and to the satisfaction of the Director.~~
- ii. Begin an investigation to determine the cause of the noncompliance;
- iii. Collect spot samples every 2 hours during each in-line blend of AZRBOB and oxygenate, and analyze the samples with 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
- iv. Notify the Director in writing within 1 business day.

The oxygenate blender shall comply with this subsection until the Director approves the corrective action.

- 5. Recordkeeping and Records Retention.
 - a. ~~An Each oxygenate blender shall maintain, for 5 years from the date of each sampling, records of the following showing the:~~
 - i. ~~Sample sample date,~~
 - ii. ~~Identity identity of blend or product sampled,~~
 - iii. ~~Container container or other vessel sampled,~~
 - iv. ~~The the final blend or shipment volume, and~~
 - v. ~~The the oxygen content as determined in accordance with R20-2-759 of this Article.~~
 - b. All Arizona CBG blended by an the oxygenate blender and not tested as required by this Section shall be deemed to have an oxygen content exceeding the standards specified in R20-2-751 and R20-2-751.01, or exceeding the comparable PM averaging limits if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the these standards in R20-2-751 and limits.
 - c.b. An oxygenate blender shall provide to the Director any records ~~required to be maintained by the oxygenate blender under pursuant to this subsection R20-2-755 within 20 days of a written request from the Director if the request is received before expiration of the period during which the records are required to be maintained. Whenever a~~ If an oxygenate blender fails to provide records for regarding a blend or shipment of Arizona CBG under in accordance with the requirements of this Section, the final blend or shipment of Arizona CBG shall be deemed presumed to have been sold by the oxygenate blender in violation of the standards in R20-2-751 and R20-2-751.01, or deemed to exceed exceeding the comparable PM averaging limits if applicable, unless the oxygenate blender demonstrates to the Director that the Arizona CBG meets the these standards and limits under R20-2-751.
- 6. Notification requirement. An oxygenate blender shall notify ~~by facsimile~~ the Director by facsimile prior to the beginning of transport of Arizona CBG or AZRBOB into area A by a means other than a pipeline.
- 7. Quality Assurance/Quality Control (QA/QC) Program. An Each oxygenate blender who conducts laboratory sampling and analysis required under subsection (E) in their own laboratory shall develop a QA/QC program to

demonstrate the accuracy and effectiveness of the oxygenate blender's laboratory testing of Arizona CBG or AZRBOB. The QA/QC program shall be submitted to the ~~Director~~ director for approval at least 3 months ~~before~~ prior to transport of Arizona CBG. ~~Instead of a In lieu of the QA/QC program, an the oxygenate blender blenders may opt to comply with the independent testing requirements of R20-2-752 (F), except that the minimum number of samples collected and analyzed by the independent laboratory shall be 10% of the number of samples required to be analyzed under subsection (E).~~

- 8. Each oxygenate blender who does not conduct the laboratory sampling and analysis required under this subsection in its own laboratory shall designate an independent laboratory, as required in R20-2-752(F), to conduct all of the laboratory sampling and analysis required under subsection (E).
- 9. A portion of any sample collected under subsections (7) or (8) shall be submitted to the Director within 24 hours of the Director or designee's written request.

R20-2-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks

- A. ~~A No person may not combine Arizona CBG which has been supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person demonstrates to the Director can affirmatively demonstrate that:~~
 - 1. The blendstock ~~that is~~ added to the Arizona CBG meets all of the Arizona CBG standards regardless of without regard to the fuel properties and performance standards of the gasoline to which the blendstock is added; and
 - 2. The person meets ~~with regard to the blendstock all~~ requirements in this Article ~~article~~ applicable to producers of Arizona CBG.
- 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 1 or more of the applicable per-gallon standards contained in R20-2-751(A) if and R20-2-751.01(A) where the person obtains the prior written approval from of the Director based on a demonstration that adding the blendstock will bring is a reasonable means of bringing the previously certified Arizona CBG gasoline into compliance with the applicable per-gallon standards for Arizona CBG. The oxygenate blender or registered supplier shall certify to the Department the rebled Arizona CBG.

R20-2-757. Product Transfer Documentation; Records Retention

- A. ~~If a On each occasion when any person transfers custody or title to any Arizona CBG or AZRBOB, other than when gasoline is sold or dispensed at a service station or fleet vehicle fueling facility, the transferor shall provide to the transferee documents which include the following information:~~
 - 1. The name and address of the transferor;
 - 2. The name and address of the transferee;
 - 3. The volume of Arizona CBG or AZRBOB ~~which is~~ being transferred;
 - 4. The location of the Arizona CBG or AZRBOB at the time of the transfer;
 - 5. The date of the transfer;
 - 6. Product transfer document number;
 - 7. The proper identification of the gasoline as Arizona CBG or AZRBOB;
 - 8. The minimum octane rating;

9. The applicable Federal Complex Model VOC and NO_x reduction percentage standards contained in R20-2-751(A) ~~to or R20-2-751.01(A)~~ with 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 31, the type and quantity of oxygenate contained in the Arizona CBG; and
 11. In the case of AZRBOB for which oxygenate blending is intended:
 - a. Identification of the product as AZRBOB, and a statement that the AZRBOB does not comply with the standards for Arizona CBG without the addition of oxygenate;
 - b. The designation of the AZRBOB as suitable for blending with:
 - i. Any oxygenate;
 - ii. Ether only; or
 - iii. ~~A~~ Other specified oxygenate type or types and amount or amounts; and
 - c. The oxygenate type or types and amount or amounts which the AZRBOB requires in order to meet the fuel properties or performance standards claimed by the registered supplier of the AZRBOB, and the applicable volume percent oxygenate 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 has except when having the same requirements for oxygenate type or types and amount or amounts.
- B.** A registered supplier, 3rd-party terminal, or pipeline may comply with this requirement by using the use of standardized product codes on pipeline tickets ~~if the~~. The codes are specified for the Arizona CBG or AZRBOB shall be identified in a manual that is distributed by the pipeline to transferees of the Arizona CBG or AZRBOB; and the manual sets forth all of the required information for the Arizona CBG or AZRBOB.
- C.** Any person identified in subsection (A), ~~other than with the exception of~~ registered suppliers, oxygenate blenders, 3rd-party terminals and pipelines, shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the previous 24-month period. Transfer or delivery documents for ~~The documentation for the transfers or deliveries made during the preceding 30-day period preceding the most recent transfer or delivery~~ shall be maintained at the business address listed on the product transfer document. All remaining transfer or delivery documents ~~Documentation for the remainder of all transfers or deliveries~~ for the preceding 24 months shall be available within 2 working days from the time of request by the Director or designee. Registered suppliers, oxygenate blenders, 3rd-party terminals, and pipelines shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the previous 60-month period. Transfer or delivery documents ~~The documentation for the transfers or deliveries made during the preceding 30-day period preceding the most recent transfer or delivery~~ shall be maintained at the business address listed on the product transfer document. Documents ~~Documentation~~ for the remainder of all transfers or deliveries for the preceding 60 months shall be available within 2 working days from the time of request by the Director or designee.
- D.** All documents requested for review by the Director or designee ~~a Department official~~, upon request, shall be photocopied

and presented to the Department. Legible photocopies shall be acceptable.

R20-2-758. Adoption of Fuel Certification Models

- A.** 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. ~~These documents do not include any later amendments or editions. Copies of each are available from the department.~~
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 (hereafter Predictive Model Procedures).
 2. The Federal Complex Model as contained in 40 CFR 80.45, July 1, 1996.

R20-2-759. Testing Methodologies

- A.** Except as provided in subsections (C) and (D), Arizona CBG or AZRBOB certified as meeting standards under R20-2-751, Table 1 ~~or R20-2-751.01, Table 3~~ shall be tested with the methods testing methodologies required by 13 California Code of Regulations, Section 2263, incorporated by reference as of January 1, 1997.
- B.** Except as provided in subsection (C), Arizona CBG or AZRBOB certified as meeting standards under Table 2 shall be tested with methods under required by 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.
- C.** Registered suppliers, oxygenate blenders, and 3rd-party terminals certifying gasoline before ~~prior to~~ transport to Maricopa County shall measure oxygenate using ASTM D4815-96 ~~D-4815-96~~ procedures and RVP using ASTM D4814 standards. For gasoline located in within Maricopa County, oxygenate shall be measured using ASTM D4815-96 ~~D-4815-96~~, and RVP shall be measured using ASTM D5191-96.
- D.** Except as required in subsection (C), a registered supplier of Arizona CBG or AZRBOB may certify Type 1 ~~or Type 3~~ gasoline produced or imported at any specific facility using the federal test methods contained in 40 CFR 80.46 (a) through (g), provided that these are the only test methods used by that registered supplier to certify ~~for~~ Arizona CBG or AZRBOB certified at that facility.

R20-2-760. Compliance Surveys

- A.** ~~A~~ Each registered supplier who elects to certify that Arizona CBG or AZRBOB meets any to meet any averaging standard under R20-2-751 ~~or R20-2-751.01~~ shall conduct a program of compliance surveys in accordance with a survey program plan ~~which has been approved by the Director. Approval~~ Such approval shall be based upon the survey program plan meeting the following criteria:
1. The survey program shall consist of surveys which shall occur during the following time periods:
 - a. ~~From June 1, 1998, through September 30, 1998, 2 surveys shall be conducted;~~
 - b. ~~From~~ from and after May 1, 1999:
 - a.i. Two VOC surveys during the period May 1 through September 15 ~~of each year~~; and
 - b.ii. Two NO_x surveys during the ~~each~~ period of November 1 through March 31, which constitute a survey series.

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2. The survey program shall meet the criteria stated in subsection (B).
 3. In the event that a ~~any~~ registered supplier fails to conduct an approved survey program, the Director shall issue an order requiring compliance that person comply with all applicable standards on a per-gallon per-gallon basis for a period of at least 6 months, extending through the end of the survey period identified in subsection (A)(1) and ending after the on or end of that 6-month period. This requirement for to achieve compliance with per-gallon per-gallon standards shall apply from ab-initio to the beginning of the applicable survey period periods for which the failure occurs, regardless of when during that period the failure to survey occurs during that period.
- B. General survey requirements.**
1. A survey shall consist of all samples ~~that are~~ collected under pursuant to the applicable survey design during any consecutive 7-day period and that are not excluded under subsection (B)(4)(B)(6).
 2. A survey shall be representative of all Arizona CBG gasoline ~~which is~~ being dispensed in area A as provided in subsection (E).
 3. ~~A VOC survey shall consist of any survey conducted during the periods identified in (A)(1)(a) and (A)(1)(b)(i).~~
 4. ~~A NO_x survey series shall consist of any survey conducted during the periods identified in (A)(1)(a) and (A)(1)(b)(ii).~~
 - 3.5. Each sample included in a survey shall be analyzed for oxygenate type and content, olefins, sulfur, and aromatic hydrocarbons, E200, E300, and RVP according to in accordance with the methodologies specified in R20-2-759. RVP shall should be analyzed during the time period of June 1, 1998, through September 30, 1998, and May 1 through September 15 from and after May 1, 1999.
 - 4.6. The results of each survey shall be based upon the results of the analysis of each sample collected during the course of the survey, unless the sample violates the applicable per gallon per-gallon maximum or minimum standards for the parameter being evaluated plus any enforcement tolerance that applies to the parameter.
 - 5.7. ~~A survey~~ Any sample from a survey that violates any standard under R20-2-751 or R20-2-751.01, or that constitutes evidence of the violation of any prohibition or requirement under this Article, may be used by the Director in an enforcement action for the such violation.
 - 6.8. Each laboratory which analyzes survey samples at which samples in a survey are analyzed shall participate in a correlation program with the Director to ensure the validity of analysis results.
- C. The results of each Federal Complex Model VOC emissions reduction survey shall be determined as follows:**
1. For each Federal Complex Model sample from the survey series, the VOC emissions reduction percentage shall be determined based upon the tested fuel properties parameter values for that sample and the appropriate methodology for calculating VOC emissions reduction at 40 CFR 80.45 § 80.45, as incorporated adopted by reference in under R20-2-758;
 2. Area A ~~fails shall have failed~~ the Federal Complex Model VOC survey if the VOC emissions reduction percentage average of all survey samples collected during that survey is less than the per gallon applicable per-gallon standard for VOC emissions reduction in Table 1, column A.
- D. The results of each NO_x emissions reduction survey and survey series shall be determined as follows:**
1. For each sample from the ~~survey and~~ survey series, the NO_x emissions reduction percentage shall be determined based upon the tested parameter values for that sample and the appropriate methodology for calculating NO_x emissions reduction at 40 CFR 80.45 § 80.45 as incorporated adopted by reference in under R20-2-758; and
 2. Area A ~~fails shall have failed~~ the NO_x ~~survey or~~ survey series if the NO_x emissions reduction percentage average for all survey samples is less than the applicable Federal Complex Model per gallon per-gallon standard for NO_x emissions reduction in Table 1, column A.
- E. Each survey program shall:**
1. Be planned and conducted by a person ~~who is~~ independent of the registered supplier (~~hereafter referred to as the surveyor~~). To In order to be considered independent:
 - a. The surveyor shall not be an employee of any registered supplier;
 - b. The surveyor shall be free from any obligation to or interest in any registered supplier; and
 - c. The registered supplier shall be free from any obligation to or interest in the surveyor.
 2. Be designed to include enough samples to ensure include procedures such that the number of samples included in each survey assures 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 for sulfur;
 3. Require that the surveyor shall:
 - a. Except as provided in subsection (F), not inform anyone, in advance, of the date or location for the conduct of any survey;
 - b. Upon request by the Director made within 30 days following the submission of the report of a survey, provide a duplicate of any gasoline sample taken during that survey to the Director at a location to be specified by the Director, each sample to be identified by the name and address of the facility where collected, the date of collection. Upon request of the Director, provide a duplicate of any sample taken during the survey within 30 days following submission of the survey report:
 - i. To a location specified by the Director;
 - ii. With each sample identified by the name and address of the facility where the sample was collected; and
 - iii. With the date of collection.
 - c. Permit a Department official at any time At any time permit any representative of the Director to monitor the conduct of the survey, including sample collection, transportation, storage, and analysis.
 4. Require the surveyor to submit to the Director a report of each survey, within 30 days following completion of the survey; to the Director. The such report shall to include the following information:
 - a. The name identification of the person conducting who conducted the survey;

- b. An attestation by an officer of the surveying survey or company that the survey was conducted accord-
ing to in accordance with the survey plan and that the survey results are accurate;
 - c. If the survey was conducted for 1 registered supplier, the identification of that supplier party;
 - d. The identification of the area in which the gasoline
was surveyed;
 - e. The dates on which the survey was conducted;
 - f. The address of each facility at which a gasoline sample was collected, and the date of collection;
 - g. The results of the analyses of Federal Complex Model samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP, the calculated VOC or and NO_x emissions reduction percentage, as applicable, for each survey conducted during the applicable periods identified in subsection (A)(1);
 - h. The name and address of each laboratory where gasoline samples were analyzed;
 - i. A description of the methodology used utilized to select the locations for sample collection and the numbers of samples collected;
 - j. For any samples which were excluded from the survey, a justification for the such exclusion; and
 - k. For each survey conducted during the period June 1 through September 15, the average Federal Complex Model VOC emissions reduction percentage, and the average Federal Complex Model NO_x emissions reduction percentage, for samples collected during the period November 1 through March 31.
- F. Each survey shall be commenced on a date selected by the Director. The Director shall notify the surveyor of the date selected at least no earlier than 10 business days before the beginning date of the survey.
- G. The procedure for seeking Director approval for a survey program plan is shall be as follows:
- 1. The survey program plan shall be submitted to the Director for the Director's approval no later than January 1 to cover the survey period of May 1 through March 31 of each year; and
 - 2. The survey program plan Such submittal shall be signed by a responsible 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.
- H. No later than April 1 of each year, the registered supplier's contract with the surveyor to carry out the entire survey plan for the next summer and winter season shall be in effect, and an amount of money paid by the registered supplier necessary to carry out the entire survey plan shall be paid to the surveyor or placed into an escrow account with instructions to the escrow agent to pay the money over to the surveyor during the course of the conduct of the survey plan. No later than April 15 preceding the period in which the surveys will be conducted, the Director shall be given a copy of the contract with the surveyor, proof that the money necessary to carry out the plan has either been paid to the surveyor or placed into an escrow account, and if placed into an escrow account, a copy of the escrow agreement.

R20-2-761. Liability for Noncompliant Gasoline

- A. Persons liable. If where the gasoline designated as Arizona CBG or AZRBOB is found to be noncompliant with the pro-

visions of R20-2-751 or R20-2-751.01, the following persons are shall be deemed liable for the such violation:

- 1. Each person who owns, leases, operates, controls, or supervises the facility where the noncompliant gasoline is found;
- 2. Each registered supplier whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name, appears at the facility where the noncompliant gasoline is found;
- 3. Each person who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline which is in a the storage tank containing gasoline found to be noncompliant in noncompliance.

B. Defenses.

- 1. A person who is otherwise would be liable under subsection (A), is not liable shall be deemed not in violation if that person demonstrates can demonstrate:
 - a. That the violation was not caused by the regulated party or its employee or agent;
 - b. That product transfer documents account for all of the noncompliant gasoline in the storage tank found in violation and indicate that the gasoline compiled with this Article met applicable require-
ments; and
 - c. That the person had it has conducted 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 party, including the person party that owns the noncompliant Arizona CBG or AZRBOB in question, provided that the quality assurance program is carried out properly administered.
- 2. If where a violation is found at a facility which operates is operating under the corporate, trade, or brand name of a registered supplier, that registered supplier must show, in addition to the defense elements in required by subsection (B)(1), that the violation was caused by:
 - a. A An act in 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 The action of any person in violation of a contract obligation contractual undertaking imposed by the registered supplier designed to prevent non-compliance such action, and despite periodic compliance sampling and testing by the registered supplier to ensure compliance with such contractual obligation; or
 - c. The action of any person having custody of who transfers Arizona CBG or AZRBOB but does not assume title 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 which are designed reasonably calculated to prevent violations such action.
- 3. To show that the violation was caused by any of the specified actions in subsection (B)(2), the person party must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.

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C. Quality assurance sampling and testing program. In order to demonstrate an acceptable quality assurance program for Arizona CBG or AZRBOB, at all points in the gasoline distribution network, other than at service stations or fleet owner facilities, a person party must present evidence:

1. Of a periodic sampling and testing program to determine compliance with the ~~if the applicable~~ maximum or minimum standards ~~as reflected in R20-2-751 and R20-2-751.01 are met;~~ and
2. That ~~on each time occasion when~~ Arizona CBG or AZRBOB is noncompliant ~~found in noncompliance~~ with 1 of the requirements ~~referred to~~ in subsection (C)(1):
 - a. The person party immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing, transporting, or causing the trans-

portation of the noncompliant Arizona CBG or AZRBOB violating product; and

- b. The person party promptly remedies the violation as soon as practicable by abiding by the provisions of this Article.

R20-2-762. Penalties

Any person who violates any provision of this Article ~~is shall be~~ subject to ~~any or all of~~ the following:

1. Prosecution for a Class 2 misdemeanor under pursuant to A.R.S. § 41-2113(B)(4);
2. Civil penalties in the amount of \$500 per violation under ~~infraction pursuant to~~ A.R.S. § 41-2115; and
3. Stop-use, stop-sale, hold and removal orders under pursuant to A.R.S. § 41-2066(A)(2).

Table 1. Type 1 Gasoline Standards

Fuel Property/Performance Standard**	Non-averaging Option	Averaging Option		
	A	B	C	D
	Per Gallon (minimum)	Average	Minimum (per gallon)	Maximum (per gallon)
VOC Emission Reduction (%) May 1 - Sept. 15	≥ 27.5	≥ 29.0	≥ 25.0	N/A
NO _x Emission Reduction (%) May 1 - Sept. 15	≥ 5.5	≥ 6.8	≥ 3.0	N/A
NO _x Emission Reduction (%) Sept. 16 - April 30	≥ 0.0	≥ 1.5	≥ -2.5	N/A
Oxygen, ethanol, (% by weight unless otherwise noted) Nov. 1 - March 31 April 1 - Oct. 31	10% ethanol by vol. 2.0	N/A 2.1	10% ethanol by vol. 1.5	4.0 4.0
Oxygen, other than ethanol, (% by weight) Nov. 1 - March 31 April 1 - Oct. 31	2.7 2.0	N/A 2.1	2.7 1.5	3.5* 2.7

* Maximum oxygen content must comply with the EPA oxygenate waiver requirements.
 ** Dates represent compliance dates for service stations and fleet owners.

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Table 2. Type 2 Gasoline Standards

Fuel Property	Averaging Option		Non-averaging Option	Units of Standard
	A	B	C	
	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard * (per gallon maximum)	
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, ethanol Nov. 1- March 31 April 1 - Oct. 31	10% ethanol 2.7	-- --	10% ethanol 2.7***	% by vol. % by weight
Oxygen, other than ethanol Nov. 1- March 31 April 1 - Oct. 31	3.5** 2.7	-- --	3.5** 2.7***	% by weight % by weight

* In lieu of the standards in columns B and C, registered suppliers may opt to comply with the standards contained in R20-2-751(D), (E), and (F), and ~~R20-2-71.01(D)~~ for the use of the PM.

** Maximum oxygen content must comply with the EPA oxygenate waiver requirements.

*** The gasoline produced in accordance with the Non-averaging Option must comply with a per gallon minimum oxygen content of 1.8% by weight April 1 - October 31.

NOTE: Dates represent compliance dates for service stations and fleet owners.

Table 3. Type 3 Gasoline Standards

Fuel Property	Non-averaging Option	Averaging Option		
	A	B	C	D
	Per Gallon (minimum)	Average	Minimum (per-gallon)	Maximum (per-gallon)
VOC Emission Reduction (%) June 1—Sept. 30	≥ 35.1	≥ 36.6	≥ 32.6	N/A
NO _x Emission Reduction (%) June 1—Sept. 30	≥ 0	≥ 1.5	≥ 2.5	N/A
Oxygen, ethanol, (% by weight) June 1—Sept. 30	2.0	2.1	1.5	4.0
Oxygen, other than ethanol, (% by weight) June 1—Sept. 30	2.0	2.1	1.5	3.5*

* Maximum oxygen content must comply with the EPA oxygenate-waiver requirements.
NOTE: Dates represent compliance dates for service stations and fleet owners.

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

PREAMBLE

1. **Sections Affected**
R-20-4-107
Table A
- Rulemaking Action**
New Section
New Table
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. §§ 6-123 and 41-1073

Implementing statute: A.R.S. §§ 6-123, 6-203, 6-381, 6-408, 6-506, 6-854, 6-603, 6-704, 6-814, 6-903, 6-943, 6-974, 6-1104, 6-1204, 6-1303, 6-1402, 32-1021, 41-1072, *et seq.*, and 44-282.
3. **The effective date for the rules:**
September 9, 1998
4. **A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Docket Opening: 3 A.A.R. 3424, December 5, 1997.
Notice of Proposed Rulemaking: 4 A.A.R. 1273, June 5, 1998.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: John P. Hudock, Esq.
Address: Banking Department
2910 North 44th Street, Suite 310
Phoenix, Arizona 85018
Telephone: (602) 255-4421, Ext. 167
Fax: (602) 381-1225
6. **An explanation of the rule, including the agency's reasons for initiating the rule:**
This rule was necessitated by a change in the Administrative Procedure Act in the 1995 legislative session. The legislature cre-

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ated A.R.S. § 41-1073 that requires adoption of time-frames during which the agency will grant or deny each type of license it issues. The department published the docket opening on this rule making in 3 A.A.R. 3424 on December 5, 1997.

7. **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.
8. **The summary of the economic, small business, and consumer impact:**
- A. The Banking department**
- The department estimates an \$8,000 expense for the creation of a tracking system. Thereafter, the cost will be \$5,000 per annum. Benefits will include an increase in the department's processing efficiency. Improved relations between the department and the regulated community will result from dependable time-frames.
- B. Other Public Agencies**
- The State will incur costs associated with publishing rules.
- C. Private Persons and Businesses Directly Affected**
- This group will benefit from a clearer understanding of specific time-frames for these decisions.
- D. Consumers**
- This rule will have no measurable impact on consumers.
- E. Private and Public Employment**
- This rule will have no measurable impact on employment.
- F. State Revenues**
- This rule will not have an impact on State revenues.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules:**
The Council's staff has recommended editorial and stylistic changes to the originally proposed text of the Rule. The changes improved the precision and clarity of the text and have been implemented. With 1 exception, there have been no substantive changes in the text of the rule since it was proposed. In response to staff suggestions and to a statutory revision, the department has established a time-frame for the acquisition of control of a financial institution which was not a part of the proposed rule.
10. **A summary of the principal comments and the agency response to them:**
The agency has received no comment on the proposed rule.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
Not applicable.
12. **Incorporations by reference and their location in the rules:**
There is no material incorporated by reference in this final rule.
13. **Was this rule previously adopted as an emergency rule?**
The rule was not previously adopted as an emergency rule.
14. **The full text of the rules follows:**

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 4. BANKING DEPARTMENT

ARTICLE 1. GENERAL

Section

R20-4-107. Licensing Time-frames
Table A. Licensing Time-frames Table

ARTICLE 1. GENERAL

R20-4-107. Licensing Time-frames

- A.** As used in this Section, "Application" means a document specified or described in this Title requesting any permit, certificate, approval, registration, charter, or similar permission described in Table A, together with all supporting documentation required by statute or rule.
- B.** The time-frames set forth in Table A apply solely to Applications received by the department after the effective date of

this Section. Each overall time-frame consists of an administrative completeness review time-frame, and a substantive review time-frame. The administrative completeness review time-frame begins to run upon receipt of an Application by the Department.

1. Within the administrative completeness review time-frame set forth in Table A, the department shall notify the applicant in writing whether the Application is complete. If the Application is incomplete, the notice shall specify the missing information or component.
2. An Applicant whose application is incomplete shall supply the missing information within 60 days after the date of the notice. If an applicant shows good cause in writing before the expiration of the 60 day time limit, the Superintendent shall extend the period for administra-

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- tive completion of an Application. The administrative completeness review time-frame stops running on the postmark date of the department's written notice of an incomplete application, and resumes when the department receives a complete Application. If the applicant fails to submit a complete Application within the specified time limit, the department shall reject the Application and close the file. An Applicant may reapply.
3. The substantive review time-frame begins to run on the postmark date of the department's written notice that the application is administratively complete.
 4. Within the overall time-frame set forth in Table A the department shall send the applicant written notice of its decision to approve, conditionally approve, or deny a

license, unless the time-frame is extended by mutual agreement under A.R.S. § 41-1075. If the department denies an Application, it shall provide written justification for the denial and a written explanation of the applicant's right to a hearing or appeal in the form required by A.R.S. § 41-1076.

5. The department shall calculate time limits prescribed in this Section under R20-4-1207(A).
- C. The time-frames in this Section apply solely to actions taken by the department. Nothing in this Section relieves a licensee or applicant of a duty to fulfill any other legal or regulatory requirement that is a condition of its power and authority to engage in business.

Table A. Licensing Time-frames

No.	License Type	Legal Authority	Administrative Completeness Review (Days)	Substantive Review (Days)	Overall Time-Frame (Days)
1	<u>Bank</u> <u>Initial Application</u>	<u>A.R.S. § 6-203, et seq.</u> <u>R20-4-211</u>	<u>45</u>	<u>45</u>	<u>90</u>
2	<u>Bank Trust Dept.</u> <u>Initial Application</u>	<u>A.R.S. § 6-381</u> <u>A.R.S. § 6-203,</u> <u>A.R.S. § 6-204(C)</u>	<u>45</u>	<u>45</u>	<u>90</u>
3	<u>Savings & Loan</u> <u>Initial Application</u>	<u>A.R.S. § 6-401, et seq.</u> <u>A.R.S. § 6-408,</u> <u>R20-4-327</u>	<u>75</u>	<u>75</u>	<u>150</u>
4	<u>Credit Union</u> <u>Initial Application</u>	<u>A.R.S. § 6-501, et seq.</u> <u>A.R.S. § 6-506(A)</u>	<u>60</u>	<u>60</u>	<u>120</u>
5	<u>Trust Company</u> <u>Initial Application</u>	<u>A.R.S. § 6-851, et seq.</u> <u>A.R.S. § 6-854(A)</u>	<u>75</u>	<u>75</u>	<u>150</u>
6	<u>Consumer Lender</u> <u>Initial Application</u>	<u>A.R.S. § 6-601, et seq.</u> <u>A.R.S. § 6-603(C)</u>	<u>60</u>	<u>60</u>	<u>120</u>
7	<u>Debt Management</u> <u>Initial Application</u>	<u>A.R.S. § 6-701,</u> <u>et seq.</u> <u>A.R.S. § 6-704(A), R20-</u> <u>4-602(A)</u> <u>R20-4-620(A)</u>	<u>30</u>	<u>30</u>	<u>60</u>
8	<u>Escrow Agent</u> <u>Initial Application</u>	<u>A.R.S. § 6-801,</u> <u>et seq.</u> <u>A.R.S. § 6-814</u>	<u>60</u>	<u>60</u>	<u>120</u>
9	<u>Mortgage Broker</u> <u>Initial Application</u>	<u>A.R.S. § 6-901, et seq.</u> <u>A.R.S. § 6-903(C)</u>	<u>60</u>	<u>60</u>	<u>120</u>
10	<u>Mortgage Banker</u> <u>Initial Application</u>	<u>A.R.S. § 6-941, et seq.</u> <u>A.R.S. § 6-943(D)</u>	<u>60</u>	<u>60</u>	<u>120</u>
11	<u>Commercial Mortgage Banker</u> <u>Initial Application</u>	<u>A.R.S. § 6-971, et seq.</u> <u>A.R.S. § 6-974(A)</u>	<u>60</u>	<u>60</u>	<u>120</u>
12	<u>Acquisition of Control of Financial Institution</u> <u>Initial Application</u>	<u>R20-4-1602</u> <u>R20-4-1702</u> <u>A.R.S. 6-1104</u>	<u>30</u>	<u>30</u>	<u>60</u>
13	<u>Money Transmitter</u> <u>Initial Application</u>	<u>A.R.S. § 6-1201, et seq.</u> <u>A.R.S. § 6-1204(A)</u>	<u>60</u>	<u>60</u>	<u>120</u>

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<u>No.</u>	<u>License Type</u>	<u>Legal Authority</u>	<u>Administrative Completeness Review (Days)</u>	<u>Substantive Review (Days)</u>	<u>Overall Time- Frame (Days)</u>
14	<u>Advance Fee Loan Broker Initial Application</u>	<u>A.R.S. § 6-1301, et seq. A.R.S. § 6-1303(A)</u>	<u>30</u>	<u>30</u>	<u>60</u>
15	<u>Premium Finance Co. Initial Application</u>	<u>A.R.S. § 6-1401, et seq. A.R.S. § 6-1402(C)</u>	<u>60</u>	<u>60</u>	<u>120</u>
16	<u>Collection Agency Initial Application</u>	<u>A.R.S. § 32-1001, et seq. A.R.S. § 32-1021, R20-4-1502, R20-4-1530(A)</u>	<u>30</u>	<u>15</u>	<u>45</u>
17	<u>Motor Vehicle Dealer Dealer Application</u>	<u>A.R.S. § 44-281, et seq. A.R.S. § 44-282(B)</u>	<u>30</u>	<u>15</u>	<u>45</u>
18	<u>Sales Finance Co. Sales Finance Application</u>	<u>A.R.S. § 44-281, et seq. A.R.S. § 44-282(B)</u>	<u>30</u>	<u>15</u>	<u>45</u>