

Arizona Administrative REGISTER

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From the Publisher

ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

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PUBLICATION DEADLINES
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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Participate in the Process

Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

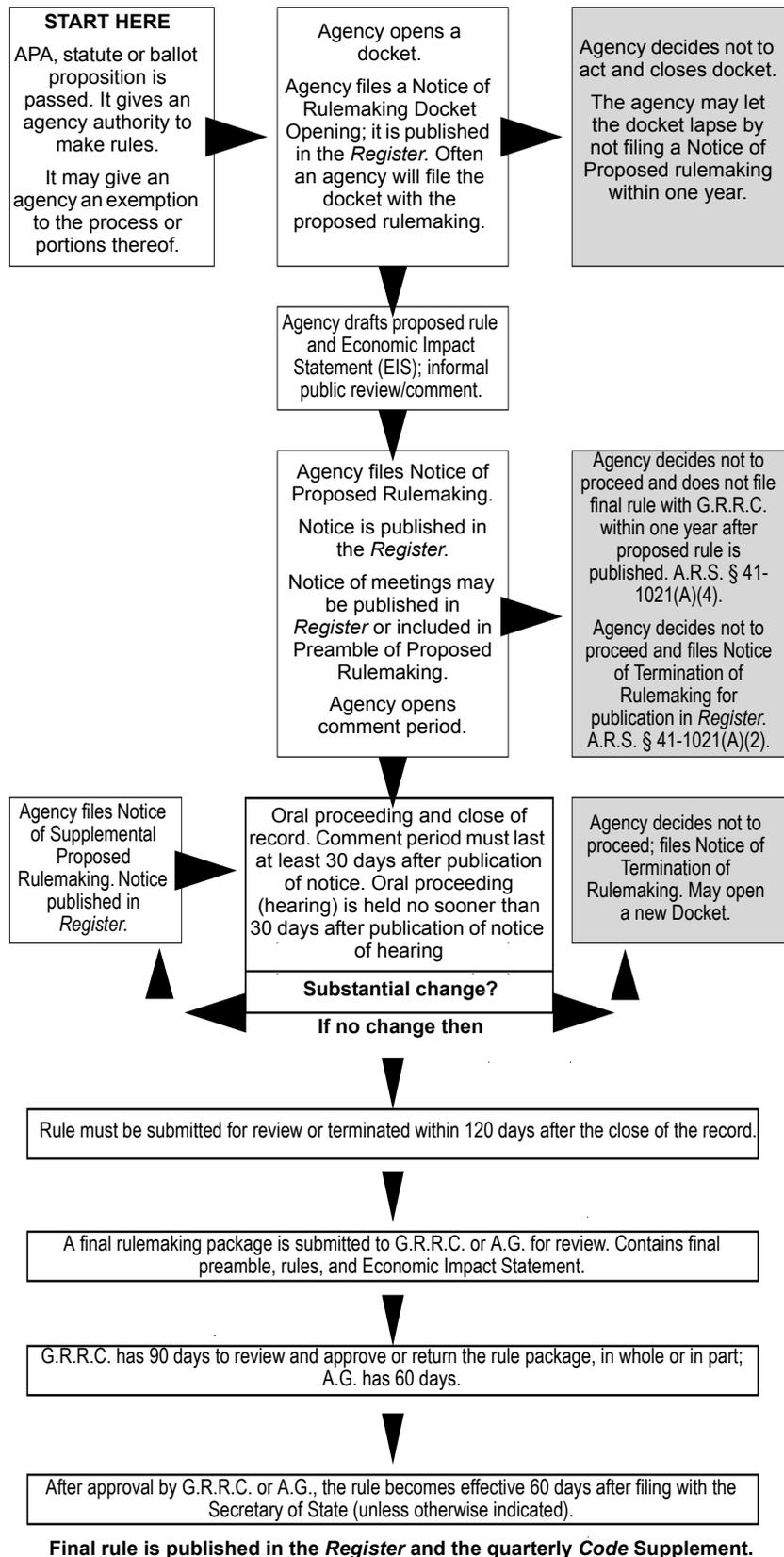
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process



Definitions

Arizona Administrative Code (A.A.C.): Official rules codified and published by the Secretary of State's Office. Available online at www.azsos.gov.

Arizona Administrative Register (A.A.R.): The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

Arizona Revised Statutes (A.R.S.): The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at www.azleg.gov.

Chapter: A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

Close of Record: The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

Code of Federal Regulations (CFR): The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

Docket: A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

Economic, Small Business, and Consumer Impact Statement (EIS): The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

Governor's Regulatory Review (G.R.R.C.): Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

Incorporated by Reference: An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

Federal Register (FR): The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

Session Laws or "Laws": When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

United States Code (U.S.C.): The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.



NOTICES OF PROPOSED RULEMAKING

This section of the Arizona Administrative Register contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same Register issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the Register within three weeks of filing. See the publication schedule in the back of each issue of the Register for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the Register before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE
CHAPTER 7. DEPARTMENT OF AGRICULTURE
WEIGHTS AND MEASURES SERVICES DIVISION

[R17-48]

PREAMBLE

Table with 2 columns: Articles, Parts, and Sections Affected (as applicable) and Rulemaking Action. Lists items R3-7-101 through R3-7-714 and their corresponding actions (Amend, Repeal).

R3-7-715	Amend
R3-7-716	Amend
R3-7-717	Amend
R3-7-718	Amend
R3-7-749	Amend
R3-7-750	Amend
R3-7-751	Amend
R3-7-752	Amend
R3-7-753	Amend
R3-7-754	Amend
R3-7-755	Amend
R3-7-756	Amend
R3-7-757	Amend
R3-7-759	Amend
Table A	Amend
R3-7-760	Amend
R3-7-761	Amend
R3-7-762	Amend
Table 1	Amend
Table 2	Amend
R3-7-901	Amend
R3-7-902	Amend
R3-7-903	Amend
R3-7-904	Amend
R3-7-905	Amend
R3-7-907	Amend
R3-7-908	Amend
R3-7-909	Amend
R3-7-910	Amend
R3-7-911	Amend
R3-7-912	Amend
R3-7-913	Amend
R3-7-1001	Amend
R3-7-1002	Amend
R3-7-1003	Amend
R3-7-1004	Amend
R3-7-1005	Amend
R3-7-1007	Amend
R3-7-1008	Amend
R3-7-1009	Amend
R3-7-1010	Amend
R3-7-1011	Amend
R3-7-1012	Amend
R3-7-1013	Amend

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 3-3414(A)(4), (D), 3-3433(M), 3-3512(E), (I), 3-3514, and 3-3515(F), (H)
 Implementing statute: A.R.S. §§ 3-3416, 3-3431, 3-3433, 3-3434, 3-3436, 3-3437, 3-3451, 3-3453, 3-3454, 3-3471, 3-3472, 3-3474, 3-3491, 3-3492, 3-3493, 3-3494, 3-3495, 3-3498, 3-3512, and 3-3515

3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 23 A.A.R. 982, April 28, 2017 (*in this issue*)
 Notice of Recodification: 22 A.A.R. 2786, September 30, 2016 (*issue 40*)

4. The agency's contact person who can answer questions about the rulemaking:

Name: Michelle Wilson
 Address: Department of Agriculture
 Weights and Measures Services Division
 1688 W. Adams St.
 Phoenix, AZ 85007
 Telephone: (602) 771-4933
 Fax: (623) 939-8586
 E-mail: mwilson@azda.gov
 Web site: <https://dwm.az.gov/>

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:



The Department is updating the rules following the transfer of the Arizona Department of Weights and Measures to the Department of Agriculture, Weights and Measures Services Division and to conform to additional requirements passed in Laws 2015, Chapter 244 (HB2480) and Laws 2016, Chapter 232 (HB2171). Additionally, the Department has conducted a review of rules with interested stakeholders and is streamlining rules to reduce the regulatory burden, provide consistency with current federal and industry standards, and the allow use of more modern technologies. Specific updates to the rules include:

- Correction of citations and other requirements based on the transfer of the Department of Weights and Measures to the Department of Agriculture;
- Incorporation of the latest handbooks that outline testing and device requirements;
- Modify definitions to make consistent with state statutes;
- Revise enforcement procedures to eliminate mandatory fine amounts and give the Division discretion to issue lower fine amounts;
- Require licensed service technicians to report finding consumer credit card skimming devices at retail fuel pumps;
- Reduce stringent criteria requiring grandfathered commercial devices that have been used within Arizona since 1975 to demonstrate that they have been continuously licensed;
- Implement provisions of HB2171 related to price posting behind sales counters and fuel quality provisions;
- Clarify and streamline price posting requirements for retailers;
- Streamline weighmaster licensing and weight ticket issuance to allow for electronic signatures and stamps, in addition to removal of exam requirements for deputy weighmasters;
- Update licensee exam requirements for registered service representatives and public weighmasters to better align with other divisions of the Department of Agriculture;
- Allow for optional third party test administration at the discretion for the Department to better service the regulated community. The cost of third party testing would be paid by the person wishing to utilize such services;
- Reduce classroom and examination requirements for vapor recovery testers from an annual requirement to once every three years;
- Update and streamline fuel-related rules for consumer postings, fuel quality requirements, dispenser equipment requirements:
 - Clarify diesel fuel with 5 percent or less biodiesel meets diesel fuel standard ASTM D975;
 - Better align consumer postings on dispensers with federal standards and provide more flexibility for labeling of No. 2 diesel;
 - Adopt current versions of ASTM International fuel standards;
 - Include standards for color-coding of tank covers if color-coding practice is used;
 - Clarify and remove oxygen content cap to match federal requirements allowing the sale of E15 outside the Cleaner-Burning Gasoline (CBG)-covered area and include applicable consumer posting requirements;
 - Update E85 standards to newer recognized ASTM standard for Ethanol Flex Fuel to be consistent with HB2171 and provide for appropriate labeling requirements for such fuel.
 - Provide more flexibility in production of Ethanol Flex Fuel in the cleaner-burning gasoline area by allowing the use of conventional fuel for blending;
 - Specify requirements for sites that choose to label fuel as “premium diesel;”
 - Reorganize rules to include dispenser labeling requirements for all fuel types together;
 - Revised PTD requirements to allow use of biodiesel up to 5 percent in diesel fuel that meets ASTM standards without labeling specific biodiesel quantities per HB2171;
 - Include nozzle cover color requirements for diesel and ethanol flex fuel per HB2171;
 - Include nozzle size and dispenser filter requirements per nationally-recognized standards;
 - Streamline the requirements for production, supply, and blending of biofuels to reduce strict State oversight and better reflect requirements for these products as established on a national level. As such, submittal of Quality Assurance/Quality Control (QA/QC) plans for approval, monthly submittal of specified test results and blend volumes, specific testing frequencies and sample retention, and other overly-burdensome requirements have been removed. These entities will have more flexibility to meet requirements for implementation of their own QA/QC plan as required under A.R.S.3-3433(M);
- Removes the deadline for submittal of alternate decommissioning plans to allow flexibility to gas stations that are required to remove stage II vapor recovery equipment by September 30, 2018;
- Other minor clarifications and updates throughout.

An exemption from Executive Orders 2016-03 and 2017-02 was provided for this rulemaking by Hunter Moore, Natural Resources Policy Advisor in the Governor’s office, in e-mails dated June 9, 2016, and February 20, 2017, respectively.

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

The Department did not review and does not intend to rely on a study in its evaluation of or justification for the rulemaking.

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

Not applicable

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

The majority of the changes in the rule relate to streamlining and clarification of the rules, which will increase the ease of understanding and compliance for the regulated community, while continuing protections for consumers and air quality. The rule includes many changes that will reduce the administrative costs on the regulated community, such as:

- Reduction in paperwork and regulatory submittals for biofuels producers and blenders;
- Clarification of price posting requirements;
- Update of weighmaster requirements to allow use of modern technology such as electronic signatures;
- Reduction in travel and employee costs for testing of Deputy Weighmasters; and
- Reduction in costs to business and the Department for issuance of civil penalties on minor offences with no direct impact to consumers or air quality.

The rule also includes several updates to provide additional protection to consumers including use of color-coded nozzle covers, diesel nozzle size requirements, dispenser filter and labeling requirements. The costs of these additional protections are minimal and will most likely impact few motor fuel dispensing sites as many of these requirements are already standard practice within the industry.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Michelle Wilson
Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302
Telephone: (602) 771-4933
Fax: (623) 939-8586
E-mail: Mwilson@azda.gov
Web site: <https://dwm.az.gov/>

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the proposed rules will be held as follows:

Date: May 31, 2017
Time: 10:00 a.m.
Location: Department of Agriculture, Conference Room 206
1688 W. Adams
Phoenix, AZ 85007

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

A.R.S. § 41-2065(D) requires the Director of the Department of Weights and Measures to consult with the Director of the Department of Environmental Quality when making rules relating to quality standards for motor fuel, including oxygenated fuels. A.R.S. § 41-2083 (C) also requires consultation regarding standards and test methods for motor fuels. This rulemaking establishes the standards relating to motor fuels. The required consultation occurred.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

This rulemaking is consistent with the federal law. The cleaner-burning gasoline and vapor recovery air quality programs are regulated at the federal level under the Clean Air Act and required under State Implementation Plans in effect for the region. Let's review this.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

The following material is incorporated by reference in R3-7-702:

16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 1, 2012 Edition, Government Publishing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.

ASTM Standard D975, 2014a (ASTM D975-14a), "Standard Specification for Diesel Fuel Oils," published July 2014, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

ASTM Standard D4806, 2014 (ASTM D4806- 14), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," published July 2014, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

ASTM Standard D4814, 2014b (ASTM D4814- 14b), "Standard Specification for Automotive Spark-Ignition Engine Fuel," published October 2014, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.



ASTM Standard D5798, 2014 (ASTM D5798- 14), "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines," published July 2014, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

ASTM Standard D6751, 2014 (ASTM D6751- 14), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," published October 2014, ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

The Federal Complex Model contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: Government Publishing Office, 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.

ASTM Standard D7467, 2013 (ASTM D7467- 13), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published March 2014, ASTM, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

ISO 22241, "Diesel Engines—NO_x Reduction Agent AUS 32—Part 1: Quality Requirements," published October 15, 2006, International Organization for Standardization (ISO), 1214 Vernier, Geneva, Switzerland or www.iso.org.

SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines," published May 5, 2012, SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001 or www.sae.org.

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

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

ARTICLE 1. ADMINISTRATION AND PROCEDURES

- Section
- R3-7-101. Definitions
- R3-7-102. Metrology Laboratory Testing and Calibration Fees
- R3-7-103. Licensing and Fees
- R3-7-104. Administrative Enforcement Action
- R3-7-105. Repealed
- R3-7-106. Repealed
- R3-7-107. Repealed
- R3-7-108. Time-frames for Licenses, Renewals, and Authorities to Construct
- R3-7-109. Administrative Hearing Procedures
- R3-7-110. Motion for Rehearing or Review
- R3-7-111. Repealed
- R3-7-112. Repealed
- R3-7-113. Renumbered
- R3-7-114. Repealed
- R3-7-115. Renumbered
- R3-7-116. Renumbered
- R3-7-117. Renumbered
- Table 1. Time-frames (~~in~~ calendar days)

ARTICLE 2. COMMERCIAL DEVICES

- Section
- R3-7-201. Licensing Process
- R3-7-202. Repealed
- R3-7-203. Approval, Installation, and Sale of Devices
- R3-7-204. Livestock and Vehicle Scale Installation

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

- Section
- R3-7-301. Repealed
- R3-7-302. Handbook 130 and Handbook 133
- R3-7-303. Repealed
- R3-7-304. Repealed
- R3-7-305. Repealed
- R3-7-306. Repealed
- R3-7-307. Repealed
- R3-7-308. Repealed
- R3-7-309. Repealed



- R3-7-310. Repealed
- R3-7-311. Repealed
- R3-7-312. Repealed
- R3-7-313. Repealed

ARTICLE 4. PRICE VERIFICATION AND PRICE POSTING

- Section
- R3-7-401. Repealed
 - R3-7-402. Price-posting Inspection Procedure and Violation Exceptions
 - R3-7-403. Repealed
 - R3-7-404. Repealed
 - R3-7-405. Repealed
 - R3-7-406. Repealed
 - R3-7-407. Repealed
 - R3-7-408. Repealed
 - R3-7-409. Repealed
 - R3-7-410. Repealed
 - R3-7-411. Repealed
 - R3-7-412. Repealed

ARTICLE 5. PUBLIC WEIGHMASTERS

- Section
- R3-7-501. Qualifications; License and Renewal Application Process
 - R3-7-502. Duties
 - R3-7-503. Grounds for Denying License or Renewal; and Disciplinary Action
 - R3-7-504. Scales and Vehicle Weighing
 - R3-7-505. Weight Certificates
 - R3-7-506. Seal of Authority
 - R3-7-507. Prohibited Acts

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

- Section
- R3-7-601. Qualifications; License and Renewal Application Process
 - R3-7-602. Duties
 - R3-7-603. Grounds for Denying License or Renewal; Disciplinary Action; and Certification of Standards and Testing Equipment
 - R3-7-604. Prohibited Acts

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

- Section
- R3-7-701. Definitions
 - R3-7-702. Material Incorporated by Reference
 - R3-7-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers
 - R3-7-704. Motor Fuel Dispensing Site Price and Grade Posting on External Signs
 - R3-7-705. Price, Octane, and Lead Substitute Notification on Dispensers Retail Dispenser Price Notification and Labeling
 - R3-7-706. Unattended Retail Dispensers Repealed
 - R3-7-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB
 - R3-7-708. Gasoline ~~Ethanol~~ Oxygenate Blends
 - R3-7-709. Retail Oxygenated Fuel Labeling Repealed
 - R3-7-710. Blending Requirements
 - R3-7-711. Alcohol oxygenated Gasoline-Alcohol Blend Storage Tank Requirements
 - R3-7-712. Water in ~~Service Station~~ Motor Fuel Dispensing Site Storage Tanks
 - R3-7-713. Motor Fuel Storage Tank Labeling
 - R3-7-714. Additional Requirements for Motor Fuels ~~Other than Arizona CBG~~
 - R3-7-715. Motor Fuel Quality Testing Methods and Requirements
 - R3-7-716. Sampling and Access to Records
 - R3-7-717. Hold open Latch Exception Motor Fuel Dispensing Equipment
 - R3-7-718. Additional Requirements for the Production, Transport, Distribution, and Sale of Biofuels and Biofuel Blends
 - R3-7-719. Repealed
 - R3-7-720. Renumbered
 - R3-7-721. Renumbered
 - R3-7-722. Reserved
 - R3-7-723. Reserved
 - R3-7-724. Reserved
 - R3-7-725. Reserved
 - R3-7-726. Reserved



- R3-7-727. Reserved
- R3-7-728. Reserved
- R3-7-729. Reserved
- R3-7-730. Reserved
- R3-7-731. Reserved
- R3-7-732. Reserved
- R3-7-733. Reserved
- R3-7-734. Reserved
- R3-7-735. Reserved
- R3-7-736. Reserved
- R3-7-737. Reserved
- R3-7-738. Reserved
- R3-7-739. Reserved
- R3-7-740. Reserved
- R3-7-741. Reserved
- R3-7-742. Reserved
- R3-7-743. Reserved
- R3-7-744. Reserved
- R3-7-745. Reserved
- R3-7-746. Reserved
- R3-7-747. Reserved
- R3-7-748. Reserved
- R3-7-749. Definitions Applicable to Arizona CBG and AZRBOB
- R3-7-750. Registration Relating to Arizona CBG or AZRBOB
- R3-7-751. Arizona CBG Requirements
- R3-7-751.01. Repealed
- R3-7-752. General Requirements for Registered Suppliers
- R3-7-753. General Requirements for Pipelines and Third-party Terminals
- R3-7-754. Downstream Blending Exceptions for Transmix
- R3-7-755. Additional Requirements for AZRBOB and Downstream Oxygenate Blending
- R3-7-756. Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks
- R3-7-757. Product Transfer Documentation; Records Retention
- R3-7-758. Repealed
- R3-7-759. Testing Methodologies
- Table A. Arizona Department of Weights and Measures Services Division Test Methods for Arizona CBG and AZRBOB
- R3-7-760. Compliance Surveys
- R3-7-761. Liability for Noncompliant Arizona CBG or AZRBOB
- R3-7-762. Penalties
- Table 1. Type 1 Arizona CBG Standards
- Table 2. Type 2 Arizona CBG Standards
- Table 3. Repealed

ARTICLE 8. REPEALED

ARTICLE 9. GASOLINE VAPOR CONTROL FOR SITES WITH BOTH STAGE I AND STAGE II VAPOR RECOVERY SYSTEMS

- Section
- R3-7-901. Material Incorporated by Reference
- R3-7-902. Exemptions
- R3-7-903. Equipment and Installation
- R3-7-904. Application Requirements and Process for Authority to Construct Plan Approval
- R3-7-905. Initial Inspection and Testing
- R3-7-906. Fee
- R3-7-907. Operation
- R3-7-908. Training and Public Education
- R3-7-909. Recordkeeping and Reporting
- R3-7-910. Annual Inspection and Testing
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ARTICLE 10. STAGE I VAPOR RECOVERY SYSTEMS

- Section
- R3-7-1001. Material Incorporated by Reference
- R3-7-1002. Exemptions
- R3-7-1003. Equipment and Installation

- R3-7-1004. Application Requirements and Process for Authority to Construct Plan Approval
- R3-7-1005. Initial Inspection and Testing
- R3-7-1006. Fee
- R3-7-1007. Operation
- R3-7-1008. Training and Public Education
- R3-7-1009. Recordkeeping and Reporting
- R3-7-1010. Annual Inspection and Testing
- R3-7-1011. Compliance Inspection
- R3-7-1012. Enforcement
- R3-7-1013. Stage II Vapor Recovery
- Table 1. Acceptability of Final System Pressure Results for Systems Tested Using TP-201.3

ARTICLE 1. ADMINISTRATION AND PROCEDURES

R3-7-101. Definitions

The definitions in A.R.S. §§ ~~41-2051~~ 3-3401, ~~41-2065~~ 3-3414, ~~41-2085~~ 3-3436, ~~41-2121~~, and ~~41-2134~~ 3-3511 and the following definitions apply to this Chapter:

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Administrative order" means a corrective action notice that the Department Division issues for a violation of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, or this Chapter, that orders a person to:
 - a. Remove from use or sale, or dispose of, a commercial device, commodity, or liquid fuel;
 - b. Stop selling a commodity or liquid fuel until the person provides documentation to the Department Division that the weight, measure, fuel quality, or price posting complies with the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, and this Chapter;
 - c. Stop using a commercial device, commodity, liquid fuel, vapor recovery system, or vapor recovery system component, until the person provides documentation to the Department Division that the weight, measure, fuel, vapor recovery system, or component complies with the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, and this Chapter;
 - d. Stop performing weighmaster, deputy weighmaster, registered service agency, or registered service representative licensed duties until the person provides documentation to the Department Division that the person is complying with the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, and this Chapter;
 - e. ~~Maintain~~ Comply with labeling, policies, and cash register indicator displays according to A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, and this Chapter;
 - f. Stop constructing or modifying a vapor recovery system until the person complies with A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, and this Chapter;
 - g. Excavate a vapor recovery site according to R3-7-104(L); or
 - h. Comply with scheduling a test according to R3-7-104(L); ~~or~~
 - i. ~~Retake a competency examination under A.R.S. § 41-2094.~~
3. "Application" means, for purposes of R3-7-108, forms ~~designated as applications~~ and all documents and additional information the Department Division requires an applicant to submit with an application when applying for a license.
4. "ASTM" means American Society for Testing and Materials.
5. "Area A" has the same meaning as in A.R.S. § 49-541.
6. "Area B" has the same meaning as in A.R.S. § 49-541.
7. "CARB" means the California Air Resources Board.
8. "CARB certified" means, with respect to a vapor recovery system, that the system has been certified in an executive order of the CARB.
9. "Certified prover" means a calibrated device, traceable to the National Institute of Standards and Technology, used for measuring liquid volume.
10. "Completion of construction" means the point when a gasoline dispensing site is placed into or returned into service following installation or modification of an approved vapor recovery system.
11. "Construction commenced" means the point in time when construction of a gasoline dispensing site begins:
 - a. At a location where there was not one previously;
 - b. To replace all gasoline storage tanks; or
 - c. To replace, repair, or modify at least 75% of the facility's gasoline dispensing equipment.
12. "EPA" means the United States Environmental Protection Agency.
13. "Gasoline vapors" means volatile organic compounds in a gaseous state.
14. "Handbook 44" means the United States Department Division of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (~~2010~~ 2017 edition), incorporated by reference and on file with the Department Division. This incorporation by reference contains no future editions or amendments.
15. "Handbook 112" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2002 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- ~~16-15.~~ "Handbook 130" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Printing Office, P.O. Box



- 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (~~2009~~ 2017 edition), incorporated by reference and on file with the Department Division. This incorporation by reference contains no future editions or amendments.
- ~~17-16.~~ "Handbook 133" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (January ~~2005~~ 2017 edition), incorporated by reference and on file with the Department Division. This incorporation by reference contains no future editions and amendments.
- ~~18.~~ "~~NCWM~~" means the ~~National Conference on Weights and Measures~~.
- ~~19-17.~~ "Malfunction" means any failure of gasoline vapor recovery equipment to operate in the normal and usual manner.
- ~~20-18.~~ "Modification" means adding to, replacing, or upgrading a site's stage II vapor recovery system, but does not include the repair or replacement of like parts.
- ~~21-19.~~ "Monthly throughput" means the total amount of gasoline transferred into or dispensed from a gasoline dispensing site during one calendar month.
- ~~22-20.~~ "Motor vehicle" means any vehicle equipped with a spark-ignited internal combustion engine, except vehicles that run on or are guided by rails, and vehicles that are designed primarily for travel through air or water.
21. "NCWM" means the National Conference on Weights and Measures.
- ~~23-22.~~ "NIST" means the National Institute of Standards and Technology.
- ~~24-23.~~ "Operator" means a person in control of, or having responsibility for, the daily operation of a gasoline dispensing site.
- ~~25-24.~~ "Out-of-service tag" means a red rejection tag that signifies ~~that~~ a commercial device does not meet the requirements of A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, Handbook 44, or this Chapter.
- ~~26-25.~~ "Person" as defined in A.R.S. § ~~41-2051~~ 41-3401, means an owner or operator of a commercial device or vapor recovery system, retail seller, wholesaler, registered supplier, pipeline distributor, packer, manufacturer, licensee, transporter, or consignee.
- ~~27-26.~~ "Placed in service" means the certification by a registered service agency or representative that a commercial device meets the requirements of A.R.S. Title 3, Chapter 19, Handbook 44, and this Chapter, and may be used, unless the Department Division orders otherwise.
- ~~28-27.~~ "Placed-in-service report" means the form that a registered service representative completes and submits to the Department Division after placing a commercial device in service.
- ~~29-28.~~ "Product transfer document" means the bill of lading, loading ticket, manifest, delivery receipt, invoice, or other customarily used documentation to denote delivery information for motor fuel.
- ~~30-29.~~ "Retail" means the sale of a commodity to a consumer for profit by someone in the business of selling the commodity.
- ~~31-30.~~ "Seal of authority" means a stamp or press of the Department Division's official mark, issued to a public weighmaster, certifying the weighmaster's authority to issue weight certificates.
31. "Service Counter" means a display staffed by a sales associate and requires a customer to receive assistance in order to purchase a product.
32. "Seizure" means taking into physical possession, or otherwise securing for evidence, a commodity, liquid fuel, weight, measure, commercial device, or component of a device by the Department Division.
33. "Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that a commercial device, including a vapor recovery system or vapor recovery component, or a commodity or liquid fuel, does not meet the requirements of A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter.
34. "Third-party registered service agency" means a registered service agency that performs work under contract for any business or company.
35. "Underground storage tank" means a tank as described in A.R.S. § ~~49-1001(48)~~.
36. "Unit" means a quantity adopted as a standard of measurement.
37. "Vapor recovery registered service representative ~~No. 1~~" means an individual to whom the Department Division has issued a license authorizing the individual to conduct all vapor-recovery tests required under A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19 or this Chapter including annual vapor-recovery tests.
- ~~38.~~ "~~Vapor recovery registered service representative No. 2~~" means ~~an individual to whom the Department has issued a license authorizing the individual to conduct the specific vapor recovery tests necessary to determine whether equipment on which the individual performed maintenance or repairs is operating properly.~~
- ~~39-38.~~ "Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, Handbook 44, CARB Executive Orders, or this Chapter.
- ~~40-39.~~ "Weight certificate" means a document, issued by a public weighmaster in a form approved by the Department Division, ~~that~~ which certifies the accuracy of the weight of the commodity measured.

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

- A. For all services of the Department Division's Metrology Laboratory, the Department Division shall charge \$110 per hour with a minimum charge of \$50.
- B. In addition to the fee in subsection (A), the Department Division shall charge for travel and per diem at the rates established under A.R.S. §§ 38-623(D) and 38-624(C) for tests or calibrations conducted outside the Metrology Laboratory.

R3-7-103. Licensing and Fees

- A. A license is effective on the first day of the month following the date that the license application is filed with the Department Division. If an application is filed on the first of a month and is complete and accurate, the license is effective on the first day of that month.
- B. A payment is delinquent if not received or postmarked on or before the Department does not receive the payment by the due date. The Department Division shall not process a license or renewal application for which payment is delinquent.

- ~~C.~~ The Department shall prorate a license renewal fee if the licensee's first renewal is fewer than 12 months from the date that license is issued.
- ~~D.~~ The Department shall issue a full refund to a licensee for a license renewal fee only if the licensee provides written notice to the Department before the renewal fee due date that the renewal is not needed.
- C. If the Division receives payment for a license that excludes the payment of applicable late fees or past due civil penalties, the Division shall apply the license fee payment to the licensee's account and issue a separate invoice for the additional monies owed to the Division. The license will not be issued by the Division until all fees due are paid.

R3-7-104. Administrative Enforcement Action

- A. The ~~Department~~ Division shall take progressive enforcement action for a violation of A.R.S. Title 44 ~~3~~, Chapter ~~15~~ 19, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.
- B. The ~~Department~~ Division shall ~~provide~~ make available a copy of its inspection report to the person who owns or operates a location that the ~~Department~~ Division inspects. The report shall include the inspection results, and violations, ~~and enforcement action~~. The Division shall send a copy of the inspection report to the owner of a location by electronic mail if the owner has provided an electronic mail address to the Division. Inspection results and violations shall be posted on the Division website.
- C. The person who owns or operates a location inspected by the ~~Department~~ Division may request a hearing under R3-7-109 to dispute the inspection results, violation, or enforcement action.
- D. The ~~Department~~ Division shall suspend, revoke, or refuse to renew any license if the licensee does not comply with an enforcement action imposed under this Section.
- E. A maximum civil penalty may be doubled as stated in A.R.S. § ~~41-2115(B)~~ 3-3475(C).
- F. Commercial device.
 - 1. The ~~Department~~ Division shall may place out of service an unlicensed commercial device that it determines has been in use for more than 30 days.
 - 2. The ~~Department~~ Division shall may confiscate a commercial device when a person violates an administrative order related to that commercial device, or removes a warning tag, out-of-service tag, or stop-sale, stop-use tag issued to that commercial device without ~~Department~~ Division authority.
 - 3. The Division may condemn and confiscate a weight, measure, or other commercial device that the Division determines is incorrect and not capable of compliance with Handbook 44.
 - ~~3-4.~~ The ~~Department~~ Division shall issue an out-of-service tag or a stop-sale, stop-use tag if a commercial device is not in compliance with the requirements in ~~Handbook 44~~ A.R.S. Title 3 Chapter 19, Handbook 44 or this Chapter and the lack of compliance creates a situation favorable to the person who owns or operates the commercial device.
 - a. A person shall not use a commercial device that has an out-of-service tag until the person repairs the commercial device.
 - b. A person shall not sell or use a commercial device that has a stop-sale, stop-use tag until the commercial device meets the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, Handbook 44, and this Chapter.
 - ~~4-5.~~ The ~~Department~~ Division shall issue a warning tag when a commercial device is not in compliance with the requirements in ~~Handbook 44~~ A.R.S. Title 3, Chapter 19, Handbook 44, or this Chapter and the lack of compliance creates a situation favorable to the public consumer. The ~~Department~~ Division shall issue an out-of-service tag if the commercial device is not repaired by the deadline on the warning tag. A person shall not use a commercial device after the period specified on the warning tag for repair unless the commercial device complies with A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, Handbook 44, and this Chapter.
 - ~~5-6.~~ The ~~Department~~ Division shall issue an out-of-service tag if a commercial device does not have a non-tampering seal affixed.
 - ~~6-7.~~ The ~~Department~~ Division shall issue an out-of-service tag if a ~~Department~~ Division inspector cannot conduct an inspection of a commercial device because of malfunction, abnormal performance, or a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
 - ~~7-8.~~ The ~~Department~~ Division shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero as prescribed in Handbook 44.
 - ~~8-9.~~ The ~~Department~~ Division shall issue a warning tag if the manufacturer's plate on a commercial device does not contain the information required by Handbook 44, is missing, or is unreadable. The ~~Department~~ Division shall issue an out-of-service tag if the person who owns or operates a commercial device does not obtain a compliant manufacturer's plate by the 30-day deadline imposed on the warning tag.
 - ~~9-10.~~ The ~~Department~~ Division shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The ~~Department~~ Division shall issue a stop-sale, stop-use tag if the large-scale approach is not made compliant by the deadline imposed on the warning tag.
 - ~~10-11.~~ In addition to any enforcement action under subsections (F)(1) through ~~(9)~~ (10):
 - a. If the ~~Department~~ Division finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
 - i. The ~~Department~~ Division shall may impose a civil penalty up to \$300 ~~civil penalty~~ on the person who owns or operates the commercial device; and
 - ii. The ~~Department~~ Division shall may impose a civil penalty up to \$500 ~~civil penalty~~ on the person who owns or operates the commercial device for each reinspection until the commercial device is in compliance.
 - b. If the ~~Department~~ Division finds during an inspection that a person who weighs a product on a commercial device violates Handbook 44 or does not post rates according to Handbook 44 or this Chapter:
 - i. The ~~Department~~ Division shall may issue an administrative order to the person at the conclusion of the inspection and impose a civil penalty up to \$300 ~~civil penalty~~; and



- ii. The ~~Department Division shall~~ may issue an administrative order to the person and impose a civil penalty up to \$500 ~~civil penalty~~ at each reinspection until the person complies with Handbook 44 and this Chapter.

G. Public and deputy weighmaster.

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

H. Package Packaging.

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

I. Price verification.

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

J. Price posting.

- 1. The initial inspection of a retail location for price posting is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
- 2. The ~~Department Division~~ shall issue a stop-sale, stop-use tag to a person who fails a price posting ~~reinspection inspection~~ if the violation cannot be corrected within 30 minutes of the ~~Department Division~~ completing the ~~reinspection inspection~~.
- 3. The ~~Department Division shall~~ may impose a civil penalty up to \$50 ~~civil penalty~~ for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.

4. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$100 ~~civil penalty~~ for each inspected lot not priced if a person fails a second reinspection.
 5. If the ~~Department~~ Division receives and substantiates a complaint about a person against whom the ~~Department~~ Division took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, the ~~Department~~ Division shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the ~~Department~~ Division previously imposed against this person.
- K.** Fuel quality and labeling.
1. The ~~Department~~ Division shall issue a warning tag to a person whose fuel dispenser labeling violates A.R.S. Title 44 ~~3~~, Chapter ~~15~~ 19, or this Chapter. The ~~Department~~ Division shall issue an out-of-service tag to the person if the person does not correct the fuel dispenser labeling violation within the time specified on the warning tag.
 2. The ~~Department~~ Division shall ~~may~~ issue an administrative order to a person whose fuel storage tank labeling or external street signage violates A.R.S. Title 44 ~~3~~, Chapter ~~15~~ 19, or this Chapter. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$300 ~~civil penalty~~ if the person does not correct the labeling or signage violation within the time specified in the administrative order.
 3. The ~~Department~~ Division shall ~~may~~ issue an administrative order and impose a civil penalty up to \$500 per octane level ~~civil penalty~~ or fuel grade to a person who violates a fuel-quality requirement under A.R.S. Title 41, Chapter 15, or this Chapter. The person shall correct the violation by:
 - a. Removing non-compliant motor fuel from the storage tank and replacing it with compliant motor fuel,
 - b. Selling the motor fuel at the correct octane level,
 - c. Adding sufficient compliant motor fuel to the storage tank to bring the motor fuel in the storage tank into compliance,
 - d. Removing all water from the storage tank or emptying the tank per R3-7-711 or R3-7-712, or
 - e. Removing the non-compliant motor fuel to another area within the state if the motor fuel complies with specifications of that area.
 4. The ~~Department~~ Division shall ~~may~~ issue an administrative order to a person who does not provide requested product transfer documentation within 24 hours of the ~~Department~~ Division's request. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$300 ~~civil penalty~~ on a person who provides the requested documentation between 24 and 72 hours. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$500 ~~civil penalty~~ on a person who does not provide the requested documentation within 72 hours.
- L.** Vapor recovery.
1. The ~~Department~~ Division shall ~~may~~ issue an administrative order to stop construction at a vapor recovery site and impose a civil penalty up to \$500 ~~civil penalty~~ on a person who:
 - a. Begins construction or makes a major modification without an authority to construct plan approval,
 - b. Does not comply with the authority to construct plan approval, or
 - c. Does not obtain an approved change order for construction or major modification of the vapor recovery site unless:
 - i. The vapor recovery system and its components comply with A.R.S. Title 44 ~~3~~, Chapter ~~15~~ 19, and this Chapter; and
 - ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title 44 ~~3~~, Chapter ~~15~~ 19, and this Chapter.
 2. The ~~Department~~ Division shall ~~may~~ issue an administrative order requiring a person to excavate a vapor recovery site if the person covers a vapor recovery component before a ~~Department~~ Division pre-burial inspection and shall ~~may~~ impose a civil penalty up to \$500 ~~civil penalty~~ if the excavated system does not pass required vapor recovery tests according to A.R.S. Title 44 ~~3~~, Chapter ~~15~~ 19, and this Chapter.
 3. The ~~Department~~ Division shall issue an administrative order if a person fails to ensure that a vapor recovery site passes an initial test within 90 days of being opened or passes an annual test within the designated test month. The ~~Department~~ Division shall issue a stop-sale, stop-use tag if the person does not comply with the administrative order.
 4. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$100 ~~civil penalty~~ on a person who does not have an authority to construct plan approval available for inspection at the construction site during normal business hours.
 5. The ~~Department~~ Division shall ~~may~~ issue a warning tag to a person whose vapor recovery system labeling does not comply with the authority to construct plan approval R3-7-713. The ~~Department~~ Division shall ~~may~~ issue a stop-sale, stop-use tag and impose a civil penalty up to \$500 ~~civil penalty~~ on a person who does not correct a labeling violation within the time specified on a warning tag.
 6. The ~~Department~~ Division shall issue a stop-sale, stop-use tag to a person whose vapor recovery system fails a test under R3-7-905 or R3-7-910. If the test failure is isolated to a system component, the ~~Department~~ Division's stop-sale, stop-use tag shall pertain to that component so the rest of the system may operate.
- ~~7.M.~~ The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$500 ~~civil penalty~~ and issue another stop-sale, stop-use tag to a person who violates a stop-sale, stop-use tag. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$500 ~~civil penalty~~ and revoke, suspend, or refuse to renew a commercial device license if a person removes a stop-sale, stop-use tag without approval.
- ~~M.N.~~ Registered service agency and registered service representative.
1. If a registered service agency submits to the ~~Department~~ Division an inaccurate or incomplete placed-in-service or test report, the ~~Department~~ Division shall: ~~may~~
 - a. ~~If a registered service agency submits to the Department an inaccurate or incomplete placed in service report, the Department shall:~~
 - b. ~~Impose~~ impose a civil penalty up to \$50 ~~civil penalty~~ on the agency each time the agency resubmits a placed-in-service or test report without making all needed corrections.
 2. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$300 ~~civil penalty~~ on a registered service representative who incorrectly:



- a. Installs a commercial device,
 - b. Repairs a commercial device,
 - c. Tests a vapor recovery system, or
 - d. Repairs a vapor recovery system.
3. If an unlicensed person represents itself as a registered service agency, the ~~Department~~ Division shall ~~may~~:
- a. Issue an administrative order,
 - b. Impose a civil penalty up to \$500 ~~civil penalty~~ and confiscate the unlicensed person’s calibration standards if the unlicensed person violates the administrative order, and
 - c. Deny a registered service agency license to the unlicensed person if the unlicensed person fails to comply with the enforcement action under this subsection.
4. The ~~Department~~ Division shall ~~may~~ issue an administrative order to an unlicensed person who performs the duties of a registered service representative. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$300 ~~civil penalty~~ on the registered service agency for which the unlicensed individual works.
5. The ~~Department~~ Division shall ~~may~~ issue an administrative order if a registered service representative places a commercial device into service without ~~Department~~ Division authorization. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$500 ~~civil penalty~~ on the registered service agency whose representative places a commercial device into service without ~~Department~~ Division authorization.
6. The ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$500 ~~civil penalty~~ on a registered service agency whose registered service representative uses a metrology standard or vapor recovery ~~air to liquid (A/L) ratio~~ testing equipment that is not certified according to this Chapter ~~and, as applicable, CARB test methods~~. The ~~Department~~ Division shall ~~may~~ confiscate a metrology standard or ~~A/L ratio~~ vapor recovery testing equipment if a registered service representative uses the uncertified standard or equipment after the registered service agency is penalized. The ~~Department~~ Division shall return the standard or equipment when it is properly certified.
7. The ~~Department~~ Division shall issue an administrative order to a vapor recovery registered service agency or person who owns a vapor recovery system that does not, according to A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, and this Chapter:
- a. Notify the ~~Department~~ Division of a test date and time,
 - b. Begin a test at the approved time,
 - c. Appear for a witnessed test,
 - d. Close a vapor recovery system for repairs if the system fails, or
 - e. Perform a test.
8. ~~The Division may impose a civil penalty up to \$300 on a vapor RSA that violates (M)(7)(a), (b), (d), or (e). The~~ ~~Department~~ Division shall ~~may~~ impose a civil penalty up to \$300 ~~civil penalty~~ on a vapor recovery registered service agency that violates subsection (M)(7)(~~c~~) c twice in 12 months.
9. If a registered service agency’s registered service representative does not attach a non-tampering seal on a commercial device that is equipped for a seal, the ~~Department~~ Division shall ~~may~~:
- a. Impose a civil penalty up to \$300 ~~civil penalty~~ on the registered service agency for the first violation, and
 - b. Impose a civil penalty up to \$500 ~~civil penalty~~ on the registered service agency for each subsequent violation by the registered service representative.
10. If a registered service representative determines that a vapor recovery system or component is not in compliance with A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, or this Chapter, the registered service representative shall:
- a. Secure the non-compliant vapor recovery system or component from use before the registered service representative leaves the vapor recovery site or until the system or component passes the tests required by R3-7-910;
 - b. Notify the ~~Department~~ Division of the secured, non-compliant vapor recovery system or component before leaving the vapor recovery site; and
 - c. Notify the ~~Department~~ Division of the time of the test required by R3-7-910 or R3-7-1010 by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner.
11. If a registered service representative fails to comply with subsection (M)(10)(b) or (c), the ~~Department~~ Division shall ~~may~~:
- a. Impose a civil penalty up to \$300 ~~civil penalty~~ on the registered service representative;
 - b. Issue an administrative order, if the registered service representative is penalized under this subsection three times in 12 months, requiring the registered service representative to take and pass the licensing competency examination; and
 - c. Suspend or revoke the license of the registered service agency employing the registered service representative if the registered service representative does not comply with an order issued under subsection (M)(11)(b).
12. If a registered service representative fails to notify the Division of a non-compliant commercial device under R3-7-602(B)(1)(f), the Division may impose a civil penalty up to \$300.

R3-7-105. Repealed

R3-7-106. Repealed

R3-7-107. Repealed

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

- A. For each type of license, renewal, or authority issued by the ~~Department~~ Division, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.
- B. For each type of license, renewal, or authority issued by the ~~Department~~ Division, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the ~~Department~~ Division receives an application.
 - 1. If the application is not administratively complete, the ~~Department~~ Division shall send a deficiency notice to the applicant.
 - a. The deficiency notice shall state each deficiency and the information needed to complete the application.

- b. Within the time provided in Table 1 for response to the deficiency notice, the applicant shall submit to the Department Division the missing information specified in the deficiency notice. The time-frame for the Department Division to finish the administrative completeness review is suspended from the date the Department Division mails or e-mails the deficiency notice to the applicant until the date the Department Division receives the missing information.
 - c. If the applicant does not submit the missing information within the time to respond to the deficiency notice set forth in Table 1, the Department Division shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn. An applicant who desires to reapply shall begin the application process anew.
2. If the application is administratively complete, the Department Division shall send a written notice of administrative completeness to the applicant. The application is automatically deemed complete 10 days following submittal if the agency fails to send a written notice of administrative completeness or deficiency notice outlined in subsection (B)(1).
- C. For each type of license, renewal, or authority issued by the Department Division, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Department Division sends written notice of administrative completeness to the applicant.
1. During the substantive review time-frame, the Department Division may make one comprehensive written request for additional information. The applicant shall submit the additional information within the time provided in Table 1 for response to a comprehensive written request for additional information. The time-frame for the Department Division to finish the substantive review is suspended from the date the Department Division mails or e-mails the request until the Department Division receives the information.
 2. If the applicant does not submit the requested additional information within the time-frame in Table 1, the Department Division shall issue a written notice informing the applicant that the application is deemed withdrawn. The applicant may request in writing that the Department Division deny the application within 15 days of the date of the notice of withdrawal. An applicant who desires to reapply shall begin the application process anew.
 3. The Department Division shall issue a written notice of denial of license, renewal, or authority if the Department Division determines that the applicant does not meet all of the substantive criteria required by A.R.S. Title 41 3, Chapter 45 19, and this Chapter for a license, renewal, or authority. The notice of denial shall include:
 - a. Reasons for the denial, with citations to the statutes or rules on which the denial is based; and
 - b. The name and telephone number of a Department Division employee who can answer questions regarding the application process.
 4. If the applicant meets all of the substantive criteria required by A.R.S. Title 41 3, Chapter 45 19, and this Chapter for a license, renewal, or authority the Department Division shall issue the license, renewal, or authority to the applicant.
- D. The time period for an applicant to respond to a deficiency notice or request for additional information shall commence on the date of personal service or the postmark date.
- E. In computing any time period prescribed in this Section, the day of the act, event, or default shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday. The computation shall include intermediate Saturdays, Sundays and holidays.
- F. An applicant whose license, renewal, or authority is denied has a right to a hearing, an opportunity for rehearing, and if the denial is upheld, judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

R3-7-109. Administrative Hearing Procedures

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

R3-7-110. Motion for Rehearing or Review

- A. Except as provided in subsection (G), any party in a contested case or appealable agency action before the Department Division who is aggrieved by a decision rendered in the case may file with the Department Division, a written motion for rehearing or review of the decision, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the particular grounds for the motion.
- B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Department Division. A response may be filed within 15 days after service of the motion or amended motion by any other party. The Department Division may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. A rehearing or review of the decision may only be granted for any of the following reasons materially affecting the moving party's rights or ability to receive a fair hearing:
 1. Any irregularity in the hearing, order, or abuse of discretion by the administrative law judge or the Department Division.
 2. Misconduct of the Department Division, the administrative law judge, or the prevailing party.
 3. Accident or surprise that could not have been prevented by ordinary prudence.
 4. Newly discovered material evidence that could not have been discovered with reasonable diligence and produced at the original hearing.
 5. Excessive or insufficient penalties.
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing.
 7. That the decision is not justified by the evidence or is contrary to law.
- D. The Department Division may affirm or modify its decision, or grant a rehearing or review. After giving the parties or their counsel notice and an opportunity to be heard, the Department Division may grant a rehearing or review for a reason not stated in a party's motion. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted. The rehearing or review shall cover only those matters so specified.
- E. The Department Division, within the time for filing a motion for rehearing or review under this rule, may order a rehearing or review for any of the reasons set forth in subsection (C), after giving the parties notice and an opportunity to be heard.



- F. When a motion for rehearing or review is based upon affidavits, the moving party shall serve the affidavits with the motion. An opposing party has 15 days from the date of service to serve opposing affidavits. The ~~Department~~ Division may extend the period to respond up to 20 days for good cause, or by written stipulation of the parties. If the ~~Department~~ Division permits reply affidavits, the replying party has five days in which to serve them.
- G. If the ~~Department~~ Division makes specific findings that the immediate effectiveness of a decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the ~~Department~~ Division may issue the decision as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the ~~Department~~ Division's final decision.

- R3-7-111. Repealed
- R3-7-112. Repealed
- R3-7-113. Renumbered
- R3-7-114. Repealed
- R3-7-115. Renumbered
- R3-7-116. Renumbered
- R3-7-117. Renumbered

Table 1. Time-frames (~~in~~ calendar days)

Type of License	Authority	Administrative Completeness Review Time-frame	Time to Respond to Deficiency Notice Response to Completion Request	Substantive Completeness Review Time-frame	Time to Respond to Request for Response to Additional Information	Overall Time-frame
Commercial Device R3-7-201	<u>R3-7-201</u>	40 <u>14</u>	20 <u>28</u>	30	20 <u>30</u>	40 <u>44</u>
Public Weighmaster R3-7-501	<u>R3-7-501</u>	40 <u>14</u>	20 <u>28</u>	30	20 <u>30</u>	40 <u>44</u>
Registered Service Agency/Representative R3-7-601	<u>R3-7-601</u>	40 <u>14</u>	20 <u>28</u>	30	20 <u>30</u>	40 <u>44</u>
Authority to Construct R3-7-904	<u>R3-7-904</u>	40 <u>14</u>	20 <u>28</u>	30	20 <u>30</u>	40 <u>44</u>

ARTICLE 2. COMMERCIAL DEVICES

R3-7-201. Licensing Process

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

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

R3-7-202. Repealed

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

- A. A commercial device installed or placed in use after January 1, 1975, shall ~~be prototype approved by~~ have an NCWM National Type Evaluation Program (NTEP) Certificate of Conformance or have a certificate of approval from the California Type Evaluation Program. NTEP Certificate of Conformance issuance may be verified at the NCWM website: http://www.ncwm.net/ntep/cert_search.
 1. If a commercial device has been continuously licensed, or evidence shows it has been in use by the owner in Arizona since January 1, 1975, the commercial device is exempt from NCWM or California Type Evaluation Program prototype approval.
 2. If a commercial device exempt under subsection (A)(1) fails the specifications, tolerances, or other technical requirements of Handbook 44 during a ~~Department~~ Division inspection, the ~~Department~~ Division shall issue an out of service tag or confiscate the device per R3-7-104(F)(3) and revoke the commercial device license, and a A person shall ~~not~~ no longer use the device commercially.

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

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

R3-7-301. Repealed

R3-7-302. Handbook 130 and Handbook 133

- A. A person shall comply with all packaging, labeling, and method of sale requirements in Handbook 130, except as otherwise stated in this Chapter. A person shall ensure that packaged commodities kept, offered, exposed for sale, sold, or in the process of delivery are weighed, measured, and inspected using sampling and testing procedures designated in Handbook 133, except as otherwise stated in this Chapter.
- B. A retail seller shall ensure that a package that is offered for sale in a variable weight, measurement, or count, and that is weighed, measured, or counted at the time of sale, includes a label on the package identifying the net weight, measurement, or count, item description, and packer’s name if the packer is not the retailer. Pre-packaged produce does not require a label on each package if the retailer:
 - 1. Clearly labels the price-per-pound where the packaged produce is displayed, and
 - 2. Deducts a tare for the packaging from the gross weight at the time of sale.
- C. A retail seller shall price a commodity at the date and time that it is ordered by a customer.
- D. A retail seller who offers, exposes, or advertises a commodity for sale or rent shall post a definite, plain, and conspicuous price on the commodity or adjacent to where the commodity is displayed. If the price of the commodity is by weight, measure, or count, the retailer shall place the price per weight, measure, or count on the commodity or adjacent to where the commodity is displayed. If a retailer offers a commodity for sale or rent at a price reduced by a percentage or a fixed amount from a previously offered price, the retailer shall place the reduction or reduced price on the commodity or adjacent to where the commodity is displayed.
- E. A person who owns or operates a plant nursery shall label each commodity with its identity, ~~container size,~~ and price, or post a sign with this information adjacent to the point of display.
- F. A retail seller shall ensure that the price of each item purchased is displayed visibly to the public at each check-out location.
- G. Items in or behind a service counter that can be sold only with the assistance of a sales associate are not required to have a price displayed. If a price is displayed, it must meet the requirements of this Chapter.

- R3-7-303. Repealed
- R3-7-304. Repealed
- R3-7-305. Repealed
- R3-7-306. Repealed
- R3-7-307. Repealed
- R3-7-308. Repealed
- R3-7-309. Repealed
- R3-7-310. Repealed
- R3-7-311. Repealed
- R3-7-312. Repealed
- R3-7-313. Repealed

ARTICLE 4. PRICE VERIFICATION AND PRICE POSTING

R3-7-401. Repealed

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

- A. The ~~Department~~ Division shall choose one item that was used and up to four adjacent items that were not used for a price-verification inspection as the samples for a price-posting inspection.
- B. If the ~~Department~~ Division finds an alleged price-posting violation involving an item used during its price-verification inspection, the ~~Department~~ Division shall record the price-posting violation on the inspection report.
- C. The following are price-posting violations:
 - 1. No price is posted or displayed for an inspected item unless it is not required under subsection (D)(12); ~~or~~
 - 2. Less than 98 percent of the prices of inspected items are posted accurately; ~~or~~
 - 3. A percentage off is provided, but there is no price displayed for the item on, in, or behind a service counter.
- D. The following are not price-posting violations:
 - 1. A price is posted on a shelf where an item is displayed rather than marked on the item individually;
 - 2. A price is posted on the shelf or on a hook in front of or behind a row of items at the farthest left side of all items with the same price for up to 3 feet of shelf space or at the farthest left and farthest right side of the shelf or hooks with the same priced items. For items of the same price, the uniform price codes may differ for the commodities with prices labeled in this manner, as long as the price posted is a generic price and does not refer to a specific product. ~~The price for commodities with the same uniform price code may be more than three feet from the price posted if they are all displayed in the same location;~~
 - 3. A price posted above the highest item in a vertical location is the price of all items in that location ~~A price is posted on a vertical display in a location clearly visible to the consumer for items of the same price;~~



- 4. Self-contained refrigerated coolers may have prices posted on the inside or outside of the refrigerator doors located on the left, right, or center of the shelving units in a location clearly visible to the consumer.
- ~~4.5.~~ A storage area that is posted as a storage area for which a customer should ask for assistance;
- ~~5-6.~~ A restocking area that is posted as a restocking area for which a customer should ask for assistance;
- ~~6-7.~~ A price is posted on a hook in front of or behind a row of items but the price is clearly visible or a notice is clearly visible stating that the price is posted behind the row of items;
- ~~7-8.~~ An item is located in an advertising display without a posted price but a notice is posted informing a customer to ask for price information assistance about an item in the display; ~~A service counter is not an advertising display;~~
- ~~8-9.~~ A menu-type sign at a point of display that lists the name and price of every item at the point of display in text at least 3/8" high legible text. A menu-type sign may also to display single-item purchase prices in areas where space is limited to display a price for purchase of multiple items and single-item purchase prices at the point of display as long as it is located at, above or near the point of display;
- ~~9-10.~~ A point of display contains more than one item posted with the manufacturer's name or logo and the price and name of each item in the point of display is posted;
- ~~10-11.~~ A price is posted only at each entrance to a store but that price is the price of each item in the store, or at each entrance to a department within a store but that price is the price of each item in the department; ~~and~~
- ~~11-12.~~ A notice states that there is an additional charge based on an item's size and each size and the additional charge for each size is posted; ~~and~~
- 13. An item that does not have a price and is located in, or behind a service counter and available only with the assistance of a sales associate. If a price is displayed, it must meet the requirements of this Chapter.

- R3-7-403. **Repealed**
- R3-7-404. **Repealed**
- R3-7-405. **Repealed**
- R3-7-406. **Repealed**
- R3-7-407. **Repealed**
- R3-7-408. **Repealed**
- R3-7-409. **Repealed**
- R3-7-410. **Repealed**
- R3-7-411. **Repealed**
- R3-7-412. **Repealed**

ARTICLE 5. PUBLIC WEIGHMASTERS

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

- A. In addition to the requirements of A.R.S. § ~~41-2093~~ 3-3453, to be a public weighmaster or a deputy public weighmaster, a person shall:
 - 1. Be at least 18 years old,
 - 2. Be able to operate a scale accurately, and
 - 3. Be able to execute weight certificates properly.
- B. A person shall not perform the duties of a public weighmaster ~~or deputy public weighmaster~~ until the person passes the written weighmaster examination administered by the ~~Department~~ Division with a minimum score of 75 percent. A person may not take the examination more than ~~two-three~~ times in six months and must wait 7 days before retaking the exam.
- C. A person that meets the qualifications for public weighmaster or deputy public weighmaster may apply for a license on a form supplied by the ~~Department~~ Division. A separate application shall be submitted for each location the public weighmaster or deputy weighmaster will issue weight tickets.
 - 1. The application form includes:
 - a. The applicant's name, address, and telephone number;
 - b. A statement by the applicant that the applicant knows and understands weighmaster laws and rules;
 - c. The name, address, and telephone number of each of the applicant's public weighmaster locations; and
 - d. The applicant's signature.
 - 2. The public weighmaster's application form also includes:
 - a. The name of each deputy public weighmaster operating at each location;
 - b. A statement that the public weighmaster understands they are responsible to ensure that any deputy weighmasters working at the location are adequately trained and licensed;
 - ~~b-c.~~ The name and address of the scale; and
 - ~~e-d.~~ The scale description.
 - 3. The deputy weighmaster application shall include a certification that they understand the requirements on a form provided by the Division and be signed by both the public weighmaster and the applicant.
 - ~~3-4.~~ An applicant may be required to submit evidence of qualifications ~~and shall be examined regarding competence or qualifications.~~
 - 5. The public weighmaster shall ensure all deputy weighmasters are licensed for the location prior to their issuance of weight tickets.
 - 6. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. 41-1080.
- D. Before the ~~Department~~ Division issues or renews a public weighmaster or deputy public weighmaster license, the applicant shall pay the required fees and provide information required in A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, and this Chapter.
- E. The ~~Department~~ Division does not charge a fee to process a change in name or address.

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

R3-7-502. Duties

A public weighmaster shall:

1. Be responsible for the daily operation and maintenance of the licensed scale used when performing weighmaster duties;
2. Use scales according to applicable laws and rules; ~~and~~
3. Be responsible for all acts performed by any deputy public weighmaster designated by the weighmaster; ~~and-~~
4. Ensure deputy weighmasters are licensed prior to their issuance of a weight ticket and cancel deputy weighmasters licenses within 10 days of their leaving employment to ensure each location has the correct licensed deputy weighmasters.

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

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

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

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

1. Does not have the ability to weigh accurately;
2. Has not correctly made weight certificates;
3. Has been found to have violated any provision of A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, or this Chapter;
4. Has falsified a weight certificate;
5. Has delegated authority to someone other than a licensed ~~public weighmaster or~~ deputy public weighmaster;
6. Has improperly used a weighmaster's seal of authority;
7. Has resigned certificates for later use;
8. Has issued a weight certificate on which changes or alterations were made; or
9. Has used a scale for public weighing that is not properly licensed.

R3-7-504. Scales and Vehicle Weighing

- A.** When making a weight determination, a public weighmaster shall use a weighing device that is suitable for the function.
- B.** The public weighmaster shall not use a scale to weigh a load that exceeds the normal or rated capacity of the scale.
- C.** The owner or user of a weighing device is responsible for the accuracy of the device used by a public weighmaster. The owner or user shall comply with Handbook 44.
- D.** If a scale is equipped with a printing device, it shall be used for all relevant entries on the weight certificate.
- E.** The ~~Department~~ Division shall separately license and regulate each scale location.
- F.** A weighmaster shall weigh any vehicle or combination of vehicles on a scale having a platform that fully accommodates the vehicle or combination of vehicles as one unit.
- G.** If a combination of vehicles is divided into separate units to be weighed, each separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each unit.

R3-7-505. Weight Certificates

- A.** In issuing a weight certificate, a public weighmaster shall enter only those weight values that the weighmaster or deputy weighmaster has accurately and personally determined.
- B.** A public weighmaster or deputy public weighmaster shall not make any entries on a weight certificate issued by another person.
- C.** By signing a weight certificate, a weighmaster or the weighmaster's deputy shall be responsible for the accuracy of all entries on the weight certificate.
- D.** A weight certificate is valid only when properly signed and sealed by the issuing weighmaster or the weighmaster's deputy. The name and image of the seal of the public weighmaster and deputy public weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature and embossed seal if the electronically imprinted name and seal is that of the weighmaster or deputy weighmaster who weighed, measured, or counted the commodity. To issue an electronic signature or seal, the weighmaster or deputy weighmaster shall have an individual login associated with the electronic signature and seal or other security measures in place to prevent non-licensed persons from use.
- E.** If an error is made on a weight certificate, the weighmaster shall void the certificate and issue a new certificate. No changes or alterations shall be made on a certificate.
- F.** A weight certificate shall state:
1. The date of issuance;
 2. The name of the declared owner, agent, or consignee of the material weighed;
 3. The accurate weight of the material weighed or counted;
 4. The means by which the material is being transported at the time it is weighed or counted;
 5. An identification number of the transporting unit, including a license number; and
 6. The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE. This is to certify that the described merchandise was weighed, counted, or measured by a public or deputy weighmaster, and when properly signed and sealed, is prima facie evidence of the accuracy of the weight, count, or measure shown as prescribed by law."



- 7. The printed name, signature, and license number of the Public Weighmaster or Deputy Weighmaster issuing the weight ticket.
- G. A public weighmaster shall maintain a legible copy of each weight certificate issued at each scale location, for a minimum of one year. A weighmaster also shall ensure that weight certificates are consecutively numbered and filed numerically, including voids. A weighmaster shall not use another filing system without Department Division approval.
- H. A public weighmaster is liable for any forged signatures or electronic signatures.

R3-7-506. Seal of Authority

- A. A weighmaster shall obtain a seal for the certification of weight certificates at cost through the Department Division.
- B. The Department Division shall assign a number to a seal identifying the public weighmaster and the specific location for which the seal is issued.
- C. A seal is the property of the state. A weighmaster shall surrender a seal to the Department Division within 30 days after the weighmaster no longer operates as a licensed public weighmaster if the seal contains the public weighmaster's name. If the seal was issued under R3-7-506(B) and only contains the location identification, it may be retained for use by the next licensed public weighmaster if it is still legible. Illegible seals shall be surrendered to the Division.
- D. A public weighmaster shall have one seal for use at each scale location.
- E. A seal shall be accessible to the weighmaster and authorized deputies during all business hours at the scale location for the timely and proper certification of weight certificates.
- F. A public weighmaster shall keep a seal of authority at each scale location and make it available for inspection by the Department Division during all business hours.
- G. A public weighmaster may recreate the state-assigned seal in an electronic format for use as provided under subsection R3-7-505(D), as long as the electronic version looks similar and contains all of the same information provided in the official state-assigned seal.

R3-7-507. Prohibited Acts

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

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

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

- A. Registered service agency.
 - 1. To obtain a license as a registered service agency, an applicant shall provide evidence that:
 - a. The applicant's registered service representative has a thorough knowledge of all appropriate laws within A.R.S. Title 44 3, Chapter ~~45~~ 19, Handbook 44, ~~Handbook 112~~, CARB Executive Orders, and this Chapter;
 - b. The applicant provided its representative with a copy of the portions of A.R.S. Title 44 3, Chapter ~~45~~ 19, Handbook 44, ~~Handbook 112~~, CARB Executive Orders, and this Chapter relating to registered service representative duties;
 - c. The applicant:
 - i. Possesses the necessary certified standards and testing equipment to service commercial devices; and
 - ii. Possesses the necessary test equipment calibrated annually by the in the time-frame required by the equipment manufacturer or CARB Executive Orders to perform an air to liquid (A/L) test the required testing of a vapor recovery system or vapor recovery component properly; or
 - iii. Has access to the necessary standards and testing equipment belonging to another registered service agency and has written approval from that agency to use its standards and testing equipment; and
 - d. The applicant shall ensure that its registered service representative operates the equipment according to A.R.S. Title 44 3, Chapter ~~45~~ 19, Handbook 44, ~~Handbook 112~~, CARB Executive Orders, and this Chapter.
 - 2. The Department Division shall not issue a registered service agency license until at least one of the applicant's employees passes a registered service representative competency exam.

3. An applicant for a registered service agency license shall submit an application form, obtained from the ~~Department~~ Division that provides:
 - a. Name, address, telephone number, electronic mail address, and facsimile number;
 - b. License information from other states;
 - c. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
 - d. A list of all of the applicant's devices and testing equipment with corresponding serial or identification numbers;
 - e. Branch office information;
 - f. Names of registered service representatives and their experience with other registered service agencies or states;
 - g. License and disciplinary history; and
 - h. Applicant's signature.
- B. Third-party registered service agency. In addition to complying with the requirements in subsection (A), a third-party registered service agency shall provide the ~~Department~~ Division with evidence that the third-party registered service agency:
 1. Holds a valid license issued by the Arizona Registrar of Contractors,
 2. Complies with workers' compensation insurance laws, and
 3. Maintains liability insurance sufficient to cover the value of work to be performed.
- C. Registered service representative.
 1. To obtain a license as a registered service representative, an applicant shall provide evidence that:
 - a. The applicant has a thorough knowledge of all appropriate laws within A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, Handbook 44, ~~Handbook 112~~, CARB Executive Orders, and this Chapter;
 - b. The applicant possesses the necessary training or experience regarding appropriate standards and testing equipment to service the specific commercial device, vapor recovery system, or vapor recovery system component indicated on the application;
 - c. The applicant will operate according to appropriate laws within A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, Handbook 44, ~~Handbook 112~~, CARB Executive Orders; and this Chapter; and
 - d. The applicant has passed the competency examination specified in subsection (D).
 2. An applicant for a registered service representative license shall submit an application on a form obtained from the ~~Department~~ Division that provides:
 - a. Name, address, telephone number, and facsimile number;
 - b. License information from other states;
 - c. An indication of whether the applicant is applying to be a registered service representative, or a vapor recovery service representative ~~No. 1, or vapor recovery service representative No. 2;~~
 - d. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
 - e. Work experience with other registered service agencies in Arizona or other states;
 - f. License and disciplinary history; and
 - g. Applicant's signature.
 3. An applicant for a vapor recovery registered service representative ~~No. 1~~ license shall maintain and make available to the ~~Department~~ Division upon request evidence of being:
 - a. Certified by the manufacturer to test or repair all vapor recovery systems and components, or
 - b. Determined qualified by the ~~Department~~ Division to test or repair all vapor recovery systems and components.
 4. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. 41-1080.
- D. Competency examination. Before being issued a registered service representative license, an applicant shall pass a ~~Department~~ Division-administered competency examination.
 1. An applicant for a vapor recovery registered service representative license shall complete the ~~Department~~ Division's training class before taking the competency examination. The Division may waive the training class requirement for up to 12 months for new applicants.
 2. An applicant shall bring a copy of Handbook 44 ~~and Handbook 112~~ to the examination site. An applicant for a vapor registered service license shall additionally bring copies of CARB test procedures, Executive Orders, and Division Standard Operating Procedures.
 3. An applicant shall complete the competency examination within the time specified by the ~~Department~~ Division and pass with a score of 75 percent or greater.
 4. The ~~Department~~ Division shall not allow an applicant to take the competency examination more than ~~two~~ three times in six months and the applicant must wait 7 days prior to retaking the exam.
 5. The associate director may contract with a 3rd party testing company to administer testing to provide added convenience to registered service representatives. Taking exams through the 3rd party is optional and the registered service representative shall be responsible for payment of any additional costs related to 3rd party testing.
- E. As required under A.R.S. § ~~41-2094(G)~~ 3-3454(G), the ~~Department~~ Division shall specify on a registered service representative license the devices that the registered service representative may service, repair, or install or the vapor recovery systems or components that the vapor recovery registered service representative may test or repair. A registered service representative shall perform only the services approved by the ~~Department~~ Division for the registered service representative.
- F. Renewal of a registered service representative license. Under A.R.S. § ~~41-2094(D)~~ 3-3454(D), a registered service representative license is valid for 12 months and expires unless renewed. To renew a registered service representative license, the registered service agency employing the registered service representative shall comply with R3-7-603(E). Before complying with R3-7-603(E), the registered service agency shall ensure that once every 36 months a vapor registered service representative completes the Division's training class and takes and passes the Division's written vapor recovery competency examination.
 1. ~~A vapor recovery registered service representative No. 1 or 2 completes the Department's training class, and~~



- 2. ~~A vapor recovery registered service representative takes and passes the Department's written vapor recovery competency examination, as follows:~~
 - a. ~~A vapor recovery service representative No. 1 shall pass the vapor recovery competency examination annually, and~~
 - b. ~~A vapor recovery service representative No. 2 shall pass the vapor recovery competency examination biennially.~~
- G. ~~The Department Division does not charge a fee to process a change in business name or address.~~

R3-7-602. Duties

A. Registered service agency.

- 1. A registered service agency shall:
 - a. Maintain all equipment used for commercial device certification according to standards traceable to NIST, and
 - b. Maintain and use equipment for testing vapor recovery systems and vapor recovery system components according to this Chapter, CARB test procedures, and manufacturer specifications.
- 2. When a registered service agency restores or newly places in service a commercial device, the registered service agency shall complete a placed-in-service report form prescribed by the Department Division.
 - a. ~~The registered service agency shall complete the placed-in-service report in triplicate;~~
 - b.a. Within seven calendar days after the commercial device is restored to service or newly placed in service, the registered service agency shall complete an online placed-in-service report ~~mail the original of the properly completed and signed placed-in-service report~~ to the Department Division. If an online placed-in-service report is not available for the device, a paper report shall be submitted;
 - e.b. The registered service agency shall give a copy of the placed-in-service report to the person who owns or operates the commercial device;
 - d.c. The registered service agency shall retain a copy of the placed-in-service report or any required vapor recovery report for one year;
 - e.d. The registered service agency shall ensure that the placed-in-service report contains the assigned license number of the registered service representative who installs or repairs the commercial device and completes the report;
 - f.e. The registered service agency shall ensure that the placed-in-service report is completed and signed by the registered service representative noting each rejected commercial device restored to service and each newly installed commercial device placed in service;
 - g.f. The registered service agency shall ensure that the placed-in-service report includes the serial or identification number of each standard used by the registered service representative to calibrate the commercial device for each rejected device restored to service and for each newly installed device placed in service; and
 - h. ~~The registered service agency shall ensure that the placed-in-service report includes the license number of the registered service representative who installs or repairs the commercial device.~~
- 3. A registered service agency shall have all equipment used for commercial device certification ~~and A/L testing~~ certified annually by the manufacturer. Vapor recovery test equipment shall be certified as required by the CARB test procedure or this Chapter.
- 4. A registered service agency shall not use new equipment for commercial device certification until it is certified by a NIST-traceable laboratory.
- 5. A registered service agency shall ensure that employees do not perform registered service representative duties until licensed. A registered service agency may train an employee in registered service representative duties only if the employee is within the direct line of sight and hearing of a supervising licensed registered service representative.
- 6. A registered service agency shall use a form approved by the Department Division to record vapor recovery test results and violations. ~~The registered service agency shall submit to the Department the summary test report within 24 hours following the test. All other forms relating to the test~~ The test results shall be ~~mailed~~ e-mailed to the Division within seven days after completion of the test.
- 7. ~~A registered service agency shall ensure that its registered service representative provides a copy of the Regulatory Bill of Rights, defined in A.R.S. § 41-1001.01, to the owner or operator of a vapor recovery system before beginning a vapor recovery test that is not witnessed by the Department.~~
- ~~8.7.~~ A registered service agency shall ensure that its registered service representative provides a vapor recovery system owner or operator with written test preparation instructions, ~~approved by the Department,~~ at least ~~40~~ 5 business days before an initial or annual test.

B. Registered service representative.

- 1. A registered service representative shall:
 - a. Install only commercial devices that meet the requirements of this Chapter;
 - b. Perform all vapor recovery tests according to this Chapter;
 - c. Perform all appropriate tests when repairing a commercial device or repairing or replacing a vapor recovery system or component to ensure that the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, this Chapter, Handbook 44, ~~Handbook 112~~, and CARB Executive Orders are met;
 - d. Report to the user equipment or commercial devices that do not conform to NIST standards; and
 - e. Complete placed-in-service reports accurately.
 - f. Report to the Division within 1 hour by e-mail or phone of finding a device that is not certified as part of the Certificate of Conformance under R3-7-203(A) and is installed to fraudulently obtain consumer credit card information. Additionally, the registered service representative shall contact the local law enforcement agency for collection of the device as evidence.
- 2. If a vapor recovery registered service representative cannot correct a violation and has to leave the vapor recovery site, the registered service representative shall secure the non-compliant vapor recovery system or component from commercial use. The non-compliant system or component shall not be used for commercial purposes until it is repaired and passes the test required by

R3-7-910. The registered service representative shall notify the ~~Department~~ Division of the stop-sale, stop-use prior to leaving the site. The registered service representative shall notify the Division regarding retest of the site by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner, so that the ~~Department~~ Division ~~can~~ may witness the test.

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

- A. The ~~Department~~ Division shall not issue a license or renewal until an applicant pays all appropriate fees.
- B. Upon receipt and acceptance of all required documents, fees, and ~~Department~~ Division certification of standards, the ~~Department~~ Division shall issue the agency a license or renewal.
- C. The ~~Department~~ Division shall include on a license an assigned number, that remains effective until either withdrawn by the ~~Department~~ Division or until it expires. The ~~Department~~ Division shall issue a license with the agency's assigned license number to each registered service representative employed by the agency who has passed the competency examination.
- D. Neither a registered service agency nor a registered service representative shall transfer a license.
- E. A registered service agency shall submit the renewal fee for the agency license and the agency's representatives' licenses by the first day of the month that each license expires.
- F. The ~~Department~~ Division may deny a license or renewal for any of the following reasons:
 1. Providing false or misleading information;
 2. Failure to meet annual certification requirements for standards or testing equipment;
 3. Failure to meet the requirements stated in this Article; or
 4. For any reason that would be grounds for suspension, revocation, or refusal to renew.
- G. The ~~Department~~ Division may suspend, revoke, or refuse to renew a license if the applicant is not qualified to perform those duties required or has been found to have violated any provision of A.R.S. Title ~~41~~ 3, Chapter ~~19~~ 19, or this Chapter.
- H. Every registered service agency and representative shall comply with the ~~Department~~ Division's metrology laboratory annual schedule for certification of field standards contained in A.R.S. § ~~41-2067(F)~~ 3-3416(F).

R3-7-604. Prohibited Acts

- A. A person shall not:
 1. Perform any duty or do any act required to be done by a registered service agency or registered service representative without holding a registered service agency or registered service representative license issued by the ~~Department~~ Division;
 2. Use the title of registered service agency or registered service representative, any similar title, or hold oneself out as a registered service agency or representative without a valid license; or
 3. Remove an official out-of-service, warning, or stop-sale, stop-use tag except as authorized in this Chapter, or by the ~~Department~~ Division.
- B. A registered service agency or registered service representative shall not:
 1. Fraudulently complete or file a placed-in-service report;
 2. Delegate licensed authority or responsibility to an unlicensed person;
 3. Perform a function without certified equipment;
 4. Install or place in service a commercial device before satisfying all of the statutory and rule requirements;
 5. Fail to report a commercial device to the ~~Department~~ Division that is found to be out of compliance under R3-7-602 ~~within two business days of finding that device is out of compliance~~;
 6. Install, calibrate, or repair a commercial device without placing a ~~sequentially numbered~~ decal or label on the device as prescribed by the ~~associate director~~ Director;
 7. Leave a location where there is a non-compliant commercial device without securing the commercial device from commercial use; or
 8. Leave a vapor recovery site where there is a non-compliant system or component without securing the system or component from commercial use.

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R3-7-701. Definitions

In addition to the definitions in R3-7-101, the following definitions apply to this Article unless the context otherwise requires:

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

"Area A" has the same meaning as in A.R.S. § ~~49-544~~ 3-3401.

"Area B" has the same meaning as in A.R.S. § ~~49-544~~ 3-3401.

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

"Arizona Cleaner Burning Gasoline" or "Arizona CBG" means a gasoline blend that meets the requirements of this Article for gasoline produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles within the CBG-covered area, except as provided under A.R.S. § ~~41-2124(J)~~ 3-3493(I).

"AST" means aboveground storage tank.

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

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

"Beginning of transport" means the point at which:

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



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

“Biodiesel” means a diesel fuel substitute that is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to § 211 of the clean air act as defined in section 49 401.01. A.R.S. § 41-2051. “Biodiesel” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biodiesel blend” means a motor fuel that is comprised of biodiesel and diesel fuel and that is designated by the letter “B,” followed by the numeric value of the volume percentage of biodiesel in the blend. 41-2051 “Biodiesel blend” has the same meaning as prescribed under A.R.S. § 3-3401 and contains more than 5 percent biodiesel.

“Biodiesel (mono alkyl ester)” means a biodiesel or fuel additive that:

- Is registered as a motor vehicle fuel or fuel additive under 40 CFR 79,
- Is a mono alkyl ester,
- Meets the standards in ASTM D6751,
- Is intended for use in some engines designed to run on conventional diesel fuel, and
- Is derived from nonpetroleum renewable resources.

“Biodiesel (mono alkyl ester) blend” means a motor fuel composed of biodiesel (mono alkyl ester) and diesel fuel and identified by the letter “B” and a numeric value indicating the volume percentage of biodiesel (mono alkyl ester) in the blend.

“Biofuel” means a solid, liquid, or gaseous fuel that is derived from biomass or nonpetroleum renewable resources and can be used directly for heating or power or as a blend component in motor fuel. “Biofuel” has the same meaning as prescribed under A.R.S. § 3-3401.

“Biofuel blend” means a motor fuel composed of biofuel and petroleum based motor fuel and identified by the letter “C” and a numeric value indicating the volume percentage of biofuel in the blend. “Biofuel blend” has the same meaning as prescribed under A.R.S. § 3-3401.

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

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

“Biofuel Supplier” means a marketer or jobber of a biofuel or biofuel blend.

“Biomass” means biological material, such as animal or plant matter, that can be transformed into biofuel, excluding biological material that has been transformed by geological processes into a substance such as coal petroleum or a derivative of a substance resulting from geological processes. “Biomass” has the same meaning as prescribed under A.R.S. § 3-3401.

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

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

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

“BQ9000” means the cooperative and voluntary program, implemented by the National Biodiesel Accreditation Commission, to accredit producers and marketers of biodiesel fuel using a combination of the ASTM standard for biodiesel (ASTM D6751) and a quality systems program of fuel management practices regarding storing, sampling, testing, blending, shipping, and distributing biodiesel fuel.

“CARB” means the California Air Resources Board.

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

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

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

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

“Diesel” or “diesel fuel” means a refined middle distillate that is used as a fuel in a compression ignition internal combustion engine and that meets the specifications of ASTM D975. A.R.S. § 41-2051 “Diesel fuel” or “Diesel” has the same meaning as prescribed under A.R.S. § 3-3401. Per ASTM D975, diesel fuel may contain 5 percent or less biodiesel.

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

“E85” means a fuel ethanol gasoline blend that meets the specifications in ASTM D5798, which is incorporated by reference in R3-7-702.

“EPA” means the United States Environmental Protection Agency.

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

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

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

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

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

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

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

~~"Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than .05 grams of lead for each United States gallon, is produced, refined, manufactured, blended, distilled, or compounded from petroleum, natural gas, oil, shale oils or coal, and other flammable liquids free from undissolved water, sediment, or suspended matter, with or without additives, and is commonly used as a fuel for spark ignition internal combustion engines. Gasoline does not include diesel fuel or E85 ethanol flex fuel. "Gasoline" has the same meaning as prescribed under A.R.S. § 3-3401.~~

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

~~"Manufacturer's proving ground" means a facility used only to develop complete motor vehicles, which are not currently available on the retail market, for an automotive manufacturer. "Manufacturer's proving ground" has the same meaning as prescribed under A.R.S. § 3-3401.~~

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

~~"Motor fuel" means a petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and the ethanol blend E85 as defined in ASTM D5798. A.R.S. § 41 2051. "Motor Fuel" has the same meaning as prescribed under A.R.S. § 3-3401.~~

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

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

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

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

A vehicle designed primarily for travel through air or water.

~~"Motor vehicle racing event" means a competition, including related practice and qualifying and demonstration laps that uses unlicensed motor vehicles designed and manufactured specifically for racing and is conducted on a public or private racecourse for the entertainment of the general public. "Motor vehicle racing event" has the same meaning as prescribed under A.R.S. § 3-3401.~~

"MTBE" means methyl tertiary butyl ether.

"Neat" means pure or 100 percent; ~~not blended with motor fuel.~~

"NOx" means oxides of nitrogen.

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

~~"Oxygenate" means any oxygen containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and is approved as a blending agent under the provisions of a waiver issued by the United State environmental protection agency pursuant to 42 United States Code §7545(f). A.R.S. § 41 2121~~

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

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

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

~~"Petroleum based renewable diesel" means diesel fuel or fuel additive that meets all of the following:~~

~~Is registered as a motor vehicle fuel or fuel additive under 40 CFR 79,~~

~~Is not a mono-alkyl ester,~~

~~Is intended for use in engines designed to run on diesel fuel,~~

~~Is derived from petroleum and nonpetroleum renewable resources,~~

~~Meets the requirements of ASTM D975, and~~

~~Is identified by the letter "R" and a numeric value indicating the volume percentage of the nonpetroleum renewable resources component in the blend.~~

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

~~"Pressurant" means a blendstock component of an E85 blend for sale within the CBG covered area added specifically to ensure that the vapor pressure meets ASTM D5798 requirements.~~

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

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

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

Is owned or leased by the producer;

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

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

~~"Product transfer document" means a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other paper that is provided by the transferor at the time motor fuel is delivered and evidences that custody or title of the motor fuel is transferred to~~



the transferee. A product transfer document is not required when motor fuel is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility. "Product transfer document" has the same meaning as prescribed under A.R.S. § 3-3401.

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

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

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

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

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

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

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

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

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

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

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

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

"UST" means underground storage tank.

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

~~"Vehicle emissions control area" has the same meaning as in A.R.S. § 49-541 except that a vehicle emissions control area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.~~ "Vehicle emissions control area" has the same meaning as prescribed under A.R.S. § 3-3401.

"VOC" means volatile organic compound.

R3-7-702. Material Incorporated by Reference

- A. The following documents are incorporated by reference and on file with the ~~Department~~ Division. The documents incorporated by reference contain no future editions or amendments.
 1. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 14, 2016 ~~1, 1998~~ Edition, Government ~~Printing~~ Publishing Office, ~~P.O. Box 979050, St. Louis, MO 63197-9000~~ 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.
 2. API Recommended Practice 1637 (API RP 1637), "Using the API Color-Symbol System to Mark Equipment and Vehicles for Product Identification at Gasoline Dispensing Facilities and Distribution Terminals," published July 2006, Reaffirmed May 2012, American Petroleum Institute (API), 6300 Interfirst Drive, Ann Arbor, MI, 48108.
 - 2-3. ASTM Standard D975, ~~2010~~ 2016a (ASTM D975-~~10~~ 16a), "Standard Specification for Diesel Fuel Oils," published ~~April 2010~~ 2016, ASTM International (~~formerly American Society for Testing and Materials~~), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
 - 3-4. ASTM Standard D4806, ~~2009~~ 2016a (ASTM D4806-~~09~~ 16a), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," published ~~July 2009~~ 2016, ASTM International (~~formerly American Society for Testing and Materials~~), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
 - 4-5. ASTM Standard D4814, ~~2009b~~ 2016ee1 (ASTM D4814-~~09b~~ 16ee1), "Standard Specification for Automotive Spark-Ignition Engine Fuel," published ~~September 2009-2016~~, ASTM International (~~formerly American Society for Testing and Materials~~), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
 - 5-6. Waiver Requests under Section 211(f) of the Clean Air Act, (August 22, 1995 edition), United States Environmental Protection Agency, Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code 6406-J, Washington, D.C. 20460.
 - 6-7. ASTM Standard D5798, ~~2009b~~ 2015 (ASTM D5798-~~09b~~ 15), "Standard Specification for Fuel Ethanol Fuel Blends (Ed75-Ed85) for Flexible-Fuel Automotive Spark-Ignition Engines," published ~~May 2009~~ 2015, ASTM International (~~formerly American Society for Testing and Materials~~), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
 - 7-8. ASTM Standard D6751, ~~2009a~~ 2015ce1 (ASTM D6751-~~09a~~ 15ce1), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," published ~~February 2010~~ 2015, ASTM International (~~formerly American Society for Testing and Materials~~), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
 - 8-9. California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," adopted April 20, 1995. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
 - 9-10. The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: Government ~~Printing~~ Publishing Office, ~~P.O. Box 979050, St. Louis, MO 63197-9000~~ 732 North Capitol Street, NW, Washington, D.C. 20401-0001 or bookstore.gpo.gov.

- ~~10-11.~~ California Air Resources Board, The California Reformulated Gasoline Regulations, Title 13, California Code of Regulations, Section 2266.5 (Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending), as of April 9, 2005. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
 - ~~11-12.~~ California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
 - ~~12-13.~~ ASTM Standard D7467, ~~2009a~~ 2015ce1 (ASTM D7467-~~09a~~ 15ce1), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published ~~June 2009~~ 2015, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
 - 14. SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines." published May 5, 2012, SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001 or www.sae.org.
- B. Subsection (A)(11) will not become effective until Arizona's revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

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

- A. After completing an inspection, the ~~Department~~ Division shall return all motor fuel to the owner or operator of ~~the service station a motor fuel dispensing site~~ at the site where the ~~Department~~ Division collected the motor fuel.
- B. After completing an inspection, if a motor fuel cannot be returned to the owner or operator of ~~the service station a motor fuel dispensing site~~ at the site where the ~~Department~~ Division collected the motor fuel, the ~~Department~~ Division shall transport the motor fuel to another site of the owner or operator's choice and within a 20-mile radius of the inspection site.

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

- A. A person who owns or operates a ~~service station~~ motor fuel dispensing site that has an external sign shall ensure that the sign:
 1. Identifies whether the price differs depending on whether the payment is cash, credit, or debit;
 2. Identifies the self-service and full-service prices, if different;
 3. Discloses the full price of motor fuel including fractions of a cent and all federal and state taxes, if the sign displays the motor fuel price. A decimal point shall be used in the displayed price when a dollar sign precedes the posted price;
 4. Displays lettering at a height of at least 1/5 of the letter height of the motor fuel price displayed on the external sign or 2 1/2", whichever is larger, and is visible from the road;
 5. States the terms of any condition if the displayed price is conditional upon the sale of another product or service. The terms of any condition shall comply with the letter height requirement in subsection (A)(4);
 6. Describes ~~diesel the motor fuel~~ that meets ASTM_D975 as No. 1 ~~diesel~~Diesel, #1 ~~diesel~~Diesel, #2 ~~diesel~~Diesel, or biodiesel blend. Diesel fuel No. 2 may be labeled on dispensers as diesel fuel without indication of the fuel grade; and
 7. Describes motor fuel with an ethanol concentration of 51 to 83 volume percent as ethanol flex fuel;
 8. Identifies the unit of measure of the price, if it is other than per gallon; ~~and~~
 9. Sites that sell Ethanol Flex Fuel previously labeled as "E-85" shall update the signage to reflect the sale of Ethanol Flex Fuel no later than January 1, 2018. In no case shall signage with an incorrect ethanol content of the fuel on the dispenser or advertised at the motor fuel dispensing site.
- B. ~~If For~~ the following terms ~~are used in~~ on a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index as determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method:

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

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

R3-7-705. Price, Octane, and Lead substitute Notification on Dispensers Dispenser Labeling at Motor Fuel Dispensing Sites

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

- A. ~~Pricing, motor fuel grade, octane rating, and lead substitute.~~ A service station owner or operator shall ensure that information regarding pricing, motor fuel grade, octane rating, and lead substitute addition displayed on a service station motor fuel dispenser:
 1. Is clean, legible, and visible at all times;
 2. Is displayed electronically or with a sign or label on the upper 60 percent of each face of the dispenser;
 - ~~3-1.~~ Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes;
 - ~~4-2.~~ Displays the highest price of motor fuel sold from the dispenser prior to any deliberate action of the customer resulting in a discounted price being displayed, provided-if the dispenser is capable of dispensing and computing the price of multiple grades of motor fuel at more than one price;



- 5. Displays a discount, if offered, in letters at least 1/4" in height on each face of the dispenser and next to the undiscounted price;
- 6. Displays both a cash and credit price on a dispenser that is capable of electronically displaying both cash and credit prices;
- 7. Posts both a cash and credit price on each face of a dispenser that is preset by the cashier if the dispenser is unable to display electronically and simultaneously both cash and credit prices;
- 8. Posts a price per gallon sign next to or on a non price computing dispenser for a retail only sale of liquefied petroleum gas used as an alternative motor fuel; and

9.3. Complies with the requirements of R3-7-704(A)(1), (A)(2), (A)(3), (A)(5), (A)(6), and (A)(7), (A)(8), (A)(9) and (B).

B. A person who owns or operates a service station shall ensure that:

- 1.4. Displays the The octane rating of each grade of gasoline is displayed on the upper 60 percent of each face of each dispenser, as prescribed by 16 CFR 306; and
- 2.5. Displays the The signs required by Handbook 130; for gasoline motor fuel dispensers that dispense gasoline with lead substitute, are displayed on the upper 60 percent of each face of each dispenser in letters at least 1/4" in height; and
- 6. Sites that sell ethanol flex fuel previously labeled as "E-85" shall update the signage to reflect the sale of ethanol flex fuel no later than January 1, 2018. In no case shall signage with an incorrect ethanol content of the fuel on the dispenser or advertised at the motor fuel dispensing site.

B. All motor fuels shall meet the labeling requirements of 16 CFR 306. Additionally, the following requirements apply:

1. Gasoline containing fuel ethanol.

- i. Gasoline containing greater than 1.5 percent by weight oxygen or 4.3 percent by volume fuel ethanol shall be labeled with the following statement to indicate the maximum percent by volume of fuel ethanol contained in the gasoline: "May contain up to _____ % fuel ethanol."
- ii. Within the CBG-covered area and area B, gasoline containing fuel ethanol shall be labeled with the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles."
- iii. Gasoline for sale outside of the CBG-covered area with an ethanol content greater than 10 volume percent and less than or equal to 15 volume percent shall additionally be labeled in accordance with 40 CFR 80.1501 [need to include material incorporated by reference].

2. Gasoline containing an oxygenate other than fuel ethanol. Gasoline containing greater than 1.5 percent by weight shall be labeled with the following statement to indicate the type and maximum percent by volume of oxygenate contained in the gasoline: "May contain up to _____ % _____."

3. The labels in subsection B(1) and (B)(2) shall be printed in black and white block letters on a sharply contrasting background with lettering no smaller than 1/4 inch. The statements in subsection (B)(1)(i) and (B)(1)(ii) may be printed on the same label or on separate labels if the statements are displayed next to each other.

4. Non-oxygenated gasoline. It is prohibited to label a dispenser as containing no oxygenate if the gasoline contains more than 0.5 percent by volume of any oxygenates.

5. Biodiesel blends. The diesel grade component as contained within ASTM D975 for grades other than No. 2 diesel shall be identified.

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

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

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

R3-7-706. Unattended Retail Dispensers Repealed

~~In addition to all labeling and sign requirements in this Article, an owner or operator of an unstaffed service station shall post on or next to each motor fuel dispenser a sign or label, in public view, that conspicuously lists the owner's or operator's name, address, and telephone number.~~

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

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

- 1. The grade of the motor fuel;
- 2. The volume of each grade of motor fuel being transferred;
- 3. The date of the transfer;
- 4. Product transfer document number;
- 5. For conventional gasoline, the minimum octane rating of each grade as prescribed by 16 CFR 306;
- 6. For conventional gasoline, the type and maximum volume of oxygenate contained in each grade;
- 7. For conventional gasoline transported in or through the CBG-covered area, the statement, "This gasoline is not intended for use inside the CBG-covered area";
- 8. If ~~Whether~~ a lead substitute is present in the gasoline, ~~and~~ the type of lead substitute present;
- 9. For ~~a~~ the following biofuel or biofuel blends; ~~the percentage of biofuel in the finished product;~~
 - a. Ethanol Flex Fuel shall contain a declaration of the volume percent of ethanol in the blend;

- b. Biodiesel and biomass-based diesel blends containing more than 5 percent biodiesel or biomass-based diesel shall contain a declaration of the volume percent biodiesel or biomass-based diesel in the blend, as well as the grade of diesel in the blend; and
 - c. All other biofuel or biofuel blends shall contain the percentage of biofuel in the finished product.
10. The final destination:
- a. When a terminal is the transferor, the owner or operator of the terminal shall include on the product transfer document the terminal name and address, and the transporter name and address, ~~and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;~~
 - b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
 - c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.
- B.** To enable a transferor to comply fully with the requirement in subsection ~~(A)(10)~~ (A)(10)(b) and (A)(10)(c), the transferee shall supply to the transferor information regarding the final destination.
- C.** A registered supplier, third-party terminal, or pipeline may use standardized product codes on pipeline tickets as the product transfer documentation.
- D.** A person identified in subsection (A) shall retain product transfer documentation for each shipment delivered for 12 months. This documentation shall be available within two working days from the time of the ~~Department~~ Division's request.
- E.** A person identified in subsection (A) shall maintain product transfer documentation for a transfer or delivery during the preceding 30 days at that person's address listed on the product transfer documentation.
- F.** An owner or operator of a motor fuel dispensing site or fleet owner shall maintain product transfer documentation for the three most recent deliveries of each grade of motor fuel on the premises of the motor fuel dispensing site owner or operator or fleet owner. This documentation shall be available for Department Division review.
- G.** The ~~Department~~ Division shall accept a legible photocopy of a product transfer document instead of the original.
- H.** A person transferring custody or title of Arizona CBG or AZRBOB shall comply with R3-7-757.

R3-7-708. Gasoline Ethanol Oxygenate Blends

- A.** A person that has custody of gasoline blended with an oxygenate shall ensure that the amount of oxygenate does not exceed the amount allowed by EPA waivers, Section 211(f) of the Clean Air Act, and A.R.S. § ~~41-2122 3-3491~~. The maximum oxygen content of gasoline oxygenate blends shall not exceed 4.0 percent by weight for fuel ethanol oxygenate and as specified in A.R.S. § 41-2122 3-3491 for other oxygenates.
- B.** Special provisions for gasoline ethanol blends.
1. A gasoline ethanol blend that meets the requirements in subsections (B)(1)(a) and (b) shall not exceed the vapor pressure specified in ASTM D4814 by more than 1 psi:
 - a. ~~The gasoline ethanol blend shall contain fuel ethanol.~~ The concentration of the ~~fuel~~ ethanol, excluding the required denaturing agent, shall be:
 - i. From May 1 through September 15, at least nine percent and no more than 10 percent by volume of the gasoline ethanol blend; and
 - ii. From September 16 through April 30, at least 1.5 percent by weight and no more than 10 percent by volume of the gasoline ethanol blend; and
 - b. The ~~fuel~~ ethanol content of the gasoline ethanol blend shall:
 - i. Be determined using the appropriate test method listed in ASTM D4814, and
 - ii. Not exceed any applicable waiver condition under Section 211(f) of the Clean Air Act.
 2. The provision in subsection (B)(1) is effective for gasoline ethanol blends sold:
 - a. Outside the CBG-covered area year around, and
 - b. Within the CBG-covered area during April.
 3. Gasoline blended with no more than 10 percent by volume of fuel ethanol shall be blended using one of the following alternatives:
 - a. The base gasoline complies with the standards in ASTM D4814, the fuel ethanol complies with the standards in ASTM D4806, and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:
 - i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and
 - ii. The minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived;
 - b. The finished blend complies with the standards in ASTM D4814; or
 - c. The base gasoline complies with the standards in ASTM D4814 except distillation and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:
 - i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and
 - ii. The minimum test temperature at which the vapor/liquid ratio is equal to 20 is waived.
 4. A gasoline ethanol blend shall meet the standards specified in ASTM D4814.
- C.** In addition to complying with the requirements in R3-7-707, the transferor of a gasoline ethanol blend shall ensure that the product transfer document contains a legible and conspicuous statement that the gasoline being transferred contains fuel ethanol and the percentage concentration of fuel ethanol.
- D.** Nothing in this subsection shall preclude the sale of gasoline with an ethanol content greater than 10 percent by volume and less than or equal to 15 percent by volume of ethanol outside of the CBG-covered area.



R3-7-709. Retail Oxygenated Fuel Labeling Repealed

- ~~A. The owner or operator of a motor fuel dispensing site shall ensure that a motor fuel dispenser that offers gasoline containing fuel ethanol that results in a gasoline blend containing 1.5 percent or more by weight of oxygen is clearly labeled with the fuel ethanol volume information. Each face of each motor fuel dispenser shall be clearly labeled with the oxygenate volume information if the percent by volume is more than 4.3 percent by volume of fuel ethanol.~~
- ~~B. The owner or operator of a motor fuel dispensing site shall ensure that labels required under subsection (A) are displayed on the upper 60 percent of each face of each motor fuel dispenser. The label indicating the maximum percent by volume of oxygenate contained in the oxygenated fuel shall state: "May contain up to _____ % fuel ethanol."~~
- ~~C. In the CBG covered area and area B, the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each motor fuel dispenser contains the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles." The statement may be printed on the label required in subsection (B) or on a separate label. If the statement is printed on a separate label, the label shall be displayed next to the label required in subsection (B).~~
- ~~D. The owner or operator of a motor fuel dispensing site shall ensure that:

 - 1. The label required by subsection (B) is clean, legible, and visible at all times;
 - 2. The label is printed in black or white block letters on a sharply contrasting background; and
 - 3. The lettering on labels required by subsections (B) and (C) is no less than 1/4".~~

R3-7-710. Blending Requirements

- A. A person that has custody of or transports an oxygenated gasoline blend shall ensure that no neat oxygenate blending occurs at a motor fuel dispensing site or fleet vehicle fueling facility.
- B. If a motor fuel dispensing site storage tank contains an oxygenated gasoline blend that does not contain the amount of oxygen required by A.R.S. §§ ~~41-2122 3-3491, 41-2123 3-3492, 41-2125 3-3495~~, or R3-7-751, the owner or operator of the motor fuel dispensing site shall do one of the following:
 - ~~1. Add gasoline that contains no more than 20 percent by volume of the same oxygenate to the non-compliant oxygenated gasoline blend;~~
 - ~~2-1. Add a gasoline blend that dilutes the non-compliant oxygenated gasoline blend to the level of oxygen content required by A.R.S. §§ ~~41-2122 3-3491, 41-2123 3-3492, 41-2125 3-3495~~, or R3-7-751; or~~
 - ~~3-2. Empty the storage tank and replace the non-compliant oxygenated gasoline blend with a required oxygenate blend;~~
 - ~~3. Upon written permission of the associate director, add gasoline that contains no more than 20 percent by volume of the same oxygenate to the non-compliant oxygenated gasoline blend.~~

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

- A. Before a person adds ~~an alcohol-oxygenated~~ the initial gasoline-alcohol blend into a storage tank, the person shall:
 - 1. Test the storage tank for the presence of water and, if any water is detected, remove the water from the storage tank; and
 - 2. Install a fuel filter designed for use with ~~alcohol-oxygenated~~ gasoline-alcohol blends in the fuel line of all motor fuel dispensers that dispense ~~alcohol-oxygenated~~ gasoline-alcohol blends.
- B. If water is detected in a storage tank ~~or in an alcohol-oxygenated~~ containing a gasoline-alcohol blend ~~in a storage tank~~, the owner or operator shall empty the storage tank.

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

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

R3-7-713. Motor Fuel Storage Tank Labeling

- A. An owner or operator of a motor fuel dispensing site shall ensure that all motor fuel storage tank fill pipes and gasoline vapor return lines located at the motor fuel dispensing site are labeled to identify the contents accurately as:
 - 1. Unleaded gasoline,
 - 2. Unleaded midgrade gasoline,
 - 3. Unleaded premium gasoline,
 - 4. No. 1 or #1 diesel fuel,
 - 5. No. 2, ~~or~~ #2 diesel fuel, or diesel fuel.
 - 6. Premium diesel.
 - ~~6-7. Gasoline vapor return,~~
 - 7-8. Biodiesel or biodiesel blend, for blends containing more than 5 percent by volume, or
 - ~~8-9. E85 or Ethanol flex fuel;~~
 - 10. Other fuel as designated on the product transfer document.
- B. An owner or operator of a motor fuel dispensing site shall ensure that the label required under subsection (A) is at least 1 1/2" x 5" with at least 1/4" black or white block lettering on a sharply contrasting background and that the label is clean, visible, and legible at all times.
- C. An owner or operator of a motor fuel dispensing site may display other information on the reverse side of a two-sided label.
- D. An owner or operator of a motor fuel dispensing site shall not put motor fuel into storage tanks without attaching the proper label.

- E. A person shall not deliver motor fuel to a motor fuel dispensing site or the product transfer documents confirm the motor fuel is the correct type as indicated on the tank fill pipes labeled under subsection (A) or the product being delivered meets or exceeds the standards.
- F. If tank manhole covers are color-coded, the color coding shall comply with API 1637.

R3-7-714. Additional Requirements for Motor Fuels ~~Other than Arizona CBG~~

- A. A person that owns or operates a motor fuel dispensing site, ~~or transmix, or~~ production facility outside the CBG-covered area shall ensure that a motor fuel offered for sale ~~at the motor fuel dispensing site or transmix or production facility~~ meets all the ~~appropriate~~ requirements of the applicable specifications in R3-7-702 except that the maximum vapor pressure from May 1 through September 30, ~~gasoline shall meet the specifications requirements in ASTM D4814 except maximum vapor pressure shall be 9.0 pounds per square inch or as allowed under R3-7-708(B).~~
- B. The owner or operator of a motor fuel dispensing site shall ensure that the finished gasoline is visually free of water, sediment, and suspended matter and is clear and bright at ambient temperature or 70° F (21° C), whichever is greater.
- C. ~~The owner or operator of a motor fuel dispensing site or transmix or production facility shall ensure that the minimum octane rating determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method, is:~~
- ~~1. 87 for unleaded, or regular;~~
 - ~~2. 88 for mid-grade, extra, or any other gasoline with an octane rating of 88 or higher; and~~
 - ~~3. 90 for super, high performance, premium, or any other gasoline with an octane rating of 90 or higher.~~
- ~~D-C. Prohibited activities regarding a motor fuel sold or offered for sale outside the CBG-covered area.~~
- ~~1. The owner or operator of a motor fuel dispensing site shall not sell or offer for sale from the motor fuel dispensing site storage tank a product that is not a motor fuel;~~
 - ~~2. The owner or operator of a motor fuel dispensing site or transmix or production facility shall not sell or offer for sale a motor fuel that contains more than 0.3 volume percent MTBE or more than 0.1 weight percent oxygen from all other ethers or alcohols as listed in A.R.S. § ~~41-2122~~ 3-3491.~~
 - ~~3. A transporter shall not deliver to a motor fuel dispensing site or place in a motor fuel dispensing site storage tank a product that is not motor fuel.~~
- D. Biofuels and biofuel blends. Biofuel producers, biofuel blenders, and biofuel suppliers and owners or operators of motor fuel dispensing sites shall comply with the requirements in R3-7-718.

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

- A. Unless otherwise required in A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, or this Chapter, the producer of a motor fuel shall test and certify the motor fuel for its motor fuel properties using the methodologies in R3-7-702 ~~and ensure that the motor fuel meets the applicable specifications in the material incorporated by reference in R3-7-702.~~
- B. ~~Unless otherwise required in A.R.S. Title 41 3, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the methodologies and meet the specifications of ASTM D975.~~
- ~~C-B. The owner or operator of a transmix or production facility shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating shall be determined and certified in accordance with 16 CFR 306 using the average of ASTM D2699 and ASTM D2700, also known as the (R+M)/2 method. The owner or operator of a motor fuel dispensing site shall ensure that all gasoline sold or offered for sale outside the CBG-covered area has its octane rating posted in accordance with 16 CFR 306.~~

R3-7-716. Sampling and Access to Records

- A. The ~~Department~~ Division shall obtain motor fuel samples for testing from:
1. The same motor fuel dispenser used for sales to customers;
 2. The same motor fuel dispenser used for dispensing motor fuel into fleet vehicles;
 3. A bulk storage facility;
 4. A pipeline having custody of motor fuel, including Arizona CBG or AZRBOB;
 5. A transporter of motor fuel, including Arizona CBG or AZRBOB;
 6. A final distribution facility;
 7. A third-party terminal having custody of motor fuel, including Arizona CBG or AZRBOB;
 8. An oxygenate blender or registered supplier; or
 9. A transmix or production facility.
- B. An owner or operator of a motor fuel dispensing site, pipeline, third-party terminal, or storage, transmix, production, or distribution facility, or a transporter, registered supplier, or oxygenate blender shall maintain for five years records relating to producing, importing, blending, transporting, distributing, delivering, testing, or storing motor fuels, including Arizona CBG or AZRBOB, and shall make the records available for ~~Department~~ Division inspection upon request.

R3-7-717. ~~Hold-open Latch Exception~~ Motor Fuel Dispensing Site Equipment

- A. Hold-open latch. If an owner or operator of a motor fuel dispensing site has a dispensing device with a motor fuel nozzle equipped with a hold-open latch, the owner or operator shall ensure that the latch operates according to the manufacturer's specifications.
- B. Nozzle requirements for diesel fuel. An owner or operator of a motor fuel dispensing site with a dispensing device from which diesel fuel is sold at retail shall ensure that the dispensing device has a nozzle spout with a diameter that conforms to SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines."
- C. Motor fuel dispenser filters. An owner or operator of a motor fuel dispensing site shall ensure that:
1. All gasoline, gasoline-alcohol blends, and ethanol flex fuel dispensers have a 10 micron or small nominal pore-sized filter;
 2. Dispensers that dispense gasoline-alcohol blends shall have fuel filters designed for use with gasoline-alcohol blends; and



- 3. All biodiesel, biodiesel blends, diesel, and kerosene dispensers have a 30 micron or smaller nominal pore-sized filter.
- D.** From and after September 30, 2018, all retail diesel fuel dispensers shall be equipped with nozzles that have a green grip guard and ethanol flex fuel dispensers shall be equipped with nozzles that have a yellow grip guard. No other nozzles shall be equipment with these color grip guards.
- E.** Motor fuel dispensers shall meet appropriate Underwriter Laboratory ratings and be compatible with the motor fuel being dispensed.

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

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

- 1. Registration requirement.
 - a. A biofuel producer, biofuel supplier, or person required to register with the EPA under 40 CFR 80, Subpart K or M; biofuel blender shall register with the associate director Director, using a form prescribed by the associate director Director, before producing or supplying biofuel or biofuel blend in Arizona.
 - b. A person required to register under subsection (A)(1)(a) shall notify the associate director Director within 10 days after the effective date of a change in any of the information provided under subsection (A)(1)(a).
 - c. Consequences of failing ~~If a biofuel producer, biofuel supplier, or biofuel blender fails to register under subsection (A)(1)(a), the associate director shall take action as allowed under A.R.S. § 3-3475 and R3-7-762.~~
 - i. ~~If a producer fails to register, the Department shall presume that all biofuel or biofuel blend produced is noncompliant with the requirements of this Chapter from the date that registration should have occurred; and~~
 - ii. ~~If a supplier or person required to register with the EPA fails to register, the Director shall take action as allowed under A.R.S. § 41-2115 and R3-7-762.~~
 - d. The Department Division shall maintain and make available to the public a list of all persons registered under this Section.
- 2. Reporting requirement.
 - a. A person required to register under subsection (A)(1)(a) shall report to the Department Division by the 15th of the month after producing or supplying biofuel or biofuel blend January 30th of each year for the previous calendar year. The person shall:
 - i. Report on a form or in a format prescribed by the associate director Director;
 - ii. Provide the information specified in subsections (B) and (C), as applicable total amount of biofuel or biofuel blend produced or supplied in each calendar month, including the total amount of each blend component;
 - iii. Attest to the truthfulness and accuracy of the information submitted;
 - iv. Consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article; and
 - v. Ensure that the report form is signed or submitted electronically by a corporate officer, or the officer's designee, responsible for operations at the facility at or from which the biofuel or biofuel blend was produced or supplied.
 - b. The Department Division shall classify the information submitted under subsection (A)(2)(a) as confidential and protected under A.R.S. § 44-1374 if the person that submits the information expressly designates the information as confidential.

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

- a.1. A person required to register under subsection (A)(1)(a) biofuel producer or biofuel blender shall develop implement a QA/QC program to ensure the quality of a biofuel or biofuel blend produced in or supplied in or into Arizona;
 - b.2. A person required to develop a QA/QC program under subsection (A)(3)(a) shall summarize the QA/QC program in a manual and submit the manual to the Director for approval at least three months before the person plans to produce or supply a biofuel or biofuel blend. The person shall ensure that the manual implemented by a biofuel producer shall include the following minimum requirements:
 - i.a. Documents the manner in which the QA/QC program ensures that a biofuel or biofuel blend produced or supplied conforms to applicable ASTM specifications, is appropriately blended, and meets all customer specific requirements A sampling and testing program to certify that the biofuel meets applicable ASTM requirements. All samples shall be collected following addition of any applicable blend components in accordance with ASTM methods. The plan shall include a policy for sample retention;
 - ii.b. Contains a policy and objectives that expressly commit the producer or supplier to ensure the quality of the biofuel or biofuel blend produced or supplied A Certificate of Analysis with a unique identification number generated for each batch produced and indicated on the product transfer document;
 - iii.c. Contains procedures that will be used to determine and document that operational quality requirements are met; and The Certificate of Analysis required under subsection (B)(2)(b) and any other supporting sampling and testing documentation required under this Section is made available to the Division within 24 hours of a request; and
 - iv.d. Contains a provision for making, maintaining, and controlling documents and records regarding the QA/QC program. Any storage tank containing biofuel that is inactive for more than 30 days is resampled and analyzed to verify the fuel meets ASTM standards.
 - e. A person that submits a manual under subsection (A)(3)(b) shall not produce or supply a biofuel or biofuel blend until the manual is approved by the Director.
 - d. The Director shall approve a manual submitted under subsection (A)(3)(b) only if the Director determines that the QA/QC program sufficiently ensures the quality of a biofuel or biofuel blend produced or supplied.
3. The QA/QC program implemented by a biofuel blender shall include the following minimum requirements:
- a. Retention of:
 - i. Documentation that demonstrates the applicable biofuel blend components were received from a facility registered with the EPA under 40 CFR 80, subpart K or M;



- e. Test results are used to certify the quality of the E85 produced;
 - f. Sample handling and storage procedures are specified; and
 - g. Sample retention time frames are specified.
6. Non-compliant E85. If test results for E85 shipped from a facility indicate that the E85 does not comply with the requirements of this Chapter, the producer of the E85 shall immediately:
- a. Notify the Director of the test results;
 - b. Take all reasonable steps to stop the sale of the non-compliant E85; and
 - c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.
- C. Specific requirements for producers or suppliers of biodiesel and biodiesel blends.
1. A person shall not sell or offer or expose for sale:
 - a. Neat biodiesel unless the neat biodiesel meets all specifications established by ASTM D6751;
 - b. Diesel fuel containing up to five percent by volume biodiesel unless the diesel fuel meets all specifications established by ASTM D975; and
 - c. A blend containing six percent through 20 percent biodiesel and diesel fuel unless the blend meets all specifications established by ASTM D7467.
 2. The owner or operator of a motor fuel dispensing site shall ensure that:
 - a. Any motor fuel dispenser from which a biodiesel or biodiesel blend is dispensed:
 - i. Meets the labeling requirements established by A.R.S. § 41-2083(L);
 - ii. Is compatible with biodiesel or biodiesel blend; and
 - iii. Meets all requirements in this Chapter and A.R.S. § 41-2083; and
 - b. Any biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
 3. Additional requirement for producing biodiesel or biodiesel blend for sale in the CBG covered area. A producer of biodiesel or biodiesel blend for sale in the CBG covered area shall ensure that the diesel fuel used contains no more than 15 ppm of sulfur.
 4. Reporting requirement for a producer of a biodiesel or biodiesel blend. A producer of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the biodiesel or biodiesel blend produced:
 - a. The total amount of biodiesel or biodiesel blend produced in the previous month;
 - b. The amount of biodiesel used to produce a biodiesel blend in the previous month;
 - c. The following fuel quality properties, established by ASTM D6751, for the finished biodiesel:
 - i. Flash point;
 - ii. Water sediment;
 - iii. Sulfur content;
 - iv. Cold soak filterability;
 - v. Cloud point;
 - vi. Acid number;
 - vii. Free glycerin;
 - viii. Total glycerin; and
 - ix. Distillation, 90 percent; and
 - d. The following fuel quality properties, established by ASTM D7467, for the finished biodiesel blend that contains six percent through 20 percent biodiesel:
 - i. Sulfur content;
 - ii. Aromatic hydrocarbon content;
 - iii. Cetane index;
 - iv. Acid number;
 - v. Distillation; and
 - vi. American Petroleum Institute gravity.
 5. Reporting requirement for a supplier of a biodiesel or biodiesel blend. A supplier of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
 - a. The amount of biodiesel or biodiesel blend sold during the previous month; and
 - b. A certification by the supplier of biodiesel or biodiesel blend that the biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
 6. Quality Assurance and Quality Control (QA/QC) program for a producer of biodiesel or a biodiesel blend. Except as specified in subsection (C)(7), a producer of biodiesel or a biodiesel blend shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which biodiesel or a biodiesel blend is produced. The producer shall ensure that the sampling and testing protocol meets the following minimum standards:
 - a. All samples of biodiesel or biodiesel blend are collected after any applicable blend component is added;
 - b. All samples of biodiesel or biodiesel blend are collected using approved ASTM methods;
 - c. Sampling is done at one of the following rates:
 - i. If biodiesel or a biodiesel blend is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;

- ii. ~~If biodiesel or a biodiesel blend is blended or transferred into a delivery truck through the use of computer controlled in line blending equipment, a rate of at least one sample for every 20 times biodiesel or biodiesel blend is blended or transferred or one sample every two weeks, whichever is more frequent;~~
- iii. ~~If biodiesel or a biodiesel blend is blended or transferred into a delivery truck without the use of computer controlled in line blending equipment, a rate of at least one sample every 10 times biodiesel or biodiesel blend is blended or transferred or one sample per week, whichever is more frequent;~~
- d. ~~All testing of biodiesel or biodiesel blend is conducted using the appropriate ASTM test method outlined in ASTM D6751, D975, or D7467;~~
- e. ~~Test results are used to certify the quality of the biodiesel or biodiesel blend produced;~~
- f. ~~Sample handling and storage procedures are specified; and~~
- g. ~~Sample retention time frames are specified.~~
- 7. ~~A producer of biodiesel or a biodiesel blend that is accredited under the BQ9000 program shall, at least three months before planning to produce or supply a biodiesel or biodiesel blend, submit to the Director the quality manual developed and implemented under the BQ9000 program instead of the QA/QC manual required under subsection (C)(6). A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall not produce or supply a biodiesel or biodiesel blend until the quality manual developed under the BQ9000 program is approved by the Director. A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall, upon request, provide the Director with access to records relating to the accreditation and documentation relating to the precision and accuracy of any alternative test method used to meet the requirements of this Section. The Director has authority under A.R.S. §§ 41-2065(A)(4) and 41-2083(N) to audit the quality manual submitted under this subsection.~~
- 8. ~~Non compliant biodiesel or biodiesel blend. If test results for biodiesel or a biodiesel blend shipped from a facility indicate that the biodiesel or biodiesel blend does not comply with the requirements of this Chapter, the producer of the biodiesel or biodiesel blend shall immediately:~~
 - a. ~~Notify the Director of the test results;~~
 - b. ~~Take all reasonable steps to stop the sale of the non compliant biodiesel or biodiesel blend; and~~
 - c. ~~Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.~~
- D.** ~~Specific requirements for producers or suppliers of petroleum based renewable diesel. A producer or supplier of petroleum based renewable diesel that is intended as a final product for the fueling of motor vehicles shall ensure that the petroleum based renewable diesel:~~
 - 1. ~~Meets the standards in ASTM D975, and~~
 - 2. ~~Is identified as specified in R3-7-701.~~
- C.** Ethanol flex fuel sold or offered for sale within the CBG-covered area shall:
 - 1. Use fuel ethanol that meets the standards in this Chapter, and
 - 2. Have a maximum vapor pressure that does not exceed the maximum vapor pressure requirements in R3-7-751(A)(6).
- D.** Requirements for motor fuel dispensing sites. The owner or operator of a motor fuel dispensing site at which ethanol flex fuel is dispensed shall ensure that any ethanol flex fuel, biodiesel or biodiesel blend sold, offered or exposed for sale, or dispensed was received from and traceable to a person registered with the Division under subsection (A)(1) and the Environmental Protection Agency under 40 CFR 80, subparts K or M.
- E.** Exemptions.
 - 1. A biofuel producer, biofuel supplier, or biofuel blender located outside of Arizona and supplying biofuel to a registered biofuel producer, biofuel supplier, or biofuel blender located within Arizona is not required to register under subsection (A)(1)(a);
 - 2. Diesel fuel containing five percent by volume or less biodiesel is exempt from this Section if the following conditions are met:
 - a. The diesel fuel meets the standards of ASTM D975; and
 - b. If the initial volume percent of biodiesel content is unknown, the person blending the biodiesel into diesel fuel analyzes the diesel fuel to verify the initial biodiesel content and ensure the resulting blend meets the requirements in ASTM D975.
 - 3. A biofuel producer, biofuel supplier, or biofuel blender who produces, supplies, or blends diesel fuel blended with a biomass-based diesel where the resulting fuel meets the requirements in ASTM D975 is exempt from this section.
 - 4. Gasoline containing up to 10 percent ethanol is exempt from this section.

- R3-7-719. Repealed
- R3-7-720. Renumbered
- R3-7-721. Renumbered
- R3-7-722. Reserved
- R3-7-723. Reserved
- R3-7-724. Reserved
- R3-7-725. Reserved
- R3-7-726. Reserved
- R3-7-727. Reserved
- R3-7-728. Reserved
- R3-7-729. Reserved
- R3-7-730. Reserved
- R3-7-731. Reserved
- R3-7-732. Reserved
- R3-7-733. Reserved
- R3-7-734. Reserved



- R3-7-735. Reserved
- R3-7-736. Reserved
- R3-7-737. Reserved
- R3-7-738. Reserved
- R3-7-739. Reserved
- R3-7-740. Reserved
- R3-7-741. Reserved
- R3-7-742. Reserved
- R3-7-743. Reserved
- R3-7-744. Reserved
- R3-7-745. Reserved
- R3-7-746. Reserved
- R3-7-747. Reserved
- R3-7-748. Reserved

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

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

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

“Downstream oxygenate blending” means combining AZRBOB and fuel ethanol to produce fungible Arizona CBG.

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

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

“Oxygenated Arizona CBG” means Arizona CBG with a maximum oxygen content of 4.0 wt. percent or another oxygen content approved by the ~~associate director~~ ~~Director~~ under A.R.S. § ~~41-2124~~ ~~3-3493~~, that is produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles in the CBG-covered area from November 1 through March 31 of each year.

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

“PM” or “Predictive Model Procedures” means the California Predictive Model and CARB’s “California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model,” as adopted April 20, 1995, which is incorporated by reference in R3-7-702.

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

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

- Maximum vapor pressure, expressed in the nearest 100th of a pound per square inch;
- Maximum sulfur content, expressed in the nearest part per million by weight;
- Maximum olefin content, expressed in the nearest 10th of a percent by volume;
- Minimum and maximum oxygen content, expressed in the nearest 10th of a percent by weight;
- Maximum T50, expressed in the nearest degree Fahrenheit;
- Maximum T90, expressed in the nearest degree Fahrenheit; and
- Maximum aromatic hydrocarbon content, expressed in the nearest 10th of a percent by volume.

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

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

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

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

“Produce” means:

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

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

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

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

importer of the AZRBOB, rather than the oxygenate blender, is considered the producer or importer of the full volume of the resulting Arizona CBG.

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

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

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

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

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

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

“Winter” means November 1 through March 31.

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

- A. Each of the following shall register with the associate director ~~Director~~ before producing, importing, or obtaining custody of Arizona CBG or AZRBOB:
1. A refiner that produces Arizona CBG or AZRBOB;
 2. An importer that imports Arizona CBG or AZRBOB;
 3. An oxygenate blender that blends oxygenate with AZRBOB to produce Arizona CBG; or
 4. A pipeline or third-party terminal that has custody of Arizona CBG or AZRBOB.
- B. A person listed in subsection (A) shall register on a form prescribed by the associate director ~~Director~~ and include the following information:
1. Business name, business address, and contact name or position title and telephone number;
 2. For each refinery or oxygenate blending facility, the facility name, physical location, contact name or position title and telephone number, and type of facility;
 3. For each refinery, oxygenate blending facility, or importer:
 - a. The location of the records required under this Article. If records are kept off-site, the primary off-site storage facility name, physical location, and contact name or position title and telephone number; and
 - b. If an independent laboratory is used to meet the requirements of R3-7-752(F), the name and address of the independent laboratory, and contact name or position title and telephone number;
 4. If required under 40 CFR 80.76(d), the EPA registration number; and
 5. A statement of consent permitting the ~~Department~~ Division or its authorized agent to collect samples and access records as provided in R3-7-716.
- C. A person registered under subsection (B) shall notify the associate director ~~Director~~ within 10 days after the effective date of a change in any of the information provided under subsection (B).
- D. If a refiner, importer, or oxygenate blender fails to register under this Section, all Arizona CBG or AZRBOB produced by the refiner or oxygenate blender or imported by the importer and transported to the CBG-covered area is presumed to be noncompliant from the date that registration should have occurred.
- E. The ~~Department~~ Division shall maintain a list of all registered suppliers.

R3-7-751. Arizona CBG Requirements

- A. General fuel property and performance requirements. In addition to the other requirements of this Article and except as provided in subsection (B), all Arizona CBG shall meet the following requirements and for any fuel property not specified, shall meet the requirements in ASTM D4814. The dates in this subsection are compliance dates for the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility.
1. Sulfur: ~~500~~ 95 ppm by weight (max).
 2. Aromatics: 50 percent by volume (max).
 3. Olefins: 25 percent by volume (max).
 4. E200: 70-30 percent volume.
 5. E300: 100-70 percent volume.
 6. Maximum vapor pressure:
 - a. October: 9.0 psi.
 - b. November 1 - March 31: 9.0 psi.
 - c. April: 10.0 psi.
 - d. May: 9.0 psi.
 - e. June 1 - September 30: 7.0 psi.
 - f. A gasoline ethanol blend in the CBG-covered area is subject to the 1 psi vapor pressure waiver, as described in R3-7-708(B), during April only.
 7. Oxygen and oxygenates:
 - a. Minimum content:
 - i. November 1 - March 31: 10 percent fuel ethanol by volume. If A.R.S. § 41-2124(E) ~~3-3493(C)~~ petition in effect: 2.7 percent oxygen by weight as approved by the associate director ~~Director~~.
 - ii. April 1 - October 31: 0 percent by weight (any oxygenate).



- b. The maximum oxygen content shall not exceed 4.0 percent by weight for fuel ethanol and as specified in A.R.S. § ~~41-2122 3-3491~~ for other oxygenates, and shall comply with the requirements of A.R.S. § ~~41-2123 3-3492~~.
- c. Arizona CBG shall not contain more than 0.3 volume percent MTBE nor more than 0.1 weight percent oxygen from all other ethers or alcohols listed in A.R.S. § ~~41-2122 3-3491~~.
- 8. Type 1 Arizona CBG shall meet the Federal Complex Model VOC emissions reduction percentage May 1 through September 15: 27.5 percent (Federal Complex Model settings: Summer, Area Class B, Phase 2). Type 2 Arizona CBG shall meet CARB Phase 2 requirements.
- B.** Wintertime requirements. In addition to the other requirements of this Article, the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility shall ensure that beginning November 1 through March 31 of each year, all Arizona CBG meets the following fuel property requirements.
 - 1. Sulfur: 80 ppm by weight (max),
 - 2. Aromatics: 30% by volume (max),
 - 3. Olefins: 10% by volume (max),
 - 4. 90% Distillation Temp. (T90): 330° F (max),
 - 5. 50% Distillation Temp. (T50): 220° F (max),
 - 6. Vapor Pressure: 9.0 psi (max), and
 - 7. Oxygenate - Ethanol;
 - a. Minimum oxygenate content - 10 percent fuel ethanol by volume;
 - b. Maximum oxygen content - 4.0 percent oxygen by weight, and shall comply with the requirements of A.R.S. § ~~41-2123 3-3492~~; and
 - c. Alternative minimum fuel ethanol content may be used if approved by the associate director ~~Director~~ under A.R.S. § ~~41-2124(D) 3-3493(C)~~.
- C.** Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM D4806 and the following:
 - 1. A sulfur content not exceeding 10 ppm by weight,
 - 2. An olefins content not exceeding 0.5 percent by volume, and
 - 3. An aromatic hydrocarbon content not exceeding 1.7 percent by volume.
- D.** General elections. Except as provided in subsection (E), a registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the associate director ~~Director~~ on a form or in a format prescribed by the associate director ~~Director~~. The election shall state:
 - 1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with Type 1 Arizona CBG, Type 2 Arizona CBG, or the PM alternative gasoline formulation requirements and, if the registered supplier will supply Arizona CBG or AZRBOB that complies with the PM alternative gasoline formulation requirements, whether the registered supplier will certify using the CARB Phase 2 model; and
 - 2. For each applicable fuel property or performance standard in the election under subsection (D)(1), whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards. A registered supplier shall not elect to comply with average standards unless the registered supplier is in compliance with R3-7-760. A registered supplier shall not elect to comply with Type 1 Arizona CBG average standards in Table 1, columns B and C, from September 16 through October 31 and February 1 through April 30.
- E.** Winter elections. Beginning November 1 through March 31 of each year, a registered supplier shall ensure that all Arizona CBG or AZRBOB complies with Type 2 Arizona CBG requirements or the PM alternative gasoline formulation requirements under Table 2. A registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the associate director ~~Director~~ on a form or in a format prescribed by the associate director ~~Director~~. The election shall state:
 - 1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with the Type 2 Arizona CBG or the PM alternative gasoline formulation requirements; and
 - 2. For each applicable fuel property, whether the Arizona CBG or AZRBOB will comply with the average standards or per-gallon standards.
- F.** A registered supplier may elect and produce Type 1 Arizona CBG from December 1 through March 31 but the registered supplier shall not distribute the Arizona CBG to a motor fuel dispensing site within the CBG-covered area before April 1.
- G.** Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. A registered supplier shall certify Arizona CBG or AZRBOB under R3-7-752 as meeting all requirements of the election made in subsection (D) or (E). For each fuel property, Type 1 Arizona CBG shall comply with the requirements in either column A or columns B through D of Table 1, and shall be certified using the Federal Complex Model, which is incorporated by reference in R3-7-702. For each fuel property, Type 2 Arizona CBG shall comply with the requirements of columns A and B (averaging option), or column C in Table 2. The PM alternative gasoline formulation shall meet the requirements of subsections (H), (I), and (J), and column A of Table 2. A registered supplier may certify Arizona CBG or AZRBOB using an equivalent test method that the ~~Department~~ Division approves using the criteria stated in R3-7-759.
- H.** Certification and use of Predictive Model for alternative PM gasoline formulations.
 - 1. Except as provided in subsections (H)(4) and (J), a registered supplier shall use the PM as provided in the Predictive Model Procedures.
 - 2. A registered supplier shall certify a PM alternative gasoline formulation with the associate director ~~Director~~ by either:
 - a. Submitting to the associate director ~~Director~~ a complete copy of the documentation provided to the executive officer of CARB according to 13 California Code of Regulations, Section 2264 and subsection (J); or
 - b. Notifying the associate director ~~Director~~, on a form prescribed by or in a format acceptable to the associate director ~~Director~~, of:

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

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

 1. The elected PM alternative specifications do not meet the criteria for approval in the Predictive Model Procedures,
 2. The registered supplier is prohibited by subsection (H)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation,
 3. The gasoline fails to conform with any PM flat limit in the PM alternative specifications election, or
 4. With respect to any fuel property for which the registered supplier elects a PM averaging limit:
 - a. The gasoline exceeds the applicable PM average limit in Table 2, column B, and no designated alternative limit for the fuel property is established for the gasoline in accordance with subsection (H)(2); or
 - b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection (H)(2), and either the gasoline exceeds the designated alternative limit for the fuel property or the designated alternative limit for the fuel property exceeds the PM averaging limit and the exceedance is not fully offset in accordance with subsection (K).
- J. Oxygen content requirements for PM alternative gasoline formulations. A registered supplier shall ensure that from November 1 through March 31, all alternative PM gasoline formulations comply with oxygen content requirements for the CBG-covered area. Regardless of the oxygen content, a registered supplier shall certify the final alternative PM gasoline formulation using the PM with a minimum oxygen content of 2.0 percent by weight. A registered supplier may use the CARBOB Model as a substitute for the preparation of a fuel ethanol hand blend and use the fuel qualities calculated under the CARBOB Model for compliance and reporting purposes.
- K. Offsetting fuel properties and performance standards. A registered supplier that elects to comply with the averaging standards for any of the fuel properties or performance standards contained in Tables 1 and 2, or the PM, shall, from a single production or import facility, complete physical transfer of certified Arizona CBG or AZRBOB in sufficient quantity to offset the amount by which the Arizona CBG or AZRBOB exceeds the averaging standard according to the following schedule:
 1. A registered supplier that elects to comply with the averaging standards contained in Table 2 or the PM shall offset each exceeded average standard within 90 days before or after beginning to transport any final blend of Arizona CBG or AZRBOB from the production or import facility;
 2. A registered supplier that elects to comply with the averaging standard for the VOC Emission Reduction Percentage in Table 1, column B, shall offset an exceedance of the standard that occurs from May 1 ~~to~~ through September 15 during that same period; and
 3. A registered supplier that elects to comply with the averaging standard for the NOx Emission Reduction Percentage contained in Table 1, column B, shall offset an exceedance of the standard that occurs from May 1 ~~to~~ through September 15 during that same period.
- L. Consequence of failure to comply with averages.



1. In addition to a penalty under R3-7-762, if any, a registered supplier that fails to comply with a requirement of subsection (K) shall meet the applicable per-gallon standards contained in Table 1, Table 2, or an alternative PM gasoline formulation, for a probationary period as follows:
 - a. For a registered supplier that elects to comply with the standards contained in Table 1, the probationary period begins on the first day of the next averaging season and ends on the last day of that averaging season if the conditions of subsection (L)(2) are met;
 - b. For a registered supplier that elects to comply with the standards contained in Table 2 or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives a notice from the associate director ~~Director~~, that the registered supplier did not comply with the requirements of subsection (K). Before the probationary period begins, the registered supplier shall notify the associate director ~~Director~~ in writing of the beginning date of the probationary period. The probationary period ends 90 days after its beginning date.
 2. A registered supplier shall not produce or import Arizona CBG or AZRBOB under an averaging compliance election until:
 - a. The registered supplier submits a compliance plan to the associate director ~~Director~~ that includes:
 - i. An implementation schedule for actions to correct noncompliance, and
 - ii. Reporting requirements that document implementation of the compliance plan,
 - b. The associate director ~~Director~~ approves the plan,
 - c. The registered supplier implements the plan, and
 - d. The registered supplier achieves compliance.
 3. If a registered supplier fails to comply with the requirements of subsection (K) within one year of the end of a probationary period under subsection (L)(1), the registered supplier shall comply with applicable per-gallon standards for a subsequent probationary period of two years, or until the conditions in subsection (L)(2) are satisfied, whichever is later.
 - a. If a registered supplier elects to comply with the Table 1 standards, the probationary period begins on the first day of the next averaging season.
 - b. If a registered supplier elects to comply with the Table 2 standards or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives notice from the associate director ~~Director~~, that the registered supplier did not comply with the requirements of subsection (K). Before the probationary period begins, the registered supplier shall notify the associate director ~~Director~~ in writing of the beginning date of the probationary period.
 4. If a registered supplier fails to comply with the requirements of subsection (K) within one year after the end of a probationary period provided under subsection (L)(3), the registered supplier shall permanently comply with applicable per-gallon standards.
- M.** Effect of VOC survey failure. Each time a VOC survey conducted under R3-7-760 shows excess VOC emissions in the CBG-covered area, the VOC emissions performance reduction in R3-7-751(A)(8) and the minimum per-gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0 percent, not to exceed the VOC percent emissions reduction percentage per-gallon standard in Table 1, column A.
- N.** Effect of NOx survey failure. Each time a NOx survey conducted under R3-7-760 shows excess NOx emissions in the CBG-covered area, the NOx average emission reduction percentage applicable to the period of May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0 percent.
- O.** Subsequent survey compliance. If the minimum VOC or average NOx emissions reduction percentage has been made more stringent according to subsection (M) or (N) and all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction percentage in the CBG-covered area, the applicable VOC or NOx emissions adjusted reduction percentage shall be reduced by an absolute 1.0 percent beginning in the year following the year in which the second compliant survey is conducted. Each emissions reduction percentage adjusted under this subsection shall not be decreased below the following:
 1. >27 percent for the VOC emissions reduction percentage, May 1 - through September 15, Table 1, column C; and
 2. >6.8 percent for the NOx emissions reduction percentage, May 1 - through September 15, Table 1, column B.
- P.** Subsequent survey failures. If a VOC or NOx emissions reduction percentage is made less stringent under subsection (O) and a subsequent VOC or NOx survey shows excess VOC or NOx emissions in the CBG-covered area:
 1. For a VOC survey failure, the Federal Complex Model VOC emissions reduction percentage in R3-7-751(A)(8) and the minimum per gallon VOC emission reduction percentage in Table 1, column C shall be increased by an absolute 1.0 percent, not to exceed the VOC percent emissions reduction percentage per gallon standard in Table 1, column A;
 2. For a NOx survey failure, the NOx average emission reduction percentage applicable May 1 through September 15 in Table 1, column B shall be increased by an absolute 1.0 percent; and
 3. If the VOC or NOx emission reduction percentage is increased under subsection (P)(1) or (2), the VOC or NOx emission reduction percentage shall not be made less stringent regardless of the result of subsequent surveys for VOC or NOx emissions.
- Q.** Effective date for adjusted standards. If a performance standard is adjusted by operation of subsection (M), (N), (O), or (P), the effective date for the change is the beginning of the next averaging season for which the standard is applicable.

R3-7-751.01. Repealed

R3-7-752. General Requirements for Registered Suppliers

- A.** A registered supplier shall certify that each batch of Arizona CBG or AZRBOB transported for sale or use in the CBG-covered area meets the standards in this Article.
- B.** A registered supplier shall make the certification on a form or in a format prescribed by the associate director ~~Director~~. The registered supplier shall include in the certification information on shipment volumes, fuel properties as determined under R3-7-759, and performance standards for each batch of Arizona CBG or AZRBOB. The registered supplier shall submit the certification to the

associate director ~~Director~~ on or before the 15th day of each month for each batch of Arizona CBG or AZRBOB transported during the previous month.

C. Recordkeeping and records retention.

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

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

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

F. Independent testing.

1. A registered supplier of Arizona CBG or AZRBOB that does not develop a QA/QC program shall conduct a program of independent sample collection and analysis for the Arizona CBG or AZRBOB produced or imported, that complies with one of the following:
 - a. Option 1. A registered supplier shall, for each batch of Arizona CBG or AZRBOB produced or imported, have an independent laboratory collect and analyze a representative sample from the batch using the methodology specified in R3-7-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.
 - b. Option 2. A registered supplier shall have an independent testing program for all Arizona CBG or AZRBOB that the registered supplier produces or imports that consists of the following:
 - i. An independent laboratory shall collect a representative sample from each batch;
 - ii. The associate director ~~Director~~ or designee shall identify up to 10% of the samples collected under subsection (F)(1)(b)(i) for analysis; and
 - iii. The independent laboratory shall, for each sample identified by the associate director ~~Director~~ or designee, analyze the sample using the methodology specified in R3-7-759 for compliance with each fuel property and performance standard for which the Arizona CBG or AZRBOB is certified.
2. The associate director ~~Director~~ or designee may request in writing a duplicate of the batch sample collected under subsection (F)(1)(a) or (b) for analysis by a laboratory selected by the associate director ~~Director~~ or designee. The registered supplier shall submit a duplicate of the sample to the associate director ~~Director~~ within 24 hours of the written request.
3. Designation of independent laboratory.
 - a. A registered supplier that does not develop a QA/QC program shall designate one independent laboratory for each production or import facility at which the registered supplier produces or imports Arizona CBG or AZRBOB. The independent laboratory shall collect samples and perform analyses according to subsection (F).
 - b. A registered supplier shall identify the designated independent laboratory to the associate director ~~Director~~ under the registration requirements of R3-7-750.
 - c. A laboratory is considered independent if:
 - i. The laboratory is not operated by a registered supplier or the registered supplier's subsidiary or employee,
 - ii. The laboratory does not have any interest in any registered supplier, and
 - iii. The registered supplier does not have any interest in the designated laboratory.
 - d. Notwithstanding the restrictions in subsection (F)(3)(c), the associate director ~~Director~~ shall consider a laboratory independent if it is owned or operated by a pipeline owned or operated by four or more registered suppliers.



- e. A registered supplier shall not use a laboratory that is debarred, suspended, or proposed for debarment according to the Government-wide Debarment and Suspension regulations, 40 CFR 32, or the Debarment, Suspension and Ineligibility provisions of the Federal Acquisition Regulations, 48 CFR 9.4.
- 4. A registered supplier shall ensure that its designated independent laboratory:
 - a. Records the following at the time the designated independent laboratory collects a representative sample from a batch of Arizona CBG or AZRBOB:
 - i. The producer's or importer's assigned batch number for the batch sampled;
 - ii. The volume of the batch;
 - iii. The identification number of the gasoline storage tank in which the batch is stored at the time the sample is collected;
 - iv. The date and time the batch became Arizona CBG or AZRBOB;
 - v. The date and time the sample is collected;
 - vi. The grade of the batch (for example, unleaded premium, unleaded mid-grade, or unleaded); and
 - vii. For Arizona CBG or AZRBOB produced by computer-controlled in-line blending, the date and time the blending process began and the date and time the blending process ended, unless exempt under subsection (G);
 - b. Retains each sample collected under this subsection for at least 45 days, unless this time is extended by the associate director ~~Director~~ for up to 180 days;
 - c. Submits to the associate director ~~Director~~ a quarterly report on or before the 15th day of January, April, July, and October of each year that includes, for each sample of Arizona CBG or AZRBOB analyzed under subsection (F):
 - i. The results of the independent laboratory's analyses for each fuel property, and
 - ii. The information specified in subsection (F)(4)(a) for each sample; and
 - d. Supplies to the associate director ~~Director~~, upon request, a duplicate of the sample.
- G. Exemptions to QA/QC and independent laboratory testing requirements. A registered supplier that produces or imports Arizona CBG or AZRBOB using computer-controlled in-line blending equipment and operates under an exemption from EPA under 40 CFR 80.65(f)(iv), is exempt from the requirements of subsections (E) and (F), if reports of the results of the independent audit program of the registered supplier's computer-controlled in-line blending operation, which are submitted to EPA under 40 CFR 80.65(f)(iv), are submitted to the associate director ~~Director~~ by March 1 of each year.
- H. Use of laboratory analysis for certification of Arizona CBG and AZRBOB.
 - 1. If both a registered supplier and an independent laboratory collect a sample from the same batch of Arizona CBG or AZRBOB and perform a laboratory analysis under subsection (F) to determine compliance of the sample with a fuel property, the registered supplier and independent laboratory shall use the same test methodology. The results of the analysis conducted by the registered supplier shall be used for certification of the Arizona CBG or AZRBOB under subsection (B), unless the absolute value of the difference between the two results is larger than one of the following:
 - a. Sulfur content: 25 ppm by weight,
 - b. Aromatics: 2.7% by volume,
 - c. Olefins: 2.5% by volume,
 - d. Fuel ethanol: 0.4% by volume,
 - e. Vapor pressure: 0.3 psi,
 - f. 50% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
 - g. 90% distillation temperature: ASTM reproducibility for that sample using the slope from the registered supplier's results,
 - h. E200: 2.5% by volume,
 - i. E300: 3.5% by volume, or
 - j. API gravity: 0.3° API.
 - 2. If the absolute value of the difference between the results of the analyses conducted by the registered supplier and independent laboratory is larger than one of the values specified in subsection (H)(1), the registered supplier shall use one of the following for certification of the batch of Arizona CBG or AZRBOB under subsection (B):
 - a. The larger of the two values for each fuel property, except the smaller of the two values shall be used for measures of oxygenates; or
 - b. Have a second independent laboratory analyze the Arizona CBG or AZRBOB for each fuel property. If the difference between the results obtained by the second independent laboratory and those obtained by the registered supplier are within the range listed in subsection (H)(1), the registered supplier's results shall be used for certifying the Arizona CBG or AZRBOB under subsection (B).

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

- A. A pipeline or third-party terminal shall not accept Arizona CBG or AZRBOB for transport unless:
 - 1. The Arizona CBG or AZRBOB is physically transferred from an importer, refiner, oxygenate blender, pipeline, or third-party terminal registered with the Department Division under R3-7-750; and
 - 2. The registered supplier provides written verification that the gasoline is Arizona CBG or AZRBOB and complies with the standards in R3-7-751(A) or (B), as applicable, without reproducibility or numerical rounding.
- B. A pipeline or third-party terminal that transports Arizona CBG or AZRBOB shall collect a sample of each incoming batch. The pipeline or third-party terminal shall retain the sample for at least 30 days unless this time is extended for an individual sample for up to 180 days by the associate director ~~Director~~.
- C. A pipeline shall conduct quality control testing of Arizona CBG or AZRBOB at a frequency of at least one sample from one batch completing shipment for each registered supplier each day at each input location.

- D. A pipeline shall provide the associate director ~~Director~~ with a report summarizing the quality control testing results obtained under subsection (C) within 10 days of the end of each month. The report shall contain the quantity of Arizona CBG or AZRBOB, date tendered, whether the Arizona CBG or AZRBOB was transported by pipeline, present sample location, and laboratory analysis results.
- E. If a batch does not meet the standards in R3-7-751(A) or (B), as applicable, but is within reproducibility, the pipeline shall notify the associate director ~~Director~~ by fax or e-mail within 48 hours of the batch volume and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results.
- F. If a batch does not meet the standards in R3-7-751(A) or (B), as applicable, including reproducibility, the pipeline or third-party terminal shall notify the associate director ~~Director~~ by fax or e-mail within 24 hours of the batch quantity and date tendered, proposed shipment date, whether the batch was transported by the pipeline, present batch location, and laboratory analysis results. If the batch is in the pipeline's or third-party terminal's control, the pipeline or third-party terminal shall prevent release of the batch from a distribution point until the batch is certified as meeting the standards in R3-7-751(A) or (B), as applicable.
- G. A pipeline or third-party terminal shall develop a QA/QC program to demonstrate the accuracy and effectiveness of the pipeline's or third-party terminal's laboratory testing. The QA/QC program for a pipeline or third-party terminal shall include a description of the laboratory testing protocol used to verify that Arizona CBG or AZRBOB transported to the CBG-covered area meets the standards in R3-7-751(A) or (B). A pipeline or third-party terminal shall submit the QA/QC program to the associate director ~~Director~~ for approval at least three months before the pipeline or third-party terminal begins to transport Arizona CBG or AZRBOB. The associate director ~~Director~~ shall approve a QA/QC program only if the associate director ~~Director~~ determines that the QA/QC program ensures that the pipeline's or third-party terminal's laboratory testing produces data that are complete, accurate, and reproducible. If a pipeline or third-party terminal makes significant changes to the QA/QC program, the pipeline or third-party terminal shall resubmit the QA/QC program to the associate director ~~Director~~ for review and approval. Within 30 days of receiving the changed QA/QC program, the associate director ~~Director~~ shall determine whether the changed QA/QC program meets the quality objectives originally approved by the Department Division. The associate director ~~Director~~ shall approve the changed QA/QC program if it meets the quality objectives.
- H. A portion of a facility that a third-party terminal uses for production, import, or oxygenate blending is exempt from this Section, but the third-party terminal shall operate the exempt portion of the facility in compliance with requirements for registered suppliers in R3-7-752 and oxygenate blenders in R3-7-755, as applicable.
- I. A pipeline is not liable under R3-7-761 if it follows all of the procedures in this Section.

R3-7-754. Downstream Blending Exceptions for Transmix

- A. A pipeline or third-party terminal may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of one percent by volume. Each pipeline or third-party terminal shall document the transmix blending (recording each batch and volume of transmix blended) and maintain the records at the third-party terminal for two years from the date of blending.
- B. One of two methods shall be used to measure the transmix as it is blended into the product stream:
 - 1. Meters, calibrated at least twice each year; or
 - 2. Tank gauge as per API Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992), incorporated by reference and on file with the Department Division. A copy may also be obtained at American Petroleum Institute, 1220 L St., N.W., Washington, D.C. 20005-4070. This incorporation by reference contains no future editions or amendments.

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

- A. Application of Arizona CBG standards to AZRBOB.
 - 1. Determining whether AZRBOB complies with Arizona CBG standards.
 - a. If a registered supplier designates a final blend as AZRBOB and complies with the provisions of this Section, the fuel properties and performance standards of the AZRBOB, for purposes of compliance with Table 2, are determined by adding the specified amount of fuel ethanol to a representative sample of the AZRBOB and testing the resulting gasoline using the test methods in R3-7-759 or certifying the ARZBOB using the CARBOB model. If the registered supplier designates a range of amounts of fuel ethanol to be added to the AZRBOB, the minimum designated amount of fuel ethanol shall be added to the AZRBOB to determine the fuel properties and performance standards of the resulting Arizona CBG. If a registered supplier does not comply with this subsection, the Department Division shall determine whether the AZRBOB complies with applicable fuel properties and performance standards, excluding requirements for vapor pressure, without adding fuel ethanol to the AZRBOB.
 - b. In determining whether AZRBOB complies with the Arizona CBG standards, the registered supplier shall ensure that the fuel ethanol added to the representative sample under subsection (A)(1)(a) is representative of the fuel ethanol the registered supplier reasonably expects will be subsequently added to the AZRBOB.
 - 2. Calculating the volume of AZRBOB. If a registered supplier designates a final blend as AZRBOB and complies with this Section, the volume of AZRBOB is calculated for compliance purposes under R3-7-751 by adding the minimum amount of fuel ethanol designated by the registered supplier. If a registered supplier fails to comply with this subsection, the Department Division shall calculate the volume of AZRBOB for purposes of compliance with applicable fuel properties and performance standards without adding the amount of fuel ethanol to the AZRBOB.
- B. Restrictions on transferring AZRBOB.
 - 1. A person shall not transfer ownership or custody of AZRBOB to any other person unless the transferee notifies the transferor in writing that:
 - a. The transferee is a registered oxygenate blender and will add fuel ethanol in the amount (or within the range of amounts) designated in R3-7-757 before the AZRBOB is transferred from a final distribution facility, or



- b. The transferee will take all reasonably prudent steps necessary to ensure that the AZRBOB is transferred to a registered oxygenate blender that adds the amount (or within the range of amounts) of fuel ethanol designated in R3-7-757 to the AZRBOB before the AZRBOB is transferred from a final distribution facility.
2. A person shall not sell or supply Arizona CBG from a final distribution facility if the amount or range of amounts of fuel ethanol designated in R3-7-757 has not been added to the AZRBOB.
- C. Restrictions on blending AZRBOB with other products. A person shall not combine AZRBOB supplied from the facility at which the AZRBOB is produced or imported with any other AZRBOB, gasoline, blendstock, or oxygenate, except for:
 1. Fuel ethanol in the amount (or within the range of amounts) specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility, or
 2. Other AZRBOB for which the same fuel ethanol amount (or range of amounts) is specified by the registered supplier at the time the AZRBOB is supplied from the production or import facility.
- D. Quality assurance sampling and testing requirements for a registered supplier supplying AZRBOB from a production or import facility. A registered supplier supplying AZRBOB from a production or import facility shall use an independent third-party quality assurance sampling and testing program as described in subsection (E) or conduct a quality assurance sampling and testing program that meets the requirements of 40 CFR 80.69(a)(7), as it existed on July 1, 1996, except for the changes listed in subsections (D)(1) through (3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the ~~Department~~ Division. A copy may be obtained at the Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
 1. 40 CFR 80.69(a)(7). The word "RBOB" is changed to read "AZRBOB";
 2. 40 CFR 80.69(a)(7). "...using the methodology specified in § 80.46..." is changed to read "...using the methodology specified in R3-7-759...;" and
 3. 40 CFR 80.69(a)(7)(ii). "(within the correlation ranges specified in § 80.65(e)(2)(i))" is changed to read "(within the ranges of the applicable test methods)."
- E. General requirements for an independent third-party quality assurance sampling and testing program. A registered supplier may contract with an independent third party that conducts a quality assurance sampling and testing program for one or more registered suppliers. The registered supplier shall ensure that the quality assurance sampling and testing program:
 1. Is designed and conducted by a third party that is independent of the registered supplier. To be considered independent:
 - a. The third party shall not be an employee of a registered supplier,
 - b. The third party shall not have an obligation to or interest in any registered supplier, and
 - c. The registered supplier shall not have an obligation to or interest in the third party;
 2. Is conducted from November 1 through March 31 on all samples collected under the program design previously approved by the ~~associate director~~ Director under subsection (G);
 3. Involves sampling and testing that is representative of all Arizona CBG dispensed in the CBG-covered area;
 4. Analyzes each sample for oxygenate according to the methodologies specified in R3-7-759;
 5. Bases results on an analysis of each sample collected during the sampling period unless a specific sample does not comply with the applicable per gallon maximum or minimum standards for the fuel property being evaluated in addition to any reproducibility applicable to the fuel property;
 6. Participates in a correlation program with the ~~associate director~~ Director to ensure the validity of analysis results;
 7. Does not provide advance notice, except as provided in subsection (F), of the date or location of any sampling;
 8. Provides a duplicate of any sample, with information regarding where and the date on which the sample was collected, upon request of the ~~associate director~~ Director, within 30 days after submitting the report required under subsection (E)(10);
 9. Permits a ~~Department~~ Division official to monitor sample collection, transportation, storage, and analysis at any time; and
 10. Prepares and submits a report to the ~~associate director~~ Director within 30 days after the sampling is completed that includes the following information:
 - a. Name of the person collecting the samples;
 - b. Attestation by an officer of the third party that the sampling and testing was done according to the program plan approved by the ~~associate director~~ Director under subsection (G) and the results are accurate;
 - c. Identification of the registered supplier for whom the sampling and testing program was conducted if the sampling and testing program was conducted for only one registered supplier;
 - d. Identification of the area from which the samples were collected;
 - e. Address of each motor fuel dispensing site from which a sample was collected;
 - f. Dates on which the samples were collected;
 - g. Results of the analysis of the samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable;
 - h. Name and address of each laboratory at which the samples were analyzed;
 - i. Description of the method used to select the motor fuel dispensing sites from which a sample was collected;
 - j. Number of samples collected at each motor fuel dispensing site; and
 - k. Justification for excluding a collected sample if one was excluded.
- F. An independent third party that contracts with one or more registered suppliers to conduct a quality assurance sampling and testing program shall begin the sampling on the date selected by the ~~associate director~~ Director. The ~~associate director~~ Director shall inform the third party of the date selected at least 10 business days before sampling is to begin.
- G. To obtain the ~~associate director's~~ Director's approval of an independent third-party quality assurance sampling and testing program plan, the person seeking the approval shall:
 1. Submit the plan to the ~~associate director~~ Director no later than January 1 to cover the sampling and testing period from November 1 through March 31 of each year, and

2. Have the plan signed by an officer of the third party that will conduct the sampling and testing program.
- H. No later than September 1 of each year, a registered supplier that intends to meet the requirements in subsection (D) by contracting with an independent third party to conduct quality assurance sampling and testing from November 1 through March 31 shall enter into the contract and pay all of the money necessary to conduct the sampling and testing program. The registered supplier may pay the money necessary to conduct the sampling and testing program to the third party or to an escrow account with instructions to the escrow agent to release the money to the third party as the testing program is implemented. No later than September 15, the registered supplier shall submit to the associate director ~~Director~~ a copy of the contract with the third party, proof that the money necessary to conduct the sampling and testing program has been paid, and, if applicable, a copy of the escrow agreement.
- I. Requirements for oxygenate blenders.
 1. Requirement to add fuel ethanol to AZRBOB. If an oxygenate blender receives AZRBOB from a transferor to whom the oxygenate blender represents that fuel ethanol will be added to the AZRBOB, the oxygenate blender shall add fuel ethanol to the AZRBOB in the amount (or within the range of amounts) identified in the documentation accompanying the AZRBOB.
 2. Additional requirements for oxygenate blending at terminals. An oxygenate blender that makes Arizona CBG by blending fuel ethanol with AZRBOB in a motor fuel storage tank, other than a truck used to deliver motor fuel to a retail outlet or bulk-purchaser consumer facility, shall determine the oxygen content and volume of the Arizona CBG before shipping, by collecting and analyzing a representative sample of the Arizona CBG, using the methodology in R3-7-759.
 3. Additional requirements for oxygenate blending in trucks. An oxygenate blender that blends AZRBOB in a motor fuel delivery truck shall conduct quality assurance sampling and testing that meets the requirements in 40 CFR 80.69(e)(2), as it existed on July 1, 1996, except for the changes listed in subsections (I)(3)(a) through (c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the ~~Department~~ Division. A copy may be obtained at the Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
 - a. 40 CFR 80.69(e)(2). The word “RBOB” is changed to read “AZRBOB;”
 - b. 40 CFR 80.69(e)(2)(iv). “... using the testing methodology specified at § 80.46 ...” is changed to read “... using the testing methodology specified in R3-7-759...;” and
 - c. 40 CFR 80.69(e)(2)(v). “(within the ranges specified in § 80.70(b)(2)(I))” is changed to read “(within the ranges of the applicable test methods).”
 4. Additional requirements for in-line oxygenate blending in pipelines using computer-controlled blending.
 - a. An oxygenate blender that produces Arizona CBG by blending fuel ethanol with AZRBOB into a pipeline using computer-controlled in-line blending shall, for each batch of Arizona CBG produced:
 - i. Obtain a flow proportional composite sample after the addition of fuel ethanol and before combining the resulting Arizona CBG with any other Arizona CBG;
 - ii. Determine the oxygen content of the Arizona CBG by analyzing the composite sample within 24 hours of blending using the methodology in R3-7-759; and
 - iii. Determine the volume of the resulting Arizona CBG.
 - b. If the test results for the Arizona CBG indicate that it does not contain the amount of fuel ethanol specified by the ranges of the applicable test methods, the oxygenate blender shall:
 - i. Notify the pipeline to downgrade the Arizona CBG to conventional gasoline or transmix upon arrival in Arizona;
 - ii. Begin an investigation to determine the cause of the noncompliance;
 - iii. Collect a representative sample every two hours during each in-line blend of AZRBOB and fuel ethanol, and analyze the samples within 12 hours of collection, until the cause of the noncompliance is determined and corrected; and
 - iv. Notify the associate director ~~Director~~ in writing within one business day that the Arizona CBG does not comply with the requirements of this Article.
 - c. The oxygenate blender shall comply with subsection (I)(4)(b)(iii) until the associate director ~~Director~~ determines that the corrective action has remedied the noncompliance.
 5. Recordkeeping and records retention.
 - a. An oxygenate blender shall maintain, for five years from the date of each sampling, records of the following:
 - i. Sample date,
 - ii. Identity of blend or product sampled,
 - iii. Container or other vessel sampled,
 - iv. Volume of final blend or shipment,
 - v. Oxygen content as determined under R3-7-759, and
 - vi. Results from all testing.
 - b. The associate director ~~Director~~ shall deem that Arizona CBG blended by an oxygenate blender and not tested and documented as required by this Section has an oxygen content that exceeds the standards specified in R3-7-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the associate director ~~Director~~ that the Arizona CBG meets the standards in R3-7-751.
 - c. Within 20 days of the associate director's ~~Director's~~ written request, an oxygenate blender shall provide any records maintained by the oxygenate blender under this Section. If the oxygenate blender fails to provide records requested for a blend or shipment of Arizona CBG, the associate director ~~Director~~ shall deem that the blend or shipment of Arizona CBG violates R3-7-751 or exceeds the comparable PM averaging limits, if applicable, unless the oxygenate blender demonstrates to the associate director ~~Director~~ that the Arizona CBG meets the standards and limits under R3-7-751.
 6. Notification requirement. An oxygenate blender shall notify the associate director ~~Director~~ by fax or e-mail before transporting Arizona CBG or AZRBOB into the CBG-covered area by a means other than a pipeline.
 7. Quality assurance and quality control (QA/QC) program. An oxygenate blender that conducts sampling and testing under subsection (I) in the oxygenate blender's own laboratory shall develop a QA/QC program to demonstrate the accuracy and



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

- 8. An oxygenate blender that does not conduct laboratory sampling and testing required under subsection (I) in its own laboratory shall designate an independent laboratory, as described in R3-7-752(F), to conduct the sampling and testing required under subsection (I)(7).
- 9. Within 24 hours of the ~~associate director’s~~ Director’s or designee’s written request, an oxygenate blender shall submit a duplicate of any sample collected under subsection (I)(7).
- J. Subsection (A)(1)(a) will not become effective until Arizona’s revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

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

- A. A person shall not combine Arizona CBG supplied from a production or import facility with any nonoxygenate blendstock, other than vapor recovery condensate, unless the person demonstrates to the ~~associate director~~ Director:
 - 1. The blendstock added to the Arizona CBG meets all of the Arizona CBG standards regardless of the fuel properties and performance standards of the Arizona CBG to which the blendstock is added;
 - 2. The person meets the requirements in this Article applicable to producers of Arizona CBG; and
 - 3. The resulting fuel blend is not used within the CBG-covered area.
- B. Notwithstanding subsection (A), a person may add nonoxygenate blendstock to a previously certified batch or mixture of certified batches of Arizona CBG that does not comply with one or more of the applicable per-gallon standards contained in R3-7-751(A) or (B) if the person obtains prior written approval from the ~~associate director~~ Director based on a demonstration that adding the blendstock will bring the previously certified Arizona CBG into compliance with the applicable per-gallon standards for Arizona CBG. The oxygenate blender or registered supplier shall certify the re-blended Arizona CBG to the ~~Department~~ Division.

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

- A. If a person transfers custody or title to Arizona CBG or AZRBOB, other than when Arizona CBG is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility, the transferor shall provide to the transferee documents that include the following:
 - 1. Volume of Arizona CBG or AZRBOB being transferred;
 - 2. Location of the Arizona CBG or AZRBOB at the time of transfer;
 - 3. Date of the transfer;
 - 4. Product transfer document number;
 - 5. Identification of the gasoline as Arizona CBG or AZRBOB;
 - 6. Minimum octane rating of the Arizona CBG or AZRBOB;
 - 7. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through March 31, the minimum quantity of fuel ethanol contained in the Arizona CBG;
 - 8. If the product transferred is AZRBOB for which fuel ethanol blending is intended:
 - a. Identification of the fuel as AZRBOB and a statement that the “AZRBOB does not comply with the standards for Arizona CBG without the addition of fuel ethanol”;
 - b. ~~Designation of the AZRBOB as suitable for blending with fuel ethanol;~~
 - e.b. Fuel ethanol amount or range of amounts that the AZRBOB requires to meet the fuel properties or performance standards claimed by the registered supplier of the AZRBOB, and the applicable specifications for volume percent fuel ethanol and weight percent oxygen content; and
 - d.c. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless the other AZRBOB has the same requirements for fuel ethanol amount or range of amounts; and
 - 9. The final destination:
 - a. When a terminal is the transferor, the owner or the operator of the product transfer document the terminal name and address, ~~and the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;~~
 - b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
 - c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.
- B. To enable a transferor to comply fully with the requirement in subsection (A)(9), the transferee shall supply to the transferor information regarding the final destination.
- C. A registered supplier, third-party terminal, or pipeline may comply with subsection (A) by using standardized product codes on pipeline tickets if the codes are specified in a manual distributed by the pipeline to transferees of the Arizona CBG or AZRBOB, and the manual includes all required information for the Arizona CBG or AZRBOB.

- D. Any transferee in subsection (A), other than a registered supplier, oxygenate blender, third-party terminal, pipeline, motor fuel dispensing site, or fleet vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 24 months before the most recent transfer. The transferee shall maintain product transfer documents for the 30 days before the most recent transfer at the business address listed on the product transfer document. The transferee may maintain all remaining product transfer documents for the preceding 24 months elsewhere.
- E. A motor fuel dispensing site or fleet vehicle fueling facility shall retain product transfer documents for each shipment of Arizona CBG transferred during the 12 months before the most recent transfer. The motor fuel dispensing site or fleet vehicle fueling facility shall maintain product transfer documents for the three most recent transfers on the premises. The motor fuel dispensing site or fleet vehicle fueling facility may maintain the remaining product transfer documents for the preceding 12 months elsewhere.
- F. A registered supplier, oxygenate blender, third-party terminal, or pipeline shall retain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 60 months before the most recent transfer. The transferee shall maintain product transfer documents for each shipment of Arizona CBG or AZRBOB transferred during the 30 days preceding the most recent transfer at the business address listed on the product transfer document. The transferee may maintain all remaining product transfer documents for the preceding 60 months elsewhere.
- G. When a person transfers custody or title of fuel ethanol that is intended for use as a blend component in AZRBOB or Arizona CBG, the person shall provide the transferee a document that prominently states that the fuel ethanol complies with the standards for fuel ethanol intended for use as a blend component in AZRBOB or Arizona CBG.
- H. Upon request by the ~~associate director~~ Director or designee, a person shall present product transfer documents to the ~~Department~~ Division within two working days of the request. Legible photocopies of the product transfer documents are acceptable.

R3-7-758. Repealed

R3-7-759. Testing Methodologies

- A. Except as provided in subsection (C), a registered supplier or importer certifying Arizona CBG or AZRBOB as meeting the requirements of this Article shall use one of the methods listed in Table A. A copy of the EPA- or CARB-approved ASTM methods may be obtained at: ASTM International (formerly American Society for Testing and Materials), 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org. A copy of the CARB methods may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
- B. An oxygenate blender or third-party terminal certifying Arizona CBG or AZRBOB before transport to the CBG-covered area shall measure fuel ethanol in accordance with the oxygenate blender’s or third-party terminal’s approved QA/QC program or in accordance with one of the methods listed in Table A.
- C. Rather than using a method listed in Table A to certify Arizona CBG or AZRBOB, a registered supplier may use the CARBOB Model and use the fuel-quality measures calculated using the CARBOB Model for compliance and reporting purposes.
- D. A test method that the ~~Department~~ Division determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The ~~Department~~ Division has determined that test methods approved by either the EPA or CARB are equivalent test methods. To determine whether a proposed test method is equivalent to those listed in Table A, the ~~Department~~ Division shall thoroughly review data from both the proposed and designated test methods and assess whether the accuracy and precision of the proposed method is equal to or better than the accuracy and precision of the designated method and whether there is significant bias between the two methods. The ~~Department~~ Division shall approve a proposed test method only if the ~~Department~~ Division determines that the accuracy and precision of the proposed test method is equal to or better than the accuracy and precision of the designated method and receives the concurrence of the EPA Regional Administrator. A correlation equation may be required to align the two methods. If a correlation equation is required to align the two methods, the correlation equation becomes part of the equivalent method.
- E. Subsections (C) and (D) will not become effective until Arizona’s revised State Implementation Plan submitted by ADEQ to EPA in August 2013 and subsequent supplement submitted July 2014 is approved by EPA.

Table A. Arizona ~~Department of~~ Weights and Measures ~~Services~~ Division Test Methods for Arizona CBG and AZRBOB

Fuel Parameter	Units	EPA-approved Test Method	EPA-approved Reproducibility	CARB-approved Test Method	CARB-approved Reproducibility
Aromatics	V%	D5769-04			
	V%	D1319-02a (2003) ^A	1.65	D5580-00	1.4
Benzene	V%	D3606-99 (2007)	0.21	D5580-00	0.1409 (X) ^{1,133}
Olefins	V%	D1319-02a (2003)	0.32 (x) ^{0.5}	D6550-00 (2005) if correlated to D1319	0.32 (X) ^{0.5; Footnote 1}
Oxygenates	W%	D5599-00	See test method	D4815-99 (2004)	See test method
	W%	D4815-99 (2004) ^B	See test method		
Vapor Pressure (Correlation Equation) <small>Footnote 2</small>	psi	D5191-01 (2007)	0.3	13 CCR Section 2297	0.21



Sulfur	wppm	D2622-98 (2005)		D5453-93	0.2217 (x) ^{0.92} wppm
				D2622-94 (modified)	10-30 wppm R=0.405 (x) > 30 wppm R =0.192 (x)
Distillation T50	deg F	D86-01 (2007b)	See test method	D86-99ae1	See test method
Distillation T90	deg F	D86-01 (2007b)	See test method	D86-99ae1	See test method

^A A refinery or importer may determine aromatics content using ASTM D1319-02a (2003) if the result is correlated to ASTM D5769-98 (2004).

^B A refinery or importer may determine oxygenate content using ASTM D4815-99 (2004) if the result is correlated to ASTM D5599-00 (2005).

Footnotes:

1. Replace the last sentence in ASTM D6550-00 (2005) Section 1.1 with the following: “The application range is from 0.3 to 25 mass percent total olefin, as defined in Section 2263(b), Title 13, California Code of Regulations. If olefin concentrations are not detected, substitute one-half of the detection limit.”
2. When determining vapor pressure, the only correlation equation to be used is equation 1 in ASTM D5191-07, Section 14.2, ASTM equation ((.965X)-A).

R3-7-760. Compliance Surveys

- A. A registered supplier that elects to certify that Arizona CBG or AZRBOB meets an averaging standard under R3-7-751 shall ensure that compliance surveys are conducted in accordance with a compliance survey program plan approved by the associate director ~~Director~~. The associate director ~~Director~~ shall approve a compliance survey program plan if it:
 1. Consists of at least four VOC and NOx surveys conducted at least one per month between May 1 through September 15 of each year, and
 2. Complies with subsection (J).
- B. If a registered supplier fails to ensure that an approved compliance survey program is conducted, the associate director ~~Director~~ shall issue an order requiring the registered supplier to comply with all applicable fuel property and performance standards on a per-gallon basis for six months or through the end of the survey period identified in subsection (A)(1), whichever is longer. Regardless of when a failure to survey occurs, the associate director's ~~Director's~~ order shall require compliance with per-gallon standards from the beginning of the survey period during which the failure to survey occurs.
- C. General compliance survey requirements. A registered supplier shall ensure that a compliance survey conforms to the following:
 1. Consists of all samples that are collected under an approved survey program plan during any consecutive seven days and that are not excluded under subsection (C)(4);
 2. Is representative of all Arizona CBG being dispensed in the CBG-covered area as provided in subsection (G);
 3. Analyzes each sample included in the compliance survey for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and vapor pressure according to the test methods in R3-7-759. Vapor pressure is required to be analyzed only from May 1 through September 15;
 4. Bases the results of the compliance survey upon an analysis of each sample collected during the course of the compliance survey, unless a sample does not comply with the applicable per gallon maximum or minimum fuel property standard being evaluated in addition to any reproducibility that applies to the fuel property standard; and
 5. If a laboratory analyzes the compliance survey samples, the laboratory participates in a correlation program with the associate director ~~Director~~ to ensure the validity of analysis results.
- D. If the associate director ~~Director~~ determines that a sample used in a compliance survey does not comply with R3-7-751 or another requirement under this Article, the associate director ~~Director~~ shall take enforcement action against the registered supplier.
- E. A registered supplier shall comply with the following VOC and NOx compliance survey requirements:
 1. For each compliance survey sample, determine the VOC and NOx emissions reduction percentage based upon the tested fuel properties for that sample using the methodology for calculating VOC and NOx emissions reductions at 40 CFR 80.45, as incorporated by reference in R3-7-702;
 2. The CBG-covered area fails a VOC compliance survey if the VOC emissions reduction percentage average of all samples collected during the compliance survey is less than the per-gallon standard for VOC emissions reduction percentage in Table 1, column A.
 3. The CBG-covered area fails a NOx compliance survey if the NOx emissions reduction percentage average of all samples collected during the compliance survey is less than the per-gallon standard for NOx emissions reduction percentage in Table 1, column A.
- F. A registered supplier shall determine the result of the series of NOx compliance surveys conducted ~~between~~ May 1 ~~and~~ through September 15 as follows:
 1. For each compliance survey sample, the NOx emissions reduction percentage is determined based upon the tested fuel properties for that sample using the methodology for calculating NOx emissions reduction at 40 CFR 80.45, as incorporated by reference in R3-7-702; and
 2. The CBG-covered area fails the NOx series of compliance surveys conducted ~~between~~ May 1 ~~and~~ through September 15 if the NOx emissions reduction percentage average for all compliance survey samples collected during that time is less than the Federal Complex Model per-gallon standard for the NOx emissions reduction percentage in Table 1, column A.

- G.** General requirements for an independent surveyor conducting a compliance survey. A registered supplier may have the compliance surveys required by this Section conducted by an independent surveyor. The associate director ~~Director~~ shall approve a compliance survey program conducted by an independent surveyor if the compliance survey program:
1. Is designed and conducted by a surveyor that is independent of the registered supplier. To be considered independent:
 - a. The surveyor shall not be an employee of any registered supplier,
 - b. The surveyor shall not have an obligation to or interest in any registered supplier, and
 - c. The registered supplier shall not have an obligation to or interest in the surveyor;
 2. Includes enough samples to ensure that the average levels of oxygen, vapor pressure, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95 percent confidence level, with error of less than 0.1 psi for vapor pressure, 0.1 percent for oxygen (by weight), 0.5 percent for aromatic hydrocarbons (by volume), 0.5 percent for olefins (by volume), 5°F for T50 and T90, and 10 wppm for sulfur;
 3. Requires that the surveyor not provide advance notice, except as provided in subsection (H), of the date or location of any survey sampling;
 4. Requires that the surveyor provide a duplicate of any sample taken during the survey, with information regarding the name and address of the facility from and the date on which the sample was taken, upon request of the associate director ~~Director~~, within 30 days following submission of the survey report required under subsection (G)(6);
 5. Requires that the surveyor permit a ~~Department~~ Division official to monitor sample collection, transportation, storage, and analysis at any time;
 6. Requires the surveyor to submit a report of each survey to the associate director ~~Director~~ within 30 days after sampling for the survey is completed that includes the following information:
 - a. Name of the person conducting the survey;
 - b. Attestation by an officer of the surveyor that the sampling and testing was conducted according to the compliance survey program plan and the results are accurate;
 - c. Identification of the registered supplier for whom the compliance survey was conducted if the compliance survey was conducted for only one registered supplier;
 - d. Identification of the area from which survey samples were selected;
 - e. Dates on which the survey was conducted;
 - f. Address of each facility at which a sample was collected, and the date of collection;
 - g. Results of the analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable, for each survey conducted during the period identified in subsection (A)(1);
 - h. Name and address of each laboratory at which samples were analyzed;
 - i. Description of the method used to select the facilities from which a sample was collected;
 - j. Number of samples collected from each facility;
 - k. Justification for excluding a collected sample from the survey, if one was excluded; and
 - l. Average VOC and NOx emissions reduction percentage.
- H.** An independent surveyor shall begin each survey on a date selected by the associate director ~~Director~~. The associate director ~~Director~~ shall notify the surveyor of the date selected at least 10 business days before the survey is to begin.
- I.** To obtain the associate director's ~~Director's~~ approval of a compliance survey program plan, the person seeking approval shall:
1. Submit the plan to the associate director ~~Director~~ no later than January 1 to cover the survey period of May 1 through September 15 of each year, and
 2. Have the plan signed by a corporate officer of the registered supplier or by an officer of the independent surveyor.
- J.** No later than April 1 of each year, a registered supplier that intends to meet the requirements in subsection (A) by contracting with an independent surveyor to conduct the compliance survey plan for the next summer and winter season shall enter into the contract and pay all of the money necessary to conduct the compliance survey plan. The registered supplier may pay the money necessary to conduct the compliance survey plan to the independent surveyor or to an escrow account with instructions to the escrow agent to release the money to the independent surveyor as the compliance survey plan is implemented. No later than April 15, the registered supplier shall submit to the associate director ~~Director~~ a copy of the contract with the independent surveyor, proof that the money necessary to conduct the compliance survey plan has been paid, and, if applicable, a copy of the escrow agreement.

R3-7-761. Liability for Noncompliant Arizona CBG or AZRBOB

- A.** Persons liable. If motor fuel designated as Arizona CBG or AZRBOB does not comply with R3-7-751, the following are liable for the violation:
1. Each person who owns, leases, operates, controls, or supervises a facility where the noncompliant Arizona CBG or AZRBOB is found;
 2. Each registered supplier whose corporate, trade, or brand name, or whose marketing subsidiary's corporate, trade, or brand name, appears at a facility where the noncompliant Arizona CBG or AZRBOB is found; and
 3. Each person who manufactured, imported, sold, offered for sale, dispensed, supplied, offered for supply, stored, transported, or caused the transportation of any gasoline in a storage tank containing Arizona CBG or AZRBOB found to be noncompliant.
- B.** Defenses.
1. A person who is otherwise liable under subsection (A) is not liable if that person demonstrates:
 - a. That the violation was not caused by the person or person's employee or agent;
 - b. That product transfer documents account for all of the noncompliant Arizona CBG or AZRBOB and indicate that the Arizona CBG or AZRBOB complied with this Article; and



- c. That the person had a quality assurance sampling and testing program, as described in subsection (C) in effect at the time of the violation; except that any person who transfers Arizona CBG or AZRBOB, but does not assume title, may rely on the quality assurance program carried out by another person, including the person who owns the noncompliant Arizona CBG or AZRBOB, provided the quality assurance program is properly administered.
- 2. If a violation is found at a facility that operates under the corporate, trade, or brand name of a registered supplier, that registered supplier must show, in addition to the defense elements in subsection (B)(1), that the violation was caused by:
 - a. A violation of law other than A.R.S. Title 41 ~~3~~, Chapter ~~15~~ 19, Article 6, this Article, or an act of sabotage or vandalism;
 - b. A violation of a contract obligation imposed by the registered supplier designed to prevent noncompliance, despite periodic compliance sampling and testing by the registered supplier; or
 - c. The action of any person having custody of Arizona CBG or AZRBOB not subject to a contract with the registered supplier but engaged by the registered supplier for transportation of Arizona CBG or AZRBOB, despite specification or inspection of procedures and equipment by the registered supplier designed to prevent violations.
- 3. To show that the violation was caused by any of the actions in subsection (B)(2), the person must demonstrate by reasonably specific showings, by direct or circumstantial evidence, that the violation was caused or must have been caused by another person.
- C. Quality assurance sampling and testing program. To demonstrate an acceptable quality assurance program for Arizona CBG or AZRBOB, at all points in the gasoline distribution network, other than at a ~~service station~~ motor fuel dispensing site or fleet owner facility, a person shall present evidence:
 - 1. Of a periodic sampling and testing program to determine compliance with the maximum or minimum standards in R3-7-751; and
 - 2. That each time Arizona CBG or AZRBOB is noncompliant with one of the requirements in R3-7-751:
 - a. The person immediately ceases selling, offering for sale, dispensing, supplying, offering for supply, storing, transporting, or causing the transportation of the noncompliant Arizona CBG or AZRBOB; and
 - b. The person remedies the violation as soon as practicable.

R3-7-762. Penalties

Any person who violates any provision of this Article is subject to the following:

- 1. Prosecution for a Class 2 misdemeanor under A.R.S. § ~~41-2113(B)(4)~~ 3-3473(B)(4);
- 2. Civil penalties in the amount of \$500 per violation under A.R.S. § ~~41-2115 3-3475~~;
- 3. Stop-use, stop-sale, hold, and removal orders under A.R.S. § ~~41-2066(A)(2)~~ 3-3415(A)(2).

Table 1. Type 1 Arizona CBG Standards

	Non-averaging Option	Averaging Option		
	A	B	C	D
Performance Standard/Fuel Property**	Per-Gallon (minimum)	Average	Minimum (per-gallon)	Maximum (per-gallon)
VOC Emission Reduction (%) May 1 - through Sept. 15	27.5	29.0	25.0	N/A
NOx Emission Reduction (%) May 1 - through Sept. 15	5.5	6.8	N/A	N/A
NOx Emission Reduction (%) Sept. 16 - October 31 and February 1 - April 30****	0.0	N/A	N/A	N/A
Oxygen content: fuel ethanol, (% by weight unless otherwise noted) November 1 - March 31*** April 1 - October 31	N/A 0.0*	N/A N/A	N/A 0.0	N/A 4.0
Oxygen content: other than fuel ethanol, (% by weight) November 1 - March 31*** April 1 - October 31	N/A 0.0	N/A N/A	N/A 0.0	N/A ****

* Maximum oxygen content shall comply with the EPA oxygenate waiver requirements and with A.R.S. § ~~41-2122 3-3491~~.

** Dates represent compliance dates for the owner of a motor fuel dispensing site or a fleet vehicle fueling facility.

*** A registered supplier shall certify all Arizona CBG as Type 2 Arizona CBG meeting the standards in Table 2 beginning November 1 through March 31.

**** As specified in A.R.S. § ~~41-2122 3-3491~~.

Table 2. Type 2 Arizona CBG Standards

	Averaging Option		Non-averaging Option	
	A	B	C	
Fuel Property	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard * (per gallon maximum)	Units of Standard
Sulfur Content	80	30	40	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume
90% Distillation Temperature (T90)	330	290	300	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200	210	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0	22.0	25.0	% by volume
Oxygen content: fuel ethanol** November 1 - March 31	10% fuel ethanol**	–	10% fuel ethanol**	% by vol.
April 1 - October 31		–		
The maximum oxygen content EtOH year around			4.0	

* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R3-7-751(G), (H), and (I) for the use of the PM.
 ** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.
 A registered supplier shall certify all Arizona CBG using fuel ethanol as the oxygenate beginning November 1 through March 31. Alternative fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the associate director ~~Director~~ under A.R.S. § ~~41-2124(D)~~ 3-3493(C).
 NOTE: Dates represent compliance dates for the owner of a motor fuel dispensing site or fleet vehicle fuel facility.

Table 3. Repealed

- R3-7-801. Repealed
- R3-7-802. Repealed
- R3-7-803. Repealed
- R3-7-804. Repealed
- R3-7-805. Repealed
- R3-7-806. Repealed
- R3-7-807. Repealed
- R3-7-808. Reserved
- R3-7-809. Repealed
- R3-7-810. Repealed
- R3-7-811. Repealed
- R3-7-812. Repealed

ARTICLE 8. REPEALED

ARTICLE 9. GASOLINE VAPOR CONTROL

R3-7-901. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the ~~Department~~ Division. The documents incorporated by reference contain no later amendments or editions:

1. Appendix J.5 of Technical Guidance – Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Vol. II: Appendices, November 1991 edition (EPA-450/3-91-022b), published by the U.S. Environmental Protection Agency, Office of Air Quality, Planning and Standards, Research Triangle Park, North Carolina 27711.
2. *San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996, Third Revision, Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.
3. The following CARB test procedures:
 - a. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.4, Determination of Dynamic Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - b. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.5, Determination (by Volume Meter) of Air to Liquid Volume Ratio of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.



- c. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2C, Determination of Spillage of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- d. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.6, Determination of Liquid Removal of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- e. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2B, Determination of Flow Versus Pressure for Equipment in Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- f. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- g. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- h. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

R3-7-902. Exemptions

- A. The owner or operator of a gasoline dispensing site that has decommissioned the site’s stage II vapor recovery system in accordance with R3-7-913 or that is subject to A.R.S. § ~~41-2132~~ 3-3512, is exempt from the provisions of this Article but shall comply with the provisions of Article 10.
- B. The owner or operator of a gasoline dispensing site that has a throughput that does not exceed the throughput specified in A.R.S. § ~~41-2135(B)~~ 3-3515(B) may obtain an exemption by submitting a written request to the ~~Department~~ Division attesting that throughput at the gasoline dispensing site is not in excess of that specified in A.R.S. § ~~41-2135(B)~~ 3-3515(B). By the 15th of each month, beginning the month after the ~~Department~~ Division approves the exemption, the person shall submit a written throughput report to the ~~Department~~ Division. If a person does not timely file a monthly throughput report or if a monthly throughput report reflects that the exemption limit is exceeded, the ~~Department~~ Division deems the exemption void.
- C. To obtain an independent small business marketer exemption, a person shall derive at least 50 percent of the person’s annual income from the sale of gasoline at each gasoline dispensing site for which an exemption is requested. The person shall submit a written request for exemption to the ~~Department~~ Division. The ~~Department~~ Division shall determine the percentage of total annual income represented by the sale of gasoline on the basis of the person’s state and federal gross income for the preceding year for income tax purposes. The following items are excluded from income computations:
 - 1. Purchase and sale of diesel fuel, and
 - 2. State lottery sales net commissions and incentives.
- D. Motor raceways, motor vehicle proving grounds, and marine and aircraft fueling facilities are exempt from stage II vapor recovery requirements.

R3-7-903. Equipment and Installation

- A. A person subject to A.R.S. § ~~41-2135~~ 3-3515 shall install, maintain, and operate a stage I and stage II vapor recovery system and component as specified in this Article until the stage II vapor recovery system is decommissioned in accordance with R3-7-913.
- B. The ~~Department~~ Division shall reject a vapor recovery system or component from future installation if:
 - 1. Federal regulations prohibit its use;
 - 2. The vapor recovery system or component does not meet the manufacturer’s specifications as certified by CARB using test methods approved in R3-7-901; or
 - 3. The vapor recovery system or component fails greater than 20% of ~~Department~~ Division inspections for that system or component or the ~~Department~~ Division receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction’s vapor recovery program, and the ~~Department~~ Division provides at least 30 days public notice of its proposed rejection.
- C. The piping of both a stage I and stage II vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I and stage II vapor recovery system or component from the CARB-certified configuration without obtaining ~~Department~~ Division approval under R3-7-904.
- D. If ~~Department~~ Division inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.
- E. A stage I spill containment may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for draining entrapped liquid. A stage II vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

R3-7-904. Application Requirements and Process for Authority to Construct Plan Approval

- A. A person shall not begin to construct a site requiring a vapor recovery system or to make a major modification of an existing vapor recovery system or component before obtaining approval of an authority to construct plan application. A major modification is:
 - 1. Adding or replacing a gasoline storage tank that is equipped with a ~~Department~~ Division approved stage II vapor recovery system;

2. Adding or replacing underground piping, vapor piping within a dispenser, or a dispenser at an existing vapor recovery site unless the dispenser replacement is necessary due to unforeseen damage to the existing dispenser; or
 3. Replacing a ~~Department Division~~-approved stage II vapor recovery system of one certified configuration with an approved stage II vapor recovery system of a different certified configuration.
- B.** A person shall file with the ~~Department Division~~ a written change order to an authority to construct plan approval on a form provided by the ~~Department Division~~ if a modification of the approved vapor recovery system or component is needed after the ~~Department Division~~ issues an authority to construct plan approval. The person shall not make any modification until the ~~Department Division~~ approves the change order.
- C.** To obtain an authority to construct plan approval, a person shall submit to the ~~Department Division~~, on a form provided by the ~~Department Division~~, the following:
1. The name, address, and phone number of any owner, operator, and proposed contractor, if known;
 2. The name of the stage I or stage II vapor recovery system or component to be installed along with the CARB certification for that system or component;
 3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
 4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all equipment and piping detail; and
 5. The application fee specified under R3-7-906.
- D.** After review and approval of the authority to construct plan, the ~~Department Division~~ shall issue the authority to construct plan approval and mail the plan approval to the address indicated on the application.
1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for ~~Department Division~~ review.
 2. Construction of a stage II vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work done until an authority to construct plan approval is obtained.
 3. An authority to construct plan approval is not transferable.
- E.** The ~~Department Division~~ shall deny an authority to construct plan for any of the following reasons:
1. Providing incomplete, false, or misleading information; or
 2. Failing to meet the requirements stated in this Chapter.
- F.** If excavation is involved, the ~~Department Division~~ may visually inspect the stage II underground piping of a gasoline dispensing site before the pipeline is buried, for compliance with the authority to construct plan approval. A person who owns or operates a vapor recovery system or component shall give the ~~Department Division~~ notice by fax or e-mail at least two business days before the underground piping is complete. The ~~Department Division~~ shall require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.
- G.** After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for up to 90 days before final approval, if an initial inspection is scheduled according to R3-7-905.
- H.** An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

R3-7-905. Initial Inspection and Testing

- A.** Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the ~~Department Division~~ with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval. The inspection shall be witnessed by the ~~Department Division~~ at a time approved by the ~~Department Division~~ and include any of the following relevant to the specific vapor recovery system installed:
1. A dynamic pressure performance test from each dispenser for each product grade to its associated underground storage tank;
 2. A pressure decay test for each vapor control system including nozzles, underground storage tanks, and tank vents. This test shall be performed with caps removed from stage I fill and vapor risers. If the pressure decay test in R3-7-901(1) is used, the ~~Department Division~~ shall fail the vapor recovery system if gasoline storage tanks have less than 10 percent or greater than 60 percent vapor space. If the pressure decay test in R3-7-901(2) is used, the ~~Department Division~~ shall fail the vapor recovery system if gasoline storage tanks have less than 15 percent or more than 30,000 gallons vapor space. The ~~Department Division~~ shall compute combined tank vapor space for manifolded systems;
 3. Communication from dispenser to tanks for each product, using the San Diego TP-96-1 and CARB TP-201.4 test procedures;
 4. Air to liquid volume ratio by volume meter of a vapor recovery system, using CARB TP-201.5 or CARB-endorsed equivalent procedures to determine air to liquid (A/L) ratios;
 5. Spillage of a stage II vapor recovery system, using the CARB TP-201.2C procedure;
 6. Liquid removal of a stage II vapor recovery system, using the CARB TP-201.6 procedure;
 7. Flow versus pressure for components in a stage II vapor recovery system, using the CARB TP-201.2B procedure; and
 8. Procedures specified by a manufacturer for testing the vapor recovery system.
- B.** If there is a difference between a testing contractor's and the ~~Department Division~~'s test results, the ~~Department Division~~'s test results prevail.
- C.** If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).
- D.** A person who cancels an initial inspection shall notify the ~~Department Division~~ by calling the ~~Department Division~~'s designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The ~~Department Division~~ shall take enforcement action if a person fails to comply with this Section.



- E. A person shall notify the ~~Department~~ Division when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the ~~Department~~ Division approves the reinspection date and time.
- F. If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the ~~Department~~ Division shall fail the initial inspection of that site.
- G. If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.
 - 1. The ~~Department~~ Division shall take enforcement action if the person fails to timely reschedule the inspection.
 - 2. The registered service agency shall notify the ~~Department~~ Division in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
 - 3. The ~~Department~~ Division shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the inspection date and time.

R3-7-907. Operation

- A. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall not transfer or permit the transfer of gasoline into any motor vehicle fuel tank unless stage II vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title ~~44~~ 3, Chapter ~~15~~ 19, Article 7, and this Article.
- B. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall operate the stage II vapor recovery system and associated components in compliance with the CARB certification for that system and these rules.
- C. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall inspect the system and its components daily. Daily inspections shall include all nozzles, hoses with connecting hardware, stage I fittings, and spill containment.
- D. The owner or operator of a gasoline dispensing site shall immediately stop using a stage II vapor recovery system or component if one or more of the following system or component defects occur:
 - 1. A faceplate or facecone of a balance system nozzle does not make a good seal with a vehicle fill tube, or the accumulated damage to the faceplate or facecone is 1/4 or more of its circumference. These conditions also apply to a vacuum assist system that has a nozzle with a bellows and faceplate that seal with a vehicle fill pipe;
 - 2. When more than 1/4 of the cone is missing for vapor assist systems having bellowless nozzles with flexible vapor deflecting cones;
 - 3. A nozzle bellows has a triangular tear measuring 1/2 inch or more to a side, a hole measuring 1/2 inch or more in diameter, or a slit or tear measuring one inch or more in length;
 - 4. A nozzle bellows is loosely attached to the nozzle body, attached by means other than that approved by the manufacturer, or a vapor check valve is frozen in the open position due to impaired motion of the bellows;
 - 5. Any nozzle liquid shut-off mechanism malfunctions in any manner, the spring or latching knurl for holding the nozzle in place during vehicle fueling is damaged or missing, or a nozzle is without a functioning hold-open latch;
 - 6. Any nozzle with a defective vapor check valve, or hose having a disengaged breakaway, when all other nozzles are capable of delivering the same grade of fuel from the same turbine pump;
 - 7. Any vacuum assist nozzle having less than the acceptable number of open vapor collection holes specified by CARB for the particular model of nozzle in service, the nozzle spout rocks or rotates more than 1/8 inch, the spout shows heavy wear with the tip damaged in a way that the largest axis exceeds .84 inch, or the plastic insert in the tip of the spout is loose;
 - 8. Any nozzle with a dispensing rate greater than 10 gallons per minute when only one nozzle associated with the product supply pump is operating, or a flow restrictor is improperly installed, leaking, or non-CARB approved;
 - 9. Any nozzle with a physically damaged breakaway or a breakaway showing evidence of product leakage, or a breakaway not approved for the installed system;
 - 10. A dispenser mounted vacuum pump that is not functioning;
 - 11. Any vapor recovery hose and, as applicable, the accompanying whip hose, that:
 - a. Is crimped, kinked, flattened, or damaged in any manner that constricts the return flow of vapor;
 - b. For a balance hose, has any slits or tears greater than 1/4 inch in length, perforations greater than 1/8 inch in diameter, or assist system hoses that are cut, torn, or badly worn so as to cause a possible fuel leak;
 - c. Does not fully retract, for approved dispenser configurations using hose retractors, or a balance system hose that exceeds the 10-inch loop requirement where required, or for a hose length that allows a balance hose to touch the ground, or for a vacuum assist hose having more than 6 inches in contact with the ground;
 - d. Does not swivel at the hose/nozzle connection; or
 - e. Does not have a required internal liquid pick-up or the hose with liquid pick-up is improperly assembled for the pick-up to properly function;
 - 12. Tank vent pipes that are not the proper height, or are not properly capped with approved pressure and vacuum vent valve settings, or where required, vent pipes that do not meet the CARB-specified paint color code for the installed system;
 - 13. The stage I installation is not properly installed or maintained, in that:
 - a. Spill containment buckets are cracked, rusted, the sidewalls are not attached or otherwise improperly installed, or spill containment buckets are not clean and empty of liquid, or there are non-functioning drain valves, or drain valves that do not seal;
 - b. A fill adaptor collar or vapor poppet (drybreak) that is loose or damaged, or with a fill or vapor cap that is not installed, is missing, broken, or without gaskets;
 - c. Coaxial stage I that is not equipped with a functioning CARB-approved poppoted fill tube, or the coaxial cap is not installed, is missing, broken, or without gaskets; or

- d. A fill tube is missing, not sealed, has holes, broken or damaged overfill preventors, or if the high point of the bottom opening is more than 6 inches above the tank bottom;
 14. The tank rise cap with instrument lead wire for an electronic monitoring system is not tightly installed, or any other tank riser is not securely sealed and capped;
 15. The under-dispenser vapor recovery piping is not securely intact or is crimped, does not slope to the underground vapor pipe riser, hoses used for connection are deteriorated or not approved for use with gasoline, resettable impact type shear valves are closed, or there is any other valve or restriction to impede the vapor path;
 16. An above-ground storage tank that does not display a permanently attached UL approval plaque;
 17. A vacuum assist system with an inoperative central vacuum unit;
 18. A vacuum assist system with an inoperative vapor processing (burner) unit;
 19. A vacuum assist system with a monitoring system certified by CARB or the authority to construct that is not operational or malfunctions; or
 20. Any other component identified in the diagrams, exhibits, attachments or other documents that are certified by CARB or required by the authority to construct for that system is missing, disconnected, or malfunctioning.
- E. The owner or operator of a gasoline dispensing site shall inspect for the presence and proper placement of public information signs required by A.R.S. § ~~41-2135(E)~~ 3-3515(E) and this Article.
- F. For a stage II vacuum assist vapor recovery system, the owner or operator of a gasoline dispensing site shall immediately place damaged or malfunctioning equipment out of service and shall notify the ~~Department~~ Division by fax or e-mail no more than one day after the malfunction of a central vacuum or processor unit. Once the equipment or system is repaired, the owner or operator shall provide written notice within five days of the repair to the ~~Department~~ Division.
- G. For proper operation of a stage I system, under A.R.S. § ~~41-2132(C)(4)~~ 3-3512(C)(4), the owner or operator of a gasoline dispensing site shall recover vapors during pump-out from a gasoline storage tank to a mobile transporter.
- H. The owner or operator of a gasoline dispensing site shall ensure that any underground tightness test is conducted in a manner that prevents gasoline vapors being emitted to the atmosphere.

R3-7-908. Training and Public Education

- A. Each operator of a gasoline dispensing site using stage II vapor recovery shall obtain adequate training and written instructions to enable the system to be installed, operated and maintained properly in accordance with the manufacturer's specifications and CARB certification. The operator shall maintain documentation of this training on-site and make the documentation available to the ~~Department~~ Division on request.
- B. In addition to the information required in A.R.S. § ~~41-2135(E)~~ 3-3515(E), an operator of a gasoline dispensing site with stage II vapor recovery shall display a ~~Department~~ Division telephone number that the public can call to report nozzle or other equipment problems. The operator shall place the required information on each face of each gasoline dispenser. The headings shall be at least 3/8 inches and shall be readable from up to 3 feet away for decal signs, and from up to 6 feet away for permanent (non-decal) signs. Decals shall be located on the upper 60% of each face of each dispenser.

R3-7-909. Recordkeeping and Reporting

- A. The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain daily records of the inspections done under this Article.
- B. The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage II equipment.
- C. The owner or operator of a gasoline dispensing site that is exempt under A.R.S. § ~~41-2135(B)~~ 3-3515(B) from requirements to install and operate stage II vapor recovery equipment, shall maintain a log at the site showing monthly throughputs. The owner or operator shall submit throughput records to the ~~Department~~ Division as required under R3-7-902(B). If any throughput requirement provided in A.R.S. § ~~41-2135(B)~~ 3-3515(B) and this Article is exceeded for any month, the owner or operator shall notify the ~~Department~~ Division in writing within 30 days. The owner or operator shall within six months after the end of the month the throughput is exceeded, install and operate a stage II vapor recovery system conforming to this Article.
- D. The owner or operator of a gasoline dispensing site shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the ~~Department~~ Division upon request.

R3-7-910. Annual Inspection and Testing

- A. A person shall ensure that an annual inspection is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the ~~Department~~ Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The ~~Department~~ Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the ~~Department~~ Division approves the inspection date and time.
- B. The annual inspection shall include the tests defined in R3-7-905(A)(1) through (8) that pertain to the specific vapor recovery system installed.
- C. If there is a difference between a testing contractor's and the ~~Department~~ Division's test results, the ~~Department~~ Division's test results prevail.
- D. If a site fails to pass any of the tests required by subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all appropriate tests in subsection (B).
- E. After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.



- F. A registered service representative shall perform all tests according to Article 9 and any other vapor recovery procedure that the Department Division issues to registered service agencies.
- G. A person who cancels a witnessed inspection shall notify the Department Division by calling the Department Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Department Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Department Division shall notify the registered service agency within five business days, by fax or e-mail, of its approval of the inspection date and time. The Department Division shall take enforcement action if a person does not comply with this subsection.

R3-7-911. Compliance Inspections

The Department Division shall not announce when it plans to conduct a compliance inspection of a stage I or stage II vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title ~~41~~ 3, Chapter ~~45~~ 19, or this Article, the Department Division shall require the vapor recovery system or component to undergo an appropriate test as specified in R3-7-910.

R3-7-912. Enforcement

If the Department Division finds that a stage II vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title ~~41~~ 3, Chapter ~~45~~ 19, the Department Division shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title ~~41~~ 3, Chapter ~~45~~ 19 and this Chapter before the vapor recovery system or component is placed in service.

R3-7-913. Stage II Decommissioning

- A. The owner or operator of a gasoline dispensing site with a stage II vapor recovery system shall decommission the stage II vapor recovery system in accordance with the following schedule:
 - 1. If the owner or operator holds a license issued by the Department Division numbered BMF 13676 or less, the owner or operator shall decommission the stage II vapor recovery system between October 1, 2016 and September 30, 2017; or
 - 2. If the owner or operator holds a license issued by the Department Division numbered BMF 13677 or more, the owner or operator shall decommission the stage II vapor recovery system between October 1, 2017 and September 30, 2018.
- B. Request for alternate decommissioning plan. The following owners or operators may submit an alternate decommissioning plan requesting to decommission the stage II vapor recovery systems at a time other than would be required under subsection (A)(1) or (A)(2) but no sooner than October 1, 2016 and no later than September 30, 2018. The owner or operator shall submit the alternate decommissioning plan to the Department Division for approval ~~no later than December 31, 2015~~ prior to decommissioning at an alternate time period.
 - 1. An owner or operator that holds licenses issued by the Department Division for three or fewer gasoline dispensing sites if all the licenses are issued in the same business name and mailing address. The owner or operator shall ensure that the alternate decommissioning plan includes the information specified in subsections (C)(1) through (4); and
 - 2. An owner or operator that holds licenses issued by the Department Division for four or more gasoline dispensing sites if all the licenses are issued in the same business name and mailing address. The owner or operator shall ensure that the alternate decommissioning plan includes the information specified in subsection (C).
- C. An owner or operator that submits a request for approval of an alternate decommissioning plan shall include the following information as specified under subsection (B):
 - 1. The business name and mailing address on all licenses;
 - 2. The name and telephone number of an individual with whom the Department Division can communicate;
 - 3. The license number and address of each gasoline dispensing site and a statement of whether the owner or operator proposes to decommission each vapor recovery system between October 1, 2016 and September 30, 2017, or October 1, 2017 and September 30, 2018;
 - 4. A statement of whether all gasoline dispensers at the gasoline dispensing site will be replaced and if so, whether the owner or operator proposes to replace the gasoline dispensers between October 1, 2016 and September 30, 2017, or October 1, 2017 and September 30, 2018; and
 - 5. If the owner or operator owns four or more gasoline dispensing sites, an alternate decommissioning plan that includes:
 - a. The license numbers and addresses of 50 percent of the gasoline dispensing sites at which the vapor recovery systems will be decommissioned between October 1, 2016 and September 30, 2017; and
 - b. The license numbers and addresses of the remaining 50 percent of the gasoline dispensing sites at which the vapor recovery systems will be decommissioned between October 1, 2017 and September 30, 2018.
- D. The Department Division shall approve or reject, on a first-come-first-served basis, an alternate decommissioning plan within three months after the alternate decommissioning plan is submitted. The Department Division shall allow decommissioning of stage II vapor recovery equipment at the time gasoline dispensers are replaced as indicated on the request for approval under subsection (C)(4). The Department Division may reject an alternate decommissioning plan if the information required under subsection (B) is not provided or if the year requested for decommissioning already has more than 60 percent of all gasoline dispensing sites scheduled for decommissioning;
- E. The owner or operator of a gasoline dispensing site that is exempt under R3-7-902 shall decommission the site any time between October 1, 2016, and September 30, 2018;
- F. The owner or operator of a gasoline dispensing site shall ensure that a Notice of Intent, using a form or format provided by the Department Division, is submitted to the Department Division at least 10 days before the planned decommissioning and includes the following information:

1. Name of the owner or operator of the gasoline dispensing site,
 2. Address of the gasoline dispensing site,
 3. Name of the decommissioning contractor,
 4. Decommissioning dates,
 5. Name of the vapor testing registered service representative, and
 6. A statement indicating whether all gasoline dispensers at the gasoline dispensing site are being replaced.
- G.** If any of the information provided under subsection (F) changes, the owner or operator shall ensure that the Department Division receives the changed information at least 24 hours before the scheduled start of decommissioning.
- H.** The owner or operator of a gasoline dispensing site shall ensure that all stage II vapor recovery systems are decommissioned according to the material incorporated by reference in R3-7-901(4) with the following exceptions:
1. Liquid shall be purged from the vapor piping following disconnection in section 14.6.6;
 2. Vapor piping that is not disconnected from the tank top in accordance with section 14.6.7 shall be disconnected in the future if construction involving excavation that renders the piping accessible is performed; and
 3. The pressure decay test conducted under section 14.6.12 shall meet the requirements in R3-7-1005(A)(1).
- I.** The decommissioning contractor shall:
1. Complete a Decommissioning Checklist using a form or format provided by the Department Division,
 2. Provide a copy of the completed Decommissioning Checklist to the owner or operator of the gasoline dispensing site at the time of decommissioning, and
 3. Submit a copy of the completed Decommissioning Checklist to the Department Division within 10 days after decommissioning of the stage II vapor recovery system is complete. Decommissioning of a stage II vapor recovery system is complete on the date and at the time when the gasoline dispensing site resumes sales of motor fuel following decommissioning.
- J.** A gasoline dispensing site with a stage II vapor recovery system that is decommissioned is exempt from the annual inspection and testing required under R3-7-910 but shall be subject to the initial inspection and testing prescribed under R3-7-1005 within 60 days after decommissioning is complete.
- K.** The requirements in Article 10 apply to all gasoline dispensing sites at which stage II vapor recovery systems have been decommissioned.
- L.** The Department Division shall place out-of-service a gasoline dispensing site at which a stage II vapor recovery system is not decommissioned according to this Section until the gasoline dispensing site is decommissioned and impose civil penalties under A.R.S. § ~~41-2115~~ 3-3475 on the owner or operator of the gasoline dispensing site.

ARTICLE 10. STAGE I VAPOR RECOVERY

R3-7-1001. Material Incorporated by Reference

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

1. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
2. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
3. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1D, Leak Rate of Drop Tube Overfill Protection Devices and Spill Container Drain Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
4. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
5. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.3, Determination of 2 Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, July 26, 2012 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
6. California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.3C, Determination of Vapor Piping Connections to Underground Gasoline Storage Tanks (Tie-Tank Test), March 17, 1999 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

R3-7-1002. Exemptions

- A.** The owner or operator of a gasoline dispensing site at which the site's stage II vapor recovery system has not been decommissioned in accordance with R3-7-913 is exempt from the provisions of this Article but shall comply with the provisions of Article 9.
- B.** An owner or operator of a gasoline dispensing site with a gasoline throughput that does not exceed that specified in A.R.S. § ~~41-2132(B)~~ 3-3512(B) may file for an exemption from this Article. To obtain an exemption, the owner or operator of the gasoline dispensing site shall submit an annual throughput report to the Department Division, using a form prescribed by the Department Division, no later than March 30 of each year and attest to the throughput during each month of the previous calendar year. If the owner or operator fails to file an annual throughput report timely or if the annual throughput report indicates the exemption limit specified in A.R.S. § ~~41-2132(B)~~ 3-3512(B) was exceeded, the Department Division shall deem the exemption void.



R3-7-1003. Equipment and Installation

- A. The ~~Department~~ Division shall reject a vapor recovery system or component from future installation if:
 - 1. Federal regulations prohibit its use;
 - 2. The vapor recovery system or component does not meet the manufacturer’s specifications as certified by CARB using test methods approved in R3-7-1001; or
 - 3. The vapor recovery system or component fails greater than 20% of ~~Department~~ Division inspections for that system or component or the ~~Department~~ Division receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction’s vapor recovery program, and the ~~Department~~ Division provides at least 30 days public notice of its proposed rejection.
- B. The piping of a stage I vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I vapor recovery system or component from the CARB-certified configuration without obtaining ~~Department~~ Division approval under R3-7-1004. All components installed with the stage I vapor recovery system shall be certified by CARB or approved by the ~~Department~~ Division as required under A.R.S. § ~~41-2132~~ 3-3512.
- C. If ~~Department~~ Division inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.
- D. A stage I liquid or vapor spill containment bucket may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for draining entrapped liquid.
- E. A stage I vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

R3-7-1004. Application Requirements and Process for Authority to Construct Plan Approval

- A. A person shall not begin to construct a site requiring a stage I vapor recovery system or to make a major modification of an existing vapor recovery system before obtaining approval of an authority to construct plan application. A major modification is:
 - 1. Adding or replacing a gasoline storage tank that is equipped with a ~~Department~~ Division approved stage I vapor recovery system;
 - 2. Modifying, adding, or replacing underground vent piping; or
 - 3. Conducting construction under R3-7-913(H)(2).
- B. A person shall file with the ~~Department~~ Division a written change order, using a form provided by the ~~Department~~ Division, to obtain a modification of the approved vapor recovery system or component if a modification is needed after the ~~Department~~ Division issues an authority to construct plan approval. The person shall not make any modification until the ~~Department~~ Division approves the change order.
- C. To obtain an authority to construct plan approval, a person shall submit to the ~~Department~~ Division, on a form provided by the ~~Department~~ Division, the following:
 - 1. The name, address, and telephone number of any owner, operator, and proposed contractor, if known;
 - 2. The name of the stage I vapor recovery system or component to be installed along with the CARB certification for that system or component;
 - 3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
 - 4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all stage I vapor recovery equipment and stage I vapor recovery piping detail; and
 - 5. The application fee specified under R3-7-1006.
- D. A person shall ensure that an installed or modified stage I vapor recovery system meets the following requirements:
 - 1. Has CARB-certified product and vapor adaptors that prevent loosening or over-tightening of the stage I product and vapor adaptors;
 - 2. Consists of a two-point stage I system with separate fill and vapor connection points. Coaxial stage I vapor recovery systems shall not be used;
 - 3. Has a submerged fill pipe that has the fill pipe’s highest point of discharge no more than six inches from the tank bottom;
 - 4. Has no tank containing motor fuel other than gasoline connected to the vapor piping;
 - 5. Uses cement that is resistant to deterioration from exposure to water, hydrocarbons, and alcohol to join all pipes;
 - 6. Has tank vent pipes that extend at least 12 feet above the elevation of the stage I fill points;
 - 7. Has tank vent pipes with a minimum inside diameter of:
 - a. Two inches if the pipe is not manifolded, or
 - b. Three inches from the point of manifold if the pipe is manifolded;
 - 8. Has pressure vacuum vent valves that are attached to the tank vent pipes by a threaded connection;
 - 9. If a gasoline tank is installed in an enclosed vault, has an emergency vent in addition to the pressure vacuum vent valve required under subsection (D)(8);
 - ~~10. Has a one eighth inch threaded tap on the vent pipe between six and eight feet above ground level;~~
 - ~~10.1.1.~~ Has risers into gasoline storage tanks that are capped with UL-approved caps;
 - ~~11.1.2.~~ Has lead wires for instrumentation that pass through a leak-tight grommet with a compression fitting suitable for exposure to gasoline vapors;
 - ~~12.1.3.~~ Has storage tank vent pipes and fill and vapor manhole tops that are painted a color that minimizes solar gain and has a reflective effectiveness of at least 55 percent. Reflectivity shall be determined by visually comparing the paint with paint-color cards obtained from a paint manufacturer that uses the Master Pallet Notation to specify the paint color (i.e. 58YY 88/180 where the number in italics is the paint reflectivity). Examples of colors have a reflective effectiveness of at least 55 percent include, but are not limited to, yellow, light gray, aluminum, tan, red iron oxide, cream or pale blue, light green, glossy gray, light blue, light pink, light cream, white, silver, beige, tin plate, and mirrored finish. A manhole cover that is color coded for product identification is exempt from this subsection; and

- 13.44. Complies with other requirements outlined in the authority to construct permit.
- E. After review and approval of the authority to construct plan, the ~~Department~~ Division shall issue the authority to construct plan approval and mail, fax, or e-mail the plan approval to the address indicated on the application.
1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for ~~Department~~ Division review.
 2. Construction of a stage I vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work done until an authority to construct plan approval is obtained.
 3. An authority to construct plan approval is not transferable.
- F. The ~~Department~~ Division shall deny an authority to construct plan for any of the following reasons:
1. Providing incomplete, false, or misleading information; or
 2. Failing to meet the requirements stated in this Chapter.
- G. If excavation is involved, the ~~Department~~ Division may visually inspect the stage I underground piping of a gasoline dispensing site before the piping is buried for compliance with the authority to construct plan approval. The owner or operator of a vapor recovery system or component shall give the ~~Department~~ Division notice by fax or e-mail at least two business days before the underground piping is complete to schedule the inspection. The ~~Department~~ Division may require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.
- H. After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for up to 90 days before final approval if an initial inspection is scheduled according to R3-7-1005.
- I. An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

R3-7-1005. Initial Inspection and Testing

- A. Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the ~~Department~~ Division with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval and this subsection. The inspection shall be witnessed by the ~~Department~~ Division at a time approved by the ~~Department~~ Division and include the following tests:
1. A pressure decay test for each vapor control system including underground storage tanks and tank vents using CARB TP-201.3 test procedures. All test procedures pertaining to stage I vapor recovery systems shall be followed except the post-test procedures in section 8 and the calculations in section 9 of the CARB TP-201.3 test procedures. The compliance status of the site shall be determined by comparing the final five-minute pressure with the minimum allowable final pressure in Table 1. A calculated ullage exceeding that listed in Table 1 shall be rounded up to the next higher ullage volume in the table;
 2. A test of each pressure vacuum vent valve using CARB TP-201.1E test procedures;
 3. A Tie-Tank test using CARB TP-201.3C test procedure; and
 4. Procedures specified by a manufacturer or CARB for testing the vapor recovery system.
- B. If there is a difference between a testing contractor's test results and the ~~Department~~ Division's test results, the ~~Department~~ Division's test results prevail.
- C. If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).
- D. A person who cancels an initial inspection shall notify the ~~Department~~ Division by calling the ~~Department~~ Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The ~~Department~~ Division shall take enforcement action if a person fails to comply with this Section.
- E. A person shall notify the ~~Department~~ Division when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the ~~Department~~ Division approves the reinspection date and time.
- F. If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the ~~Department~~ Division shall fail the initial inspection of that site.
- G. If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.
1. The ~~Department~~ Division shall take enforcement action if the person fails to timely reschedule the inspection.
 2. The registered service agency shall notify the ~~Department~~ Division in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
 3. The ~~Department~~ Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the inspection date and time.

R3-7-1007. Operation

- A. The owner or operator of a gasoline dispensing site with stage I vapor recovery shall not transfer or permit the transfer of gasoline into any gasoline storage tank subject to this Article unless stage I vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title ~~41~~ 3, Chapter ~~15~~ 19, Article 7, and this Article.
- B. The owner or operator of a gasoline dispensing site with stage I vapor recovery shall operate the stage I vapor recovery system and associated components in compliance with the CARB certification or ~~Department~~ Division approval under A.R.S. § ~~41-2132~~ 3-3512 for that system and these rules.
- C. The owner or operator of a gasoline dispensing site with stage I vapor recovery located in area A shall inspect the system and its components at least once every seven days. The inspections shall include all stage I fittings and spill containment.
- D. The owner or operator of a gasoline dispensing site shall immediately stop using a stage I vapor recovery system or component if one or more of the following system or component defects occur:
1. Tank vent pipes are not the proper height or are not properly capped with approved pressure and vacuum vent valves;



2. Vent pipes do not meet the CARB-specified paint color code specified in R3-7-1004(D)(13);
 3. The stage I vapor recovery system is not properly installed or maintained as evidenced by the following:
 - a. Spill containment buckets are cracked, rusted, or not clean and empty of liquid; sidewalls are not attached or are otherwise improperly installed; and drain valves are non-functioning or do not seal;
 - b. A fill adaptor collar or vapor poppet (drybreak) is loose, damaged, or has a fill or vapor cap that is not installed or is missing, broken, not securely attached, or missing gaskets;
 - c. Coaxial stage I is not equipped with a functioning CARB-approved poppeted fill tube or the coaxial cap is not installed or is missing, broken, not securely attached, or missing gaskets; or
 - d. A fill tube is missing, broken, or not sealed; has holes or damaged overfill prevention; or the high point of the bottom opening is more than six inches above the tank bottom;
 4. The tank rise cap with instrument lead wire for an electronic monitoring system is not installed tightly or any other tank riser is not sealed and capped securely;
 5. An above-ground storage tank does not display a permanently attached UL approval plaque; or
 6. Any other component identified in the diagrams, exhibits, attachments, or other documents and certified by CARB or required by the authority to construct permit for that system is missing, disconnected, or malfunctioning.
- E. For proper operation of a stage I system under A.R.S. § ~~41-2132(C)(4)~~ 3-3512(C)(4), the owner or operator of a gasoline dispensing site shall recover vapors during pump-out from a gasoline storage tank to a mobile transporter.
- F. The owner or operator of a gasoline dispensing site shall ensure that any underground tightness test is conducted in a manner that prevents gasoline vapors being emitted to the atmosphere.

R3-7-1008. Training and Public Education

Each owner or operator of a gasoline dispensing site using stage I vapor recovery shall obtain adequate training and written instructions to enable the system to be installed, operated, and maintained properly in accordance with the manufacturer's specifications and CARB certification. The owner or operator shall maintain documentation of this training on-site and make the documentation available to the ~~Department~~ Division on request.

R3-7-1009. Recordkeeping and Reporting

- A. The owner or operator of a gasoline dispensing site employing stage I vapor recovery in area A shall maintain records of the inspections done under R3-7-1007.
- B. The owner or operator of a gasoline dispensing site employing stage I vapor recovery in area A shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage I equipment.
- C. The owner or operator of a gasoline dispensing site that is exempt under A.R.S. § ~~41-2132(B)~~ 3-3512(B) from requirements to install and operate stage I vapor recovery equipment shall maintain a log at the site showing monthly throughputs. The owner or operator shall make the log available to the ~~Department~~ Division within 24 hours after request. The owner or operator shall submit to the ~~Department~~ Division the throughput information required under R3-7-1002(B). If any throughput requirement provided in A.R.S. § ~~41-2132(B)~~ 3-3512(B) and this Article is exceeded for any month, the owner or operator shall notify the ~~Department~~ Division in writing within 30 days. The owner or operator shall, within six months after the end of the month the throughput is exceeded, install and operate a stage I vapor recovery system conforming to this Article. If a stage I vapor recovery system is already installed, the owner or operator shall have the system tested under R3-7-1010 within 30 days after the end of the month in which the throughput was exceeded.
- D. The owner or operator of a gasoline dispensing site that has decommissioned a stage II vapor recovery system under R3-7-913 shall maintain a copy of the decommissioning checklist required under R3-7-913(I) for three years.
- E. Except as specified in subsection (D), the owner or operator of a gasoline dispensing site shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the ~~Department~~ Division upon request.

R3-7-1010. Annual Testing and Inspection

- A. A person shall ensure that an annual inspection is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the ~~Department~~ Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The ~~Department~~ Division shall notify the registered service agency within five business days, by fax or e-mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the ~~Department~~ Division approves the inspection date and time.
- B. The annual inspection shall include the tests defined in R3-7-1005(A)(1) through (3) that pertain to the specific vapor recovery system installed.
- C. To verify proper operation of a vapor recovery system, the ~~Department~~ Division may perform or may require registered service representatives to perform additional tests under R3-7-1005(A)(4) during the annual inspection and testing. The ~~Department~~ Division shall provide registered service agencies with six months' notice before requiring additional annual testing under R3-7-1005(A)(4).
- D. If there is a difference between a testing contractor's test results and the ~~Department~~ Division's test results, the ~~Department~~ Division's test results prevail.
- E. If a site fails to pass any of the tests required under subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all tests required under subsection (B).
- F. After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.



- G. A person shall notify the ~~Department~~ Division when a vapor recovery system or component is repaired after failing an annual inspection. A registered service representative shall not conduct a reinspection until the ~~Department~~ Division approves the reinspection date and time.
- H. A registered service representative shall perform all tests according to this Article and any other vapor recovery procedure the ~~Department~~ Division issues to registered service agencies.
- I. A person that cancels an annual inspection shall notify the ~~Department~~ Division by calling the ~~Department~~ Division's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the ~~Department~~ Division in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The ~~Department~~ Division shall notify the registered service agency within five business days, by fax or e-mail, of its approval of the inspection date and time. The ~~Department~~ Division shall take enforcement action if a person does not comply with this subsection.
- J. Gasoline dispensing sites located in area B are exempt from the annual inspection and testing requirements of this Section.

R3-7-1011. Compliance Inspections and Additional Test Methods

The ~~Department~~ Division shall not announce when it plans to conduct a compliance inspection of a stage I vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title 41 ~~3~~, Chapter 45 ~~19~~, or this Article, the ~~Department~~ Division shall require the vapor recovery system or component to undergo an appropriate test as specified in R3-7-1010.

R3-7-1012. Enforcement

If the ~~Department~~ Division finds that a stage I vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title 41 ~~3~~, Chapter 45 ~~19~~, the ~~Department~~ Division shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 41 ~~3~~, Chapter 45 ~~19~~ and this Chapter before the vapor recovery system or component is placed in service.

R3-7-1013. Stage II Vapor Recovery

If the ~~Department~~ Division identifies a gasoline dispensing site operating a stage II vapor recovery system within an ozone nonattainment area designated as moderate, serious, severe, or extreme by the EPA under section 107(d) of the Clean Air Act or in area A after September 30, 2018, the ~~Department~~ Division shall issue an administrative order and civil penalty under A.R.S. § 41-2115 ~~3-3475~~ and require that the stage II vapor recovery system be decommissioned within three months after identification. Each day the stage II vapor recovery system is not decommissioned after the time specified in the administrative order constitutes a separate violation for the purpose of calculating the civil penalty under A.R.S. § 41-2115 ~~3-3475~~.



NOTICES OF SUPPLEMENTAL PROPOSED RULEMAKINGS

This section of the *Arizona Administrative Register* contains Notices of Supplemental Proposed Rulemakings.

After an agency has filed a Notice of Proposed Rulemaking and it is published in the *Register*, an agency may decide to make substantial changes to the rule after it is proposed. The agency prepares a Notice of Supplemental Proposed Rulemaking with these proposed changes. When filed, the notice is published under the deadline schedule in the back of the *Register*.

The Notice of Supplemental Proposed Rulemaking shall be published in the *Register* before holding any oral proceedings (A.R.S. § 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #11 for the close of record and information related to public hearings and oral comments.

**NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 1. BOARD OF ACCOUNTANCY**

[R17-49]

PREAMBLE

1. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain the record of the proposed rules:

Notice of Rulemaking Docket Opening: 23 A.A.R. 137, January 13, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 97, January 13, 2017

2. Articles, Part, or Section Affected (as applicable)

Rulemaking Action

R4-1-101	Amend
R4-1-341	Amend
R4-1-345	Amend
R4-1-453	Amend
R4-1-454	Amend
R4-1-455	Amend
R4-1-455.01	Amend
R4-1-455.02	Amend
R4-1-455.03	Amend
R4-1-455.04	Amend

3. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-703(B)(7)

Implementing statute: A.R.S. § 32-703(B)(8) and (13)

4. The agency's contact person who can answer questions about the rulemaking:

Name: Monica L. Petersen, Executive Director
 Address: Board of Accountancy
 100 N. 15th Ave., Suite 165
 Phoenix, AZ 85007
 Telephone: (602) 364-0870
 Fax: (602) 364-0903
 E-mail: mpetersen@azaccountancy.gov
 Web site: www.azaccountancy.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

R4-1-101 and R4-1-454. The peer review rule, R4-1-454, and related definitions in R4-1-101, are amended to make them consistent with the American Society of Certified Public Accountants' (AICPA) peer review program. Such consistency will help to reduce confusion among practitioners about what are now differing peer review requirements. The AICPA peer review program subjects non-disclosure compilations to peer review, whereas, the Board's rule does not. Rather, the Board's current rule subjects non-disclosure compilations to an Educational Enhancement Review (EER). By amending the rules to delete the EER provisions, the Board's rules will be consistent with the AICPA peer review program. A peer review is necessary to protect the public because it ensures that practitioners take any corrective action needed while the peer review program is still educational in nature. Lastly, the amendment requires firms to provide peer review results to the AICPA Facilitated State Board Access (FSBA), which will reduce the need for firms to provide results via hard copy to the Board, since Board staff will be able to obtain results electronically from FSBA, making this aspect of Board operations more efficient.



R4-1-341. This rule is amended to conform to statutory changes as a result of Laws 2015, Chapter 207 (HB 2218) which allows the International Qualification Examination (IQEX) in addition to the Uniform CPA Examination as an acceptable examination to qualify for certification by reciprocity.

R4-1-345. This rule is amended to reduce regulatory burden by no longer requiring registrants who are suspended for nonregistration for more than six months to return their actual paper certificates to the Board.

R4-1-453. This rule is amended to clarify continuing professional education records requirements.

R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 and R4-1-455.04. These rules are amended to incorporate AICPA’s Code of Conduct and Professional Standards. AICPA is the world’s largest member association representing the accounting profession, with more than 412,000 members in 144 countries, and a history of serving the public interest since 1887. AICPA sets ethical standards for the profession and U.S. auditing standards for private companies, nonprofit organizations, federal, state and local governments. It is not efficient nor effective for the Board to promulgate its own standards, as these may be redundant or contradictory to the AICPA. The incorporation by reference of the AICPA standards reduces the regulatory burden while achieving the same objective by ensuring that the accounting community only has one set of standards by which it is regulated. The standard setting process involves many practitioners with a variety of expertise as well as the incorporation of a thoughtful and very public process that provide the opportunity for public input from all state Boards of Accountancy, CPA Societies, the National Association of State Boards of Accountancy (NASBA), practitioners, and the public at large. Well-thought-out standards help provide clear guidance to practitioners and regulators. Practitioners who make the effort to stay abreast of standards that affect the accounting services that they provide are better positioned to provide quality service to their clients; and, when practitioners fall short, the Board, its advisory committees, and its investigators will have clear guidance for enforcement, which serves to protect the public and closes existing loopholes that create legal ambiguity.

R4-1-455.03. The amendment of R4-1-455.03, which requires the deletion of (D)(1) is already the subject of a separate, previously-filed pending rulemaking that was published in the December 23, 2016 Arizona Administrative Register. R4-1-455.03 is amended by striking (D)(1) because it is overbroad and inconsistent with A.R.S. § 32-747.01, and to ensure that the rules reflect the Board’s current operational practices, as the Board no longer enforces this rule. The current rule is overbroad and inconsistent with the Board’s statutory framework because it requires certified public accountants (“CPAs”) who provide any type of public accounting to do so only through a firm registered with the Board, whereas A.R.S. § 32-747.01 only requires those CPAs who perform one specific type of public accounting – attest services – to do so only through a registered firm. R4-1-455.03 is also amended to clarify the due date for registrants to file a response to Board communications.

Technical and conforming changes are also made to the rules.

An exemption from Executive Orders 2015-01 and 2016-03 was provided for this rulemaking by Rene Guillen, Policy Advisor for Government and Transportation in the Governor’s Office, in an email dated April 21, 2016.

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

Not applicable

7. An explanation of the substantial change that resulted in this supplemental notice:

As a result of oral comments received from the public and Board members at the February 13, 2017 oral proceeding, and following additional discussion by the Board and by members of the Board’s Peer Review Advisory Committee at the Board’s March 27, 2017 meeting, the Board decided to further amend the peer review rules by choosing not to add to its current rules a new regulation which would have made engagements for prepare financial statements subject to Educational Enhancement Review requirements.

At the Board’s March 27, 2017 meeting, the Board also decided to further amend R4-1-455.03 by clarifying the due date for filing a written response to Board communications.

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

Not applicable

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

Firms that are already members of the AICPA must follow its peer review program requirements, which include peer reviews for non-disclosure compilations. However, firms that are not members of the AICPA and which perform non-disclosure compilations are currently not subject to peer review, but rather the Board’s Educational Enhancement Review requirement. By conforming the Board’s rules to be consistent with the AICPA’s peer review program, non-AICPA member firms who do non-disclosure compilations will now be subject to peer review. The pros of doing peer reviews of firms issuing non-disclosure compilations are expected to significantly outweigh the con of increased costs for non-AICPA member firms, since greater scrutiny in the process will likely benefit consumers by identifying issues that the reviewed firms need to address in order to provide quality services, thereby protecting the public.

Adopting the AICPA’s codes of conduct is not expected to have any economic, small business or consumer impact.

Amending R4-1-455.03 by striking (D)(1) will not have a fiscal impact, as under the Board’s long-time statutory and regulatory framework, CPAs who have registered firms as sole proprietors are not required to pay a firm registration fee, pursuant to A.R.S. § 32-729(4). Amending the rule will result in a positive impact to small business. CPAs who are sole proprietors of accounting firms who do not do attest services as defined in A.R.S. § 32-701(3) will no longer be required to register their firms with the Board and will no longer be required to file biennial firm renewal paperwork. They will also no longer be subject to peer review requirements, pursuant to A.A.C. R4-1-454. Operationally, since the Board has already ceased enforcement of the rule pending amendment and has notified sole proprietors that they may cancel their firm registrations if they do not provide attest services, this



positive impact has already commenced. The Board does not foresee a consumer economic impact, as amending this rule is unlikely to change the rates CPAs charge for their services. In terms of public protection, the Board will continue to regulate the sole proprietor CPAs through their individual certificates, although it will lose some important regulatory oversight with respect to peer review requirements for non-attest services like compilation services. The Board intends to address this regulatory gap and potential negative impact on consumers through a future legislative initiative to update its statutes.

The other amendments are not anticipated to have a fiscal impact.

10. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Monica L. Petersen, Executive Director
 Address: Board of Accountancy
 100 N. 15th Ave., Suite 165
 Phoenix, AZ 85007
 Telephone: (602) 364-0870
 Fax: (602) 364-0903
 E-mail: mpetersen@azaccountancy.gov
 Web site: www.azaccountancy.gov

11. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding regarding the supplemental proposed rules will be held as follows:

Date: Monday, June 12, 2017
 Time: 9:00 a.m.
 Location: Board of Accountancy
 100 N. 15th Ave., Suite 165
 Phoenix, AZ 85007

The rulemaking record will close on Monday, June 12, 2017 at 5:00 p.m.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules do not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is no federal law regarding CPAs, peer review or the other subjects of the rules.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. BOARD OF ACCOUNTANCY

ARTICLE 1. GENERAL

Section
 R4-1-101. Definitions

ARTICLE 3. CERTIFICATION AND REGISTRATION

Section
 R4-1-341. CPA Certificates; Reinstatement
 R4-1-345. Registration; Fees

ARTICLE 4. REGULATION

Section
 R4-1-453. Continuing Professional Education
 R4-1-454. Peer Review
 R4-1-455. Professional Conduct: ~~Independence, Integrity, and Objectivity and Standards~~
 R4-1-455.01. Professional Conduct: ~~Competence and Technical Standards~~ Definitions; Interpretations



- R4-1-455.02. Professional Conduct: ~~Confidentiality, Records Disposition~~ Competence and Technical Standards
- R4-1-455.03. Professional Conduct: ~~Other-Specific~~ Responsibilities and Practices
- R4-1-455.04. Professional Conduct: ~~Interpretations~~ Records Disposition

ARTICLE 1. GENERAL

R4-1-101. Definitions

- A. The definitions in A.R.S. § 32-701 apply to this chapter.
- B. In this chapter, unless the context otherwise requires:
 1. "Compilation services" ~~has the same meaning as means services, the objective of which is defined in Section 60-05 80.04 of the Statements Statement on Standards for Accounting and Review Services No. 49 21, issued December 2009 October 2014 and published June 1, 2013 May 1, 2016 in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036-8775, which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.~~
 2. "Contested case" means any proceeding in which the legal rights, duties or privileges of a party are required by law to be determined by any agency after an opportunity for hearing.
 3. "CPE" or "continuing professional education" means attending classes, writing articles, conducting or teaching courses, and taking self-study courses if the activities contribute to maintaining and improving of professional competence in accounting.
 4. "Educational Enhancement Review" means an assessment by the PROAC of one or more aspects of the professional work of a firm that performs only nondisclosure compilation services.
 5. "Full disclosure compilation services" means a compilation of financial statements that does not omit substantially all disclosures.
 6. "Nondisclosure compilation services" means a compilation of financial statements that omits substantially all disclosures.
 64. "Facilitated State Board Access (FSBA)" means the sponsoring organization's process for providing the Board access to peer review results via a secured website.
 75. "Party" means each person or agency named or admitted as a party, or properly seeking and entitled, as of right, to be admitted as a party.
 86. "Peer review" means an assessment, conducted according to R4-1-454(K), of one or more aspects of the professional work of a firm that is registered with the Board to practice public accounting and performs attest services or full disclosure compilation or nondisclosure compilation services conducted according to R4-1-454(K).
 97. "Person" may include any individual, and any form of corporation, partnership, or professional limited liability company. "Peer review program" means the sponsoring organization's entire peer review process, including but not limited to the standards for administering, performing and reporting on peer reviews, oversight procedures, training, and related guidance materials.
 108. "Person" may include any individual, and any form of corporation, partnership, or professional limited liability company.
 149. "Sponsoring organization" means a Board-approved professional society, or other organization approved by the Board responsible for the facilitation and administration of peer reviews through use of its peer review program and peer review standards.
 10. "Upper division-level course" means a course taken beyond the basic level, after any required prerequisite or introductory accounting course and does not include principals of accounting or similar introductory accounting courses.

ARTICLE 3. CERTIFICATION AND REGISTRATION

R4-1-341. CPA Certificates; Reinstatement

- A. An applicant may apply for a certificate of certified public accountant or for reinstatement by submitting:
 1. An application fee of \$100; and
 2. For an applicant applying for certification under A.R.S. § 32-721(A) and (B), a completed application including:
 - a. Verification that the applicant passed the Uniform CPA Examination,
 - b. Verification that the applicant meets the education and experience requirements specified in R4-1-343,
 - c. One signed and dated letter of recommendation by a CPA,
 - d. Proof of a score of at least 90% on the American Institute of Certified Public Accountants (AICPA) examination in professional ethics taken within the two years immediately before the application is submitted,
 - e. Evidence of lawful presence in the United States, and
 - f. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 3. For an applicant applying for certification under A.R.S. § 32-721(A) and (C), a completed application including:
 - a. Verification that the applicant passed the Uniform CPA Examination; or the International Qualification Examination (IQEX).
 - b. License verification from each jurisdiction in which the applicant has ever been issued a certificate as a certified public accountant of which at least one must be an active certification from a jurisdiction with requirements determined by the Board to be substantially equivalent to the requirements in A.R.S. § 32-721(B) or verification that the applicant meets the education and experience requirements specified in R4-1-343,
 - c. Evidence of lawful presence in the United States, and
 - d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 4. For an applicant applying for certification under A.R.S. § 32-721(A) and (D) for mutual recognition agreements adopted by the Board a completed application including:
 - a. Verification that the applicant has passed the International Qualification Examination (IQEX),
 - b. License verification from the applicant's country which that has a mutual recognition agreement with the National Association of State Boards of Accountancy that has been adopted by the Board,
 - c. Evidence of lawful presence in the United States, and



- d. Other information or documents requested by the Board to determine compliance with eligibility requirements.
 5. For an applicant applying for reinstatement from cancelled or expired status under A.R.S. §§ 32-730.02 or 32-730.03 respectively a completed application including:
 - a. CPE that meets the requirements of R4-1-453(C)(6) and (E), and
 - b. Evidence of lawful presence in the United States.
 6. For an applicant applying for reinstatement from revoked or relinquished status under A.R.S. §§ 32-741.03 or 32-741.04 respectively a completed application including:
 - a. CPE that meets the requirements of R4-1-453(C)(6) and (E),
 - b. Evidence of lawful presence in the United States,
 - c. If not waived by the Board as part of a disciplinary order, evidence from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution that the individual has completed at least one hundred fifty semester hours of education as follows:
 - i. At least 36 semester hours are accounting courses of which at least 30 semester hours are upper level courses.
 - ii. At least 30 semester hours are related courses.
 - d. If prescribed by the Board as part of a disciplinary order, evidence that the individual has retaken and passed the Uniform Certified Public Accountant Examination.
- B.** Within 30 days of receiving an application, the Board shall notify the applicant that the application is either complete or incomplete. If the application is incomplete, the notice shall specify what information is missing.
1. The Board shall make service of written notice regarding an incomplete application in accordance with R4-1-117(E)(1) or (2). The applicant has 30 days from the date of the notice to respond in writing to the Board's notice or the Board may administratively close the file. An applicant whose file is administratively closed and who later wishes to become certified, shall reapply under subsection (A).
 2. Within 60 days of receipt of all the missing information, the Board shall notify the applicant that the application is complete.
 3. The Board shall issue a certification decision no later than 150 days after receipt of a completed application.
 4. If the Board finds deficiencies during the substantive review of the application, the Board may issue a written request to the applicant for additional information.
 5. The 150-day time-frame in subsection (B)(3) for a substantive review for the issuance of a certificate is suspended from the date of the written request for additional information made under subsection (B)(4) until the date that all information is received. The Board shall serve a written request under subsection (B)(4) in accordance with R4-1-117(E)(1) or (2). The applicant has 30 days to respond to the Board's request for additional information. If the applicant fails to timely respond to the Board's request, the Board shall finish its substantive review based upon the information the applicant has presented.
 6. When the applicant and the Board mutually agree in writing, the substantive review time frame specified in subsection (B)(3) may be extended in accordance with A.R.S. § 41-1075.
- C.** If the Board denies an applicant's request for certification, the Board shall send the applicant written notice explaining:
1. The reason for denial, with citations to supporting statutes or rules;
 2. The applicant's right to seek a fair hearing to challenge the denial; and
 3. The time periods for appealing the denial.
- D.** The Board establishes the following licensing time-frames for the purpose of A.R.S. § 41-1073:
1. Administrative completeness review time-frame: 30 days;
 2. Substantive review time-frame: 150 days; and
 3. Overall time-frame: 180 days.

R4-1-345. Registration; Fees

- A.** Initial registration: After the Board approves an applicant's request for certification or firm registration, the applicant shall file an application for initial registration in a format prescribed by the Board and pay a registration fee under subsection (C).
- B.** Renewal registration: A registrant shall file an application for renewal registration in a format prescribed by the Board no later than 5:00 p.m. on the last business day of the month. A renewal registration is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the board's office. The Board shall not accept a postmark as evidence of timely filing. It is the sole responsibility of the registrant to complete the renewal registration requirements at the following times:
1. Individual registrant: An individual registrant shall renew registration at the following times:
 - a. A registrant born in an even-numbered year shall renew registration during the month of birth in each even-numbered year.
 - b. A registrant born in an odd-numbered year shall renew registration during the month of birth in each odd-numbered year.
 2. Firm registrant: A firm shall renew registration at the following times:
 - a. A firm that initially registered with the Board in an even-numbered year shall renew registration during the board-approved month of the initial registration in each even-numbered year.
 - b. A firm that initially registered with the Board in an odd-numbered year shall renew registration during the board-approved month of the initial registration in each odd-numbered year.
- C.** Registration fees: The biennial registration fee is:
1. \$300 and, if applicable, a late fee of \$50 for each certified public accountant and, each public accountant. For a certified public accountant or public accountant, the registration fee shall be prorated by month for an initial registration period of less than two years.
 2. \$300 and, if applicable, a late fee of \$50 for a firm. Under A.R.S. § 32-729, the Board shall not charge a fee for the registration of additional offices of the same firm or for the registration of a sole practitioner.
- D.** ~~If a registrant's certificate is suspended for nonregistration under A.R.S. § 32-741.01 and remains in a suspended status for more than six months, the registrant must return their certificate to the Board.~~

**ARTICLE 4. REGULATION****R4-1-453. Continuing Professional Education**

- A. Measurement Standards.** The Board shall use the following standards to measure the hours of credit given for CPE programs completed by an individual registrant.
1. A class hour shall consist of a minimum of 50 continuous minutes of instruction and a half class hour shall consist of a minimum of 25 continuous minutes of instruction. CPE credit shall be given in half-hour increments for periods of not less than one class hour. Credit shall not be allowed for repeat participation in any seminar or course during the registration period.
 2. Courses taken at colleges and universities apply toward the CPE requirement as follows:
 - a. Each semester - system credit hour is worth 15 CPE credit hours,
 - b. Each quarter - system credit hour is worth 10 CPE credit hours, and
 - c. Each noncredit class hour is worth one CPE credit hour.
 3. Each correspondence program hour is worth one CPE credit hour.
 4. Acting as a lecturer or discussion leader in a CPE program, including college courses, may be counted as CPE credit. The Board shall determine the amount of credit on the basis of actual presentation hours, and shall allow CPE credit for preparation time that is less than or equal to the presentation hours. A registrant may only claim as much preparation time as is actually spent for a presentation. Total credit earned under this subsection for service as a lecturer or discussion leader, including preparation time may not exceed 40 credit hours of the renewal period's requirement. Credit is limited to only one presentation of any seminar or course with no credit for repeat teaching of that course.
 5. Writing and publishing articles or books that contribute to the accounting profession may be counted for a maximum of 20 hours of CPE credit during each renewal period.
 - a. Credit may be earned for writing accounting material not used in conjunction with a seminar if the material addresses an audience of certified public accountants, is at least 3,000 words in length, and is published by a recognized third-party publisher of accounting material or a sponsor.
 - b. For each 3,000 words of original material written, the author may earn two credit hours. Multiple authors may share credit for material written.
 6. A registrant may earn a combined maximum of 40 hours of CPE credit under subsections (A)(4) and (5) above during each renewal period.
 7. A registrant may earn a maximum of 20 hours of CPE during each renewal period by completing introductory computer-related courses. Computer-related courses may qualify as consulting services pursuant to subsection (C).
- B. Programs that Qualify.** CPE credit may be given for a program that provides a formal course of learning at a professional level and contributes directly to the professional competence of participants.
1. The Board shall accept a CPE course as qualified if it:
 - a. Is developed by persons knowledgeable and experienced in the subject matter,
 - b. Provides written outlines or full text,
 - c. Is administered by an instructor or organization knowledgeable in the program, and
 - d. Uses teaching methods consistent with the study program.
 2. The Board shall accept a correspondence program which includes online or computer based programs if the sponsors maintain written records of each student's participation and records of the program outline for three years following the conclusion of the program.
 3. An ethics program taught or developed by an employer or co-worker of a registrant does not qualify for the ethics requirements of subsection (C)(4).
- C. Hour Requirement.** As a prerequisite to registration pursuant to A.R.S. § 32-730(C) or to reactivate from inactive status pursuant to A.R.S. § 32-730.01, a registrant shall complete the CPE requirements during the two-year period immediately before registration as specified under subsections (C)(1) through (C)(5). For registration periods of less than two years CPE may be prorated, with the exception of ethics.
1. A registrant whose last registration period was for two years shall complete 80 hours of CPE.
 2. A registrant shall complete a minimum of 50 percent of the required hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 16 hours in the subject areas of accounting, auditing, or taxation.
 3. A registrant shall complete a minimum of 16 of the required hours:
 - a. In a classroom setting,
 - b. Through an interactive live webinar, or
 - c. By acting as a lecturer or discussion leader in a CPE program, including college courses
 4. A registrant shall complete four hours of CPE in the subject area of ethics. The four hours required by this subsection shall include a minimum of one hour of each of the following subjects:
 - a. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants, and
 - b. Board statutes and administrative rules.
 5. A registrant shall report total CPE hours completed for the registration period. Hours that exceed the number required for the current registration period may not be carried forward to a subsequent registration period. Any CPE hours completed to vacate a suspension for nonregistration or for noncompliance with CPE requirements may not be used to meet CPE requirements for the registration period.
 6. As a prerequisite to reactivate from retired status or reinstate from cancelled, expired, relinquished or revoked status, an applicant shall complete up to 160 hours of CPE during the four-year period immediately before application to reactivate or reinstate. For periods of less than four years CPE may be prorated, with the exception of ethics.



- a. An applicant shall complete a minimum of 50 percent of the required hours in the subject areas of accounting, auditing, taxation, business law, or consulting services with a minimum of 32 hours in the subject areas of accounting, auditing or taxation.
 - b. An applicant shall complete a minimum of 32 hours of the required hours:
 - i. In a classroom setting,
 - ii. Through an interactive live webinar, or
 - iii. By acting as a lecturer or discussion leader in a CPE program, including college courses.
 - c. An applicant shall complete eight hours of CPE in the subject area of ethics. The eight hours required by this subsection shall include a minimum of one hour of each of the following subjects. The following subjects shall be completed during the two-year period immediately preceding application for reactivation or reinstatement:
 - i. Ethics related to the practice of accounting including the Code of Professional Conduct of the American Institute of Certified Public Accountants; and
 - ii. Board statutes and administrative rules.
- D.** Reporting: An applicant for reinstatement, a registrant who is subject to an audit, or a registrant completing their registration must report the following details about their completed CPE:
1. Sponsoring organization;
 2. Number of CPE credit hours;
 3. Title of program or description of content; and
 4. Dates attended.
- E.** In addition to the information required under subsection (D), an applicant for reinstatement from cancelled, expired, relinquished or revoked status, or a registrant subject to a CPE audit pursuant to subsection (G) shall provide ~~evidence of completed CPE as required to be maintained by subsection (F).~~ the Board the following documents at its request: copies of course outlines and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.
- F.** CPE Record Retention: A registrant shall maintain for three years from the date their registration application was dated as received by the Board and ~~provide the Board upon request~~ the following documents: course outlines and certificates of completion that include registrant's name, course provider or sponsor, course title, credit hours, and date of completion.
- G.** CPE audits: The Board, at its discretion, may conduct audits of a registrant's CPE and require that the registrant provide the CPE records that the registrant is required to maintain under subsection (F) to verify compliance with CPE requirements.
- H.** The Board may grant a full or partial exemption from CPE requirements on demonstration of good cause for a disability for only one registration period.

R4-1-454. Peer Review

- A.** Each firm, ~~as defined in A.R.S. § 32-701(14),~~ that performs attest services or ~~full disclosure~~ compilation services shall have a peer review performed and reported on within the three years immediately preceding the firm's registration date.
1. ~~A firm shall submit to the Peer Review Oversight Advisory Committee (PROAC) a peer review report and any additional, related documentation requested by the PROAC. The PROAC shall not require the submission of working papers related to the peer review process. Firms shall submit a copy of the results of their most recently accepted peer review pursuant to R4-1-345 or by a Board approved extension date to the Board which includes the following documents:~~
 - a. Peer review report which has been accepted by the sponsoring organization.
 - b. Firm's letter of response accepted by the sponsoring organization, if applicable.
 - c. Acceptance letter from the sponsoring organization.
 - d. Letter(s) accepting the documents signed by the firm with the understanding that the firm agrees to take any actions required by the sponsoring organization, if applicable, and
 - e. Letter signed by the sponsoring organization notifying the firm that required actions have been appropriately completed, if applicable.
 2. ~~The Board may grant, upon a written request and demonstration of good cause, excluding financial hardship pursuant to A.R.S. § 32-701(15)(e), an extension of time for completing the peer review or submitting the peer review report to the Board. For firms whose peer reviews are scheduled before January 1, 2018, the firm shall submit the peer review documents pursuant to R4-1-454(A)(1) to the Board prior to its next firm license renewal via mail, electronic transmission or, if available, the AICPA Facilitated State Board Access (FSBA).~~
 3. For firms whose peer reviews are scheduled after January 1, 2018, the firm must allow the sponsoring organization to make the documents pursuant to R4-1-454(A)(1) accessible to the Board via the FSBA process.
 4. The Board may grant, upon written request and demonstration of good cause, excluding financial hardship pursuant to A.R.S. § 32-701(15)(E), an extension of time for completing the peer review or submitting the peer review documents to the Board.
- B.** ~~If the only services performed by a firm involving financial statements are nondisclosure compilation services, the Board shall request, on a random basis, as a condition for initial or renewal registration, that the firm provide a peer review report and any additional, related documentation, completed within the three years immediately preceding the firm's registration date.~~
1. ~~If a firm did not complete a peer review within the three years immediately preceding the firm's registration date, PROAC shall request that the firm provide reports and financial statements from two separate nondisclosure compilation engagements, performed within the two years immediately preceding the firm's registration date, for an Educational Enhancement Review by PROAC;~~
 2. ~~If the results of the Educational Enhancement Review indicate deficient work by a firm, the Board may do any of the following:~~
 - a. ~~Educate the firm by informing it of or referencing it to the current and appropriate reporting requirements;~~
 - b. ~~Educate the firm by informing it how to enhance its reporting and financial presentation; or~~
 - e. ~~Require the firm to undergo a peer review before its next renewal registration.~~
 3. ~~If the results of the Educational Enhancement Review do not indicate deficient work, the PROAC shall recommend to the Board that it accepts the firm's Educational Enhancement Review and that the firm be notified of its compliance with this Section.~~



- ~~CB.~~ Only a peer reviewer or a review team approved by the sponsoring organization ~~Board or its authorized agent~~ may conduct a peer review. In approving a peer reviewer or a review team, the sponsoring organization ~~Board or its authorized agent~~ shall ensure that each peer reviewer or member of a review team holds a certificate or license in good standing to practice public accounting, and is not affiliated with the firm under review.
- ~~D.~~ A firm may obtain a peer review and the corresponding report from a national organization approved by the Board or its authorized agent. In approving a national organization, the Board shall determine whether the organization performs peer reviews that comply with this Section.
- ~~EC.~~ The Peer Review Oversight Advisory Committee (PROAC) shall review the peer review report results ~~submitted by a firm~~ to determine whether the firm is complying with the standards in subsection (K). If the results of peer review indicate that a firm is complying with the standards in subsection (K), the PROAC shall recommend to the Board that it accept the firm's peer review and that the firm be notified of its compliance with this Section.
- ~~FD.~~ If the results of the peer review indicate that a firm is not complying with the standards in subsection (K):
 - ~~1.~~ The Board shall direct the PROAC to obtain relevant reports, and perform any follow-up action required as a consequence of the identified deficiencies. The PROAC shall retain all documents obtained until the firm completes and the Board accepts the firm's next peer review.
 - ~~2.~~ If additional information is needed to determine whether a firm is correcting identified deficiencies, the Board shall make a written request that the firm provide the needed information. If the PROAC determines that the firm has not corrected the identified deficiencies, it shall refer the matter to the Board.
 - ~~3.~~ Based upon review of the PROAC's recommendation, the Board may take disciplinary action, as defined in A.R.S. § 32-701(10).
- ~~E.~~ If the results of the peer review suggest one or more violations of A.R.S. Title 32 Chapter 6 or Board rules, the Board may conduct or direct an authorized committee to conduct an initial analysis and take other action as authorized by A.R.S. § 32-742.01.
- ~~GF.~~ Information discovered solely as a result of a peer review is not grounds for suspension or revocation of a certificate.
- ~~HG.~~ Failure of a firm to complete a peer review under this Section may constitutes grounds for disciplinary action. ~~revocation or suspension of a firm's registration, after notice and opportunity for a hearing, unless the Board determines that there is good cause for the failure.~~
- ~~HI.~~ Exemptions: A firm is exempt from the requirements of this Section if the firm submits to the Board a written statement that it meets at least one of the following grounds for exemption:
 - ~~1.~~ The firm has not previously practiced public accounting in this state, any other state, or a foreign country and the firm shall have a peer review issued by a qualified peer reviewer and dated within enroll in a Board approved peer review program with a peer review due date, in compliance with the peer review standards referenced in R4-1-454(K) of 18 months of initial registration from the year end of the first engagement performed.
 - ~~2.~~ The firm submits to the Board an affidavit, on a form prescribed by the Board, that states that all of the following apply:
 - ~~a.~~ Within the previous three years, the firm did not undertake perform any engagement that resulted in the firm issuing an attest services or, full disclosure, or non-disclosure compilation services; and
 - ~~b.~~ The firm agrees to notify the Board within 90 days after accepting an attest services; or full disclosure compilation services engagement and shall have a peer review issued by a qualified peer reviewer and dated within enroll in a Board approved peer review program with a due date, in compliance with the peer review standards referenced in R4-1-454(J) of 18 months from the year-end of the initial engagement accepted; and
 - ~~e.~~ The firm agrees to notify the Board within 90 days after accepting a nondisclosure compilation an engagement to prepare financial statements.
- ~~JI.~~ Firms that reorganize a current firm, rename a firm, or create a new firm, within which at least one of the prior CPA owners remains an owner or employee, shall remain subject to the provisions of this Section. If a firm is merged, combined, dissolved, or separated, the sponsoring organization shall determine which resultant firm shall be considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.
- ~~KJ.~~ Each firm, review team, and member of a review team shall comply with the Standards for Performing and Reporting on Peer Reviews, issued January 2009 and published June 1, 2013 ~~May 1, 2016~~ in the AICPA Professional Standards by the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036-8775 (www.aicpa.org), which is incorporated by reference. This incorporation by reference does not include any later amendments or editions. The incorporated material is available for inspection and copying at the Board's office.
- ~~LK.~~ Peer review record retention. A firm shall maintain for five years, and provide the Board upon request, the following documents referenced in R4-1-454(A)(1), if applicable and however denominated, for the peer reviews required by this Section: ~~peer review report, final acceptance letter, letter of comment, corrective action, and letter of response.~~

R4-1-455. Professional Conduct: Independence, Integrity, and Objectivity and Standards

- ~~A.~~ Independence: A certified public accountant, public accountant, or firm of which the certified public accountant or public accountant is a partner or shareholder shall not express an opinion on a financial statement of an enterprise unless the certified public accountant or public accountant and the firm are independent with respect to the enterprise. Independence is considered to be impaired if, for example:
 - ~~1.~~ During the period of professional engagement or at the time of expressing an opinion, the certified public accountant or public accountant or the firm:
 - ~~a.~~ Had or was committed to acquire any direct or material indirect financial interest in the enterprise;
 - ~~b.~~ Had any joint closely held business investment with the enterprise or any officer, director, or principal stockholder of the enterprise that was material in relation to the certified public accountant, public accountant, or the firm's net worth; or
 - ~~e.~~ Had any loan to or from the enterprise or any officer, director, or principal stockholder of the enterprise. This latter prescription does not apply to the following loans from a financial institution if the loans are made under normal lending procedures, terms, and requirements:



B. The AICPA Code of Professional Conduct, and any interpretations and ethical rulings by the issuing body, shall apply to all registrants, including those who are not members of the AICPA. The version specified above, including any interpretations and ethical rulings in effect shall apply. Any later amendments, additions, interpretations, or ethical rulings shall not apply.

R4-1-455.01. Professional Conduct: ~~Competence and Technical Standards~~ Definitions: Interpretations

- ~~**A.** Competence: A registrant shall not undertake an engagement to perform professional services that the registrant cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with subsections (B) and (C).~~
- ~~**B.** Auditing standards: A registrant shall not permit the registrant's name to be associated with a financial statement in a manner that implies that the registrant is acting with independence with respect to the financial statement unless the registrant has complied with applicable generally accepted auditing standards.~~
- ~~**C.** Accounting principles: A registrant shall not express an opinion that a financial statement is presented in conformity with generally accepted accounting principles if the financial statement contains any departure from an accounting principle that has a material effect on the financial statement taken as a whole, unless the registrant can demonstrate that by reason of unusual circumstances that the financial statement would otherwise be misleading. In this case, the registrant's report shall describe the departure from an accounting principle, the approximate effects of the departure, if practicable, and the reasons why compliance with the principle would result in a misleading statement.~~
- ~~**D.** Accounting and review standards: A certified public accountant, public accountant, or firm shall not permit the certified public accountant, public accountant, or firm's name to be associated with an unaudited financial statement or other unaudited financial information of a non-public entity in a manner that implies the certified public accountant, public accountant, or firm is acting as an independent accountant unless the certified public accountant, public accountant, or firm has complied with all applicable standards for accounting and review services.~~
- ~~**E.** Forecasts and projections: A certified public accountant, public accountant, or firm shall not permit the certified public accountant's, public accountant's, or firm's name to be used in conjunction with any forecast of future transactions in a manner that may lead to the belief that the certified public accountant, public accountant, or firm vouches for the achievability of the forecast or projection.~~
- ~~**F.** In expressing an opinion on representations in a financial statement that the certified public accountant, public accountant, or firm has examined, a certified public accountant, public accountant, or firm violates A.R.S. § 32-741(A)(4) if the certified public accountant, public accountant, or firm:

 1. Fails to disclose a known material fact that makes the financial statement misleading;
 2. Fails to report a known material misstatement that appears in the financial statement;
 3. Is materially negligent in the conduct of the examination or in making a report on the examination;
 4. Fails to acquire sufficient information to warrant expression of an opinion, or the exceptions are sufficiently material to negate the expression of an opinion; or
 5. Fails to direct attention to any material departure from a generally accepted accounting principle or disclose any material omission of a generally accepted auditing procedure applicable under the circumstances.
 6. The provisions of subsection (F) are not intended to be all inclusive or to limit the application of A.R.S. § 32-741(A)(4).~~
- ~~**G.** Tax practice standards: A certified public accountant, public accountant, or firm shall exercise due diligence in the conduct of tax practices. The Board shall view the current standards in the American Institute of Certified Public Accountants Statements on Responsibilities in Tax Practice to presumptively represent due diligence.~~
- ~~**H.** Standards: The application of standards such as "generally accepted accounting principles," "generally accepted auditing standards," and "applicable standards for accounting and review services" by a certified public accountant, public accountant, or firm is to be made to the specific engagement or problem at hand by the exercise of professional judgment in the context of the literature of the accounting profession. The Board considers official statements of the Financial Accounting Standards Board, the American Institute of Certified Public Accountants, and other specialized bodies dealing with accounting and auditing matters to be persuasive sources for interpretation of the standards. Persons who take positions that depart from the official statements shall be prepared to justify them.~~

Interpretation of definitions: All terms defined in A.R.S. § 32-701 et seq. shall be construed, to the extent possible, to be consistent with corresponding definitions in the professional standards adopted in R4-1-455. The foregoing notwithstanding, for purposes of R4-1-455 and the professional standards adopted therein:

1. The term "practice of public accounting" shall be defined as set forth in A.R.S. § 32-701; and
2. References to "member" shall be to "registrant" as defined in A.R.S. § 32-701.

R4-1-455.02. Professional Conduct: ~~Confidentiality; Records Disposition~~ Competence and Technical Standards

- ~~**A.** Confidential client information: A certified public accountant, public accountant, or firm shall not disclose confidential information obtained in the course of a professional engagement except with the consent of the client. This requirement shall not be construed to:

 1. Relieve a certified public accountant, public accountant, or firm of the obligations under R4-1-455.01(B) and (C);
 2. Affect the certified public accountant's, public accountant's, or firm's compliance with a validly issued subpoena or summons enforceable by order of a court;
 3. Prohibit review of a certified public accountant's, public accountant's, or firm's professional practices as a part of a peer or quality review conducted under Board decision or authority; or
 4. Preclude a certified public accountant, public accountant, or firm from responding to an inquiry made by the Board under state statutes.~~
- ~~**B.** Records disposition responsibility: A certified public accountant, public accountant, or firm shall furnish to a client, or former client, upon request, within a reasonable time after original issuance:

 1. A copy of any tax returns prepared for the client;
 2. A copy of any reports, or other documents, that were previously issued to the client; and
 3. Any accounting or other records belonging to the client that the certified public accountant, public accountant, or firm may have removed from the client's premises, or received for the client's account. The certified public accountant, public accountant, or~~



firm may make a copy of the documents if the documents form the basis for work done by the certified public accountant, public accountant, or firm.

- A.** In reporting on financial statements for which a registrant has performed attest services (as defined in A.R.S. § 32-701) any of the following will constitute a violation of A.R.S. § 32-741(A)(4):
1. In an audit engagement, failing to:
 - a. Prepare audit documentation that is sufficient to enable an experienced auditor, having no previous connection with the audit, to understand:
 - i. The nature, timing, and extent of the audit procedures performed;
 - ii. The results of the audit procedures performed, and the audit evidence obtained; and
 - iii. Significant findings or issues arising during the audit, the conclusions reached thereon, and significant professional judgments made in reaching those conclusions;
 - b. Obtain sufficient appropriate evidence to conclude that the financial statements taken as a whole are free from material misstatement; or
 - c. Modify the opinion in the auditor's report when:
 - i. The financial statements as a whole are materially misstated; or
 - ii. Sufficient appropriate audit evidence to conclude that the financial statements as a whole are free from material misstatement has not been obtained.
 2. In a review engagement, failing to:
 - a. Accumulate sufficient review evidence to provide a reasonable basis for obtaining limited assurance that there are no material modifications that should be made to the financial statements in order to be in conformity with the applicable financial reporting framework; or
 - b. Modify the accountant's review report for a departure from the applicable financial reporting framework, including inadequate disclosure, that is material to the financial statements.
 3. In an examination of prospective financial statements engagement, failing to:
 - a. Obtain sufficient evidence to provide a reasonable basis for the conclusion that is expressed in the report; or
 - b. Modify the report when:
 - i. One or more significant assumptions do not provide a reasonable basis for the prospective financial statements; or
 - ii. The examination is affected by conditions that preclude application of one or more procedures considered necessary in the circumstances.
- B.** The provisions of this subsection are not intended to be all inclusive or to limit the application of A.R.S. § 32-741(A)(4).

R4-1-455.03. Professional Conduct: ~~Other~~ Specific Responsibilities and Practices

- A.** Discreditable acts: A ~~certified public accountant, public accountant, or firm~~ In addition to any other acts prohibited by any standards incorporated in these rules, a registrant shall not commit an act that reflects adversely on the ~~certified public accountant's, public accountant's, or firm's~~ registrant's fitness to engage in the practice of public accounting, including and without limitation:
1. Violating a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04;
 2. Violating a fiduciary duty or trust relationship with respect to any person; or
 3. Violating a provision of A.R.S. Title 32, Chapter 6, Article 3, or this Chapter.
- B.** Advertising practices and solicitation practices: A ~~certified public accountant, public accountant, or firm~~ registrant has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the communication or advertising or solicitation of public accounting services through any media, if the ~~certified public accountant, public accountant, or firm~~ registrant willfully engages in any of the following conduct:
1. Employs a device, scheme, or artifice to defraud;
 2. Makes an untrue statement of material fact or fails to state a material fact necessary to make the statement not misleading;
 3. Engages in any advertising that would operate as a fraud or deceit;
 4. Violates A.R.S. § 44-1522 and a court finds the violation willful;
 5. Engages in fraudulent or misleading practices in the advertising of public accounting services that leads to a conviction pursuant to A.R.S. § 44-1481; or
 6. Engages in fraudulent practices in the advertising of public accounting services that leads to a conviction for a violation of any other state or federal law.
- C.** Solicitation practices: A ~~certified public accountant, public accountant, or firm~~ has violated A.R.S. § 32-741(A)(4) and engaged in dishonest or fraudulent conduct in the practice of public accounting in connection with the direct or indirect personal solicitation of public accounting services if the ~~certified public accountant, public accountant, or firm~~ willfully engages in any of the following:
1. Violates a provision of R4-1-455.03(B); or
 2. Engages in direct or indirect personal solicitation through the use of coercion, duress, undue influence, compulsion, or intimidation practices.
- D-C.** Form of practice and name:
1. A ~~certified public accountant or public accountant~~ may practice public accounting, whether as an owner or employee, only in a firm as defined in A.R.S. § 32-701(14).
 2. A ~~certified public accountant or public accountant~~ registrant shall not use a professional or firm name or designation that is misleading about the legal form of the firm, or about the persons who are partners, officers, members, managers, or shareholders of the firm, or about any other matter. A firm name or designation shall not include words such as "& Company," "& Associates," or "& Consultants" unless the terms refer to additional full-time CPAs that are not otherwise mentioned in the firm name.
- E.** Acting through others: A ~~certified public accountant or public accountant~~ shall not knowingly permit others to carry out on behalf of the ~~certified public accountant or public accountant~~, either with or without compensation, acts which, if carried out by the ~~certified public accountant or public accountant~~, would violate a provision of R4-1-455, R4-1-455.01, R4-1-455.02, R4-1-455.03 or R4-1-455.04.



~~**D.**~~ Communications: When requested, a ~~certified public accountant or public accountant~~ registrant shall file a written response ~~respond to a communications communication~~ from the Board within 30 days of the date of the mailing of such ~~after the communication is mailed by registered or certified mail.~~ A written response is deemed filed on the date and time received in the Board office. The Board shall record the date and time either by electronic date stamp in Arizona time or on physical receipt in the Board's office. The Board shall not accept a postmark as evidence of timely filing.

E. The provisions of R4-1-455.03(A) through (C) are not intended to be all inclusive or to limit the application of any standards incorporated by R4-1-455.

R4-1-455.04. Professional Conduct: ~~Interpretations~~Records Disposition

~~The Board shall find interpretations of the Code of Professional Conduct adopted by the American Institute of Certified Public Accountants persuasive but not conclusive in the Board's interpretations of R4-1-455, R4-1-455.01, R4-1-455.02, or R4-1-455.03.~~

Document retention policies. Except as set forth in A.R.S. § 32-744(D), a registrant may retain and dispose of documents prescribed in A.R.S. § 32-744(C) in compliance with a reasonable document retention policy.



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

Not applicable

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

It is the statutory change enacted by the legislature that has economic impact. The legislation authorizes licensed pharmacists to make opioid antagonists more readily available to individuals at risk of an opioid-related overdose. The economic impact includes the potential for saving the lives of individuals at risk of an opioid-related overdose. The rulemaking, which simply makes the rules required by statute, will have minimal economic impact.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

The following changes were made in the text between the emergency and final rulemaking packages:

Subsection (A)(1): In the first sentence, "...a person..." was changed to "...any person..."

Subsection (A)(2): The first sentence was amended and divided. It now reads: "Opioid-related overdose" means an acute condition caused by excessive opioids. An opioid-related overdose can be identified by a triad of symptoms: decreased level of consciousness, pinpoint pupils, and respiratory depression.

Subsection (A)(3): an opening quotation mark was added.

Subsection (B)(1)(a) was added, remaining subsections were relabeled, and duplicative information was removed from subsection (B)(1)(b).

Subsection (B)(1)(b): Deleted reference to R4-23-407(A)(1)(a).

Subsections (B)(1)(c)(iii): The phrase "If available..." was deleted at the beginning.

Subsection (B)(1)(c)(v): The phrase "...entity at which employed..." was changed to "...employer..."

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

The Board received two written comments regarding the rulemaking. In an e-mail dated January 30, 2017, Angie Geren asked whether naloxone is available over the counter in Arizona and what regulations are placed on a pharmacy permit holder that dispenses naloxone. Opioid antagonists, including naloxone, are available OTC. Pharmacy permit holders have been informed of both the statutory change and the emergency rulemaking. In an e-mail dated February 5, 2017, Haley Coles asked that the definition of "community member" be amended to read "...any person..." rather than "...a person..." The change was made.

12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rule does not require a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is federal law governing medications and those requiring a prescription order. However there is no federal law specific to the subject matter of this rulemaking.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

The rule was previously made as an emergency rule, which was published at 23 A.A.R. 31, January 6, 2017. The following changes were made in the text between the emergency and final rulemaking packages:

Subsection (A)(1): In the first sentence, "...a person..." was changed to "...any person..."

Subsection (A)(2): The first sentence was amended and divided. It now reads: "Opioid-related overdose" means an acute condition caused by excessive opioids. An opioid-related overdose can be identified by a triad of symptoms: decreased level of consciousness, pinpoint pupils, and respiratory depression.

Subsection (A)(3): an opening quotation mark was added.

Subsection (B)(1)(a) was added, remaining subsections were relabeled, and duplicative information was removed from subsection (B)(1)(b).

Subsection (B)(1)(b): Deleted reference to R4-23-407(A)(1)(a).

Subsections (B)(1)(c)(iii): The phrase "If available..." was deleted at the beginning.

Subsection (B)(1)(c)(v): The phrase "...entity at which employed..." was changed to "...employer..."

**15. The full text of the rules follows:****TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 23. BOARD OF PHARMACY****ARTICLE 4. PROFESSIONAL PRACTICES**

Section

R4-23-407.1. Dispensing an Opioid Antagonist**ARTICLE 4. PROFESSIONAL PRACTICES****R4-23-407.1. Dispensing an Opioid Antagonist****A. As used in this Section:**

1. "Community member" means any person in position to assist an individual at risk of experiencing an opioid-related overdose. This includes emergency first responders, peace officers or other law enforcement personnel, fire department personnel, school district employees, and personnel of a facility or center that provides services to individuals at risk of experiencing an opioid-related overdose.
2. "Opioid antagonist" means any drug approved by the U.S. Food and Drug Administration that binds to opioid receptors, effectively blocking or inhibiting the receptor and preventing the body from responding to the opioid. Naloxone hydrochloride is an opioid antagonist.
3. "Opioid-related overdose" means an acute condition caused by excessive opioids. An opioid-related overdose can be identified by a triad of symptoms: decreased level of consciousness, pinpoint pupils, and respiratory depression. Other symptoms may include seizures, muscle spasms, and coma or death. An opioid-related overdose requires medical assistance.

B. Before allowing an opioid antagonist to be dispensed under A.R.S. § 32-1979, a pharmacy permit holder shall have written policies and procedures regarding:

1. Documentation of opioid antagonists dispensed under A.R.S. § 32-1979. The documentation shall:
 - a. Be maintained in a manner consistent with R4-23-407(A)(2);
 - b. Include the information required under R4-23-407(A)(1)(c, d, f, and l); and
 - c. Include the following:
 - i. Quantity dispensed;
 - ii. Directions for use; and
 - iii. The patient's name, address, telephone number, and birth date; or
 - iv. Name, address, telephone number, and birth date of a family member in position to assist the individual at risk of an opioid-related overdose; or
 - v. Name, address, telephone number, and employer of a community member in position to assist an individual at risk of an opioid-related overdose; and
 - vi. Name of the individual providing the education required under subsection (B)(2);
2. Education to be provided to the individual to whom the opioid antagonist is dispensed. The education shall include:
 - a. How to prevent an opioid-related overdose;
 - b. How to recognize an opioid-related overdose;
 - c. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
 - d. Precautions regarding:
 - i. Potential side effects, and
 - ii. Possible adverse events associated with administration of the opioid antagonist; and
 - e. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist; and
3. Confidentiality, security, and privileged nature of documentation of opioid antagonists dispensed under A.R.S. § 32-1979.

C. Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall:

1. Complete an opioid prevention and treatment training program that includes the following information:
 - a. How to recognize the symptoms of an opioid-related overdose.
 - b. How to respond to a suspected opioid-related overdose.
 - c. How to administer all preparations of an opioid antagonist, and
 - d. The information needed by an individual to whom an opioid antagonist is dispensed, and
2. Comply fully with the policies and procedures developed under subsection (B).

D. A pharmacist who has completed an opioid prevention and treatment training program described in subsection (C):

1. May administer an opioid antagonist to an individual the pharmacist believes is experiencing an opioid-related overdose, and
2. Is exempt from civil liability under the terms of A.R.S. § 36-2267(B).

E. Dispensing an opioid antagonist under A.R.S. § 32-1979 by invoice to a community member is not wholesale distribution as defined at A.R.S. § 32-1981.



NOTICE OF FINAL RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 17. DEPARTMENT OF HEALTH SERVICES
MEDICAL MARIJUANA PROGRAM

[R17-54]

PREAMBLE

- 1. Article, Part, or Section Affected (as applicable) Rulemaking Action
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):
3. The effective date of the rules:
4. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
5. The agency's contact person who can answer questions about the rulemaking:
6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:
7. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:
8. A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:
9. A summary of the economic, small business, and consumer impact:



Potential costs will be imposed on the Department, nonprofit medical marijuana dispensaries, certifying physicians, and female qualifying patients. Potential benefits will be conferred on certifying physicians, female qualifying patients, the children of female qualifying patients, and the general public. The Department believes that the amended rules will impose at most a minimal cost on the Department due to the small amount of additional time it may take to ensure dispensaries are in compliance with the rules. The amended rules will require no new FTEs and will have a significant benefit in that they will bring the Department into compliance with statute. The amended rules, which are required by Arizona Revised Statutes (A.R.S.) § 36-2803, as amended by Laws 2016, Ch. 92, may impose a minimal cost on dispensaries by causing them to spend a minimal amount of money to print and post required signage. They may also impose a minimal cost on certifying physicians, who will have to spend a few more minutes with female qualifying patients. Certifying physicians, qualifying female patients, the children of qualifying female patients, and the general public will all experience a significant benefit in that qualifying female patients will be made aware of the potential dangers to a fetus or a breastfeeding child as a result of a female qualifying patient smoking or ingesting marijuana.

The amended rules do not impose any fees or charges that affect the general fund or any other state agencies. The Department has determined that no other methods may be used to further reduce the economic impact while achieving the intention of Laws 2016, Ch. 92.

10. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Not applicable

11. An agency's summary of the public stakeholder comments made about the rulemaking and the agency response to the comments:

The Department received no written comments. The Department held an oral proceeding for the proposed rules on January 25, 2017, at which no stakeholders or members of the public attended.

12. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

Arizona Revised Statutes, Title 36, Chapter 28.1 requires individuals or entities that wish to operate a nonprofit medical marijuana dispensary to apply for a medical marijuana dispensary registration certificate and individuals who wish to use or possess a medical marijuana card for themselves to apply for a medical marijuana qualifying patient card. Hence, a general permit is not used.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There is no federal law directly applicable to this rulemaking.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No person has submitted an analysis to the Department that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

Not applicable

14. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 17. DEPARTMENT OF HEALTH SERVICES

ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

Section

- R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver
- R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

Section

- R9-17-310. Administration

ARTICLE 2. QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

R9-17-202. Applying for a Registry Identification Card for a Qualifying Patient or a Designated Caregiver

- A. Except for a qualifying patient who is under 18 years of age, a qualifying patient is not required to have a designated caregiver.
- B. A qualifying patient may have only one designated caregiver at any given time.



- C. Except for a qualifying patient who is under 18 years of age, if the information submitted for a qualifying patient complies with A.R.S. Title 36, Chapter 28.1 and this Chapter but the information for the qualifying patient's designated caregiver does not comply with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue the registry identification card for the qualifying patient separate from issuing a registry identification card for the qualifying patient's designated caregiver.
- D. If the Department issues a registry identification card to a qualifying patient under subsection (C), the Department shall continue the process for issuing or denying the qualifying patient's designated caregiver's registry identification card.
- E. The Department shall not issue a designated caregiver's registry identification card before the Department issues the designated caregiver's qualifying patient's registry identification card.
- F. Except as provided in subsection (G), to apply for a registry identification card, a qualifying patient shall submit to the Department the following:
 - 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's:
 - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
 - ii. Date of birth; and
 - iii. Gender;
 - b. Except as provided in subsection (F)(1)(i), the qualifying patient's residence address and mailing address;
 - c. The county where the qualifying patient resides;
 - d. The qualifying patient's e-mail address;
 - e. The identifying number on the applicable card or document in subsection (F)(2)(a) through (e);
 - f. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
 - g. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 - h. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
 - i. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
 - j. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
 - k. An attestation that the information provided in the application is true and correct; and
 - l. The signature of the qualifying patient and date the qualifying patient signed;
 - 2. A copy of the qualifying patient's:
 - a. Arizona driver's license issued on or after October 1, 1996;
 - b. Arizona identification card issued on or after October 1, 1996;
 - c. Arizona registry identification card;
 - d. Photograph page in the qualifying patient's U.S. passport; or
 - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient:
 - i. Birth certificate verifying U.S. citizenship,
 - ii. U.S. Certificate of Naturalization, or
 - iii. U.S. Certificate of Citizenship;
 - 3. A current photograph of the qualifying patient;
 - 4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - 5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
 - a. The physician's:
 - i. Name,
 - ii. License number including an identification of the physician license type,
 - iii. Office address on file with the physician's licensing board,
 - iv. Telephone number on file with the physician's licensing board, and
 - v. E-mail address;
 - b. The qualifying patient's name and date of birth;
 - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
 - d. An identification, initialed by the physician, of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
 - e. If the debilitating medical condition identified in subsection (F)(5)(d) is a condition in:
 - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
 - ii. R9-17-201(14), the debilitating medical condition;
 - f. A statement, initialed by the physician, that the physician:
 - i. Has established a medical record for the qualifying patient, and
 - ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
 - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;



- h. The date the physician conducted the in-person physical examination of the qualifying patient;
- i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
 - i. Medical records including medical records from other treating physicians from the previous 12 months;
 - ii. Response to conventional medications and medical therapies; and
 - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
- j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
- k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
- l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
- m. A statement, initialed by the physician, that the physician has provided information to the qualifying patient, if the qualifying patient is female, that warns about:
 - i. The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breast-feeding, and
 - ii. The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
- ~~m-n.~~ An attestation that the information provided in the written certification is true and correct; and
- ~~n-o.~~ The physician's signature and the date the physician signed;
- 6. If the qualifying patient is designating a caregiver, the following in a Department-provided format:
 - a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The designated caregiver's date of birth;
 - c. The designated caregiver's residence address and mailing address;
 - d. The county where the designated caregiver resides;
 - e. The identifying number on the applicable card or document in subsection (F)(6)(i)(i) through (v);
 - f. One of the following:
 - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
 - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
 - g. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
 - h. A statement signed by the designated caregiver:
 - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - i. A copy of the designated caregiver's:
 - i. Arizona driver's license issued on or after October 1, 1996;
 - ii. Arizona identification card issued on or after October 1, 1996;
 - iii. Arizona registry identification card;
 - iv. Photograph page in the designated caregiver's U.S. passport; or
 - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
 - (1) Birth certificate verifying U.S. citizenship;
 - (2) U.S. Certificate of Naturalization, or
 - (3) U.S. Certificate of Citizenship;
 - j. A current photograph of the designated caregiver; and
 - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - i. The designated caregiver's fingerprints on a fingerprint card that includes:
 - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
 - (2) The designated caregiver's signature;
 - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
 - (4) The designated caregiver's address;
 - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
 - (6) The designated caregiver's date of birth;
 - (7) The designated caregiver's Social Security number;
 - (8) The designated caregiver's citizenship status;
 - (9) The designated caregiver's gender;
 - (10) The designated caregiver's race;
 - (11) The designated caregiver's height;
 - (12) The designated caregiver's weight;
 - (13) The designated caregiver's hair color;
 - (14) The designated caregiver's eye color; and
 - (15) The designated caregiver's place of birth; or



- ii. If the designated caregiver's fingerprints and information required in subsection (F)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
- 7. The applicable fees in R9-17-102 for applying for:
 - a. A qualifying patient registry identification card; and
 - b. If applicable, a designated caregiver registry identification card.
- G. To apply for a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's:
 - i. First name; middle initial, if applicable; last name; and suffix, if applicable;
 - ii. Date of birth; and
 - iii. Gender;
 - b. The qualifying patient's residence address and mailing address;
 - c. The county where the qualifying patient resides;
 - d. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - e. The identifying number on the applicable card or document in subsection (G)(5)(a) through (e);
 - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
 - g. The county where the qualifying patient's custodial parent or legal guardian resides;
 - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
 - i. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
 - j. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
 - k. The qualifying patient's custodial parent's or legal guardian's date of birth;
 - l. Whether the qualifying patient's custodial parent or legal guardian is requesting authorization for cultivating medical marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
 - n. Whether the individual submitting the application on behalf of the qualifying patient under 18 years of age is the qualifying patient's custodial parent or legal guardian;
 - o. One of the following:
 - i. A statement that the qualifying patient's custodial parent or legal guardian does not currently hold a valid registry identification card, or
 - ii. The assigned registry identification number for the qualifying patient's custodial parent or legal guardian for each valid registry identification card currently held by the qualifying patient's custodial parent or legal guardian;
 - p. An attestation that the information provided in the application is true and correct; and
 - q. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
 2. A current photograph of the:
 - a. Qualifying patient, and
 - b. Qualifying patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver;
 3. An attestation in a Department-provided format signed and dated by the qualifying patient's custodial parent or legal guardian that the qualifying patient's custodial parent or legal guardian has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
 4. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
 - a. Allowing the qualifying patient's medical use of marijuana;
 - b. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - c. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 5. A copy of one of the following for the qualifying patient's custodial parent or legal guardian:
 - a. Arizona driver's license issued on or after October 1, 1996;
 - b. Arizona identification card issued on or after October 1, 1996;
 - c. Arizona registry identification card;
 - d. Photograph page in the qualifying patient's custodial parent or legal guardian U.S. passport; or
 - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the qualifying patient's custodial parent or legal guardian:
 - i. Birth certificate verifying U.S. citizenship,
 - ii. U. S. Certificate of Naturalization, or
 - iii. U. S. Certificate of Citizenship;



6. If the individual submitting the application on behalf of a qualifying patient is the qualifying patient's legal guardian, a copy of documentation establishing the individual as the qualifying patient's legal guardian;
7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - a. The qualifying patient's custodial parent or legal guardian's fingerprints on a fingerprint card that includes:
 - i. The qualifying patient's custodial parent or legal guardian's first name; middle initial, if applicable; and last name;
 - ii. The qualifying patient's custodial parent or legal guardian's signature;
 - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
 - iv. The qualifying patient's custodial parent's or legal guardian's address;
 - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
 - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
 - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
 - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
 - ix. The qualifying patient's custodial parent's or legal guardian's gender;
 - x. The qualifying patient's custodial parent's or legal guardian's race;
 - xi. The qualifying patient's custodial parent's or legal guardian's height;
 - xii. The qualifying patient's custodial parent's or legal guardian's weight;
 - xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
 - xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
 - xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
 - b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (G)(7)(a) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the qualifying patient's custodial parent or legal guardian as a result of the application;
8. A written certification from the physician in subsection (G)(1)(i) and a separate written certification from the physician in (G)(1)(j) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's application that includes:
 - a. The physician's:
 - i. Name,
 - ii. License number including an identification of the physician license type,
 - iii. Office address on file with the physician's licensing board,
 - iv. Telephone number on file with the physician's licensing board, and
 - v. E-mail address;
 - b. The qualifying patient's name and date of birth;
 - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
 - d. If the debilitating medical condition identified in subsection (G)(9)(c) is a condition in:
 - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
 - ii. R9-17-201(14), the debilitating medical condition;
 - e. For the physician listed in subsection (G)(1)(i):
 - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
 - ii. A statement, initialed by the physician, that the physician:
 - (1) Has established a medical record for the qualifying patient, and
 - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
 - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
 - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
 - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
 - (1) Medical records, including medical records from other treating physicians from the previous 12 months,
 - (2) Response to conventional medications and medical therapies, and
 - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database; ~~and~~
 - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient; ~~and~~
 - vii. A statement, initialed by the physician, that the physician has provided information to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient, if the qualifying patient is female, that warns about:
 - (1) The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
 - (2) The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report.
 - f. For the physician listed in subsection (G)(1)(j), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;



- g. A statement, initialed by the physician, that, in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
- h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
- i. An attestation that the information provided in the written certification is true and correct; and
- j. The physician's signature and the date the physician signed; and
- 9. The applicable fees in R9-17-102 for applying for a:
 - a. Qualifying patient registry identification card, and
 - b. Designated caregiver registry identification card.
- H. For purposes of this Article, "25 miles" includes the area contained within a circle that extends for 25 miles in all directions from a specific location.
- I. For purposes of this Article, "residence address" when used in conjunction with a qualifying patient means:
 - 1. The street address including town or city and zip code assigned by a local jurisdiction; or
 - 2. For property that does not have a street address assigned by a local jurisdiction, the legal description of the property on the title documents recorded by the assessor of the county in which the property is located.

R9-17-204. Renewing a Qualifying Patient's or Designated Caregiver's Registry Identification Card

- A. Except for a qualifying patient who is under 18 years of age, to renew a qualifying patient's registry identification card, the qualifying patient shall submit the following to the Department at least 30 calendar days before the expiration date of the qualifying patient's registry identification card:
 - 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The qualifying patient's date of birth;
 - c. Except as provided in subsection (A)(1)(j), the qualifying patient's residence address and mailing address;
 - d. The county where the qualifying patient resides;
 - e. The qualifying patient's e-mail address;
 - f. The registry identification number on the qualifying patient's current registry identification card;
 - g. The name, address, and telephone number of the physician providing the written certification for medical marijuana for the qualifying patient;
 - h. Whether the qualifying patient is requesting authorization for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 - i. If the qualifying patient is requesting authorization for cultivating marijuana plants, whether the qualifying patient is designating the qualifying patient's designated caregiver to cultivate marijuana plants for the qualifying patient's medical use;
 - j. If the qualifying patient is homeless, an address where the qualifying patient can receive mail;
 - k. Whether the qualifying patient would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
 - l. An attestation that the information provided in the application is true and correct; and
 - m. The signature of the qualifying patient and the date the qualifying patient signed;
 - 2. If the qualifying patient's name in subsection (A)(1)(a) is not the same name as on the qualifying patient's current registry identification card, one of the following with the qualifying patient's new name:
 - a. An Arizona driver's license,
 - b. An Arizona identification card, or
 - c. The photograph page in the qualifying patient's U.S. passport;
 - 3. A current photograph of the qualifying patient;
 - 4. A statement in a Department-provided format signed by the qualifying patient pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - 5. A physician's written certification in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
 - a. The physician's:
 - i. Name,
 - ii. License number including an identification of the physician license type,
 - iii. Office address on file with the physician's licensing board,
 - iv. Telephone number on file with the physician's licensing board, and
 - v. E-mail address;
 - b. The qualifying patient's name and date of birth;
 - c. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
 - d. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
 - e. If the debilitating medical condition identified in subsection (A)(5)(d) is a condition in:
 - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
 - ii. R9-17-201(14), the debilitating medical condition;
 - f. A statement, initialed by the physician, that the physician:
 - i. Has established a medical record for the qualifying patient, and



- ii. Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
 - g. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
 - h. The date the physician conducted the in-person physical examination of the qualifying patient;
 - i. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
 - i. Medical records including medical records from other treating physicians from the previous 12 months;
 - ii. Response to conventional medications and medical therapies, and
 - iii. Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database;
 - j. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient;
 - k. A statement, initialed by the physician, that in the physician's professional opinion, the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
 - l. A statement, initialed by the physician, that if the physician has referred the qualifying patient to a dispensary, the physician has disclosed to the qualifying patient any personal or professional relationship the physician has with the dispensary;
 - m. A statement, initialed by the physician, that the physician has provided information to the qualifying patient, if the qualifying patient is female, that warns about:
 - i. The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
 - ii. The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report;
 - ~~m-n.~~ An attestation that the information provided in the written certification is true and correct; and
 - ~~n-o.~~ The physician's signature and the date the physician signed;
6. If the qualifying patient is designating a caregiver or if the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card, the following in a Department-provided format:
- a. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The designated caregiver's date of birth;
 - c. The designated caregiver's residence address and mailing address;
 - d. The county where the designated caregiver resides;
 - e. If the qualifying patient is renewing the designated caregiver's registry identification card, the registry identification number on the designated caregiver's registry identification card associated with the qualifying patient;
 - f. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, the identification number on and a copy of the designated caregiver's:
 - i. Arizona driver's license issued on or after October 1, 1996;
 - ii. Arizona identification card issued on or after October 1, 1996;
 - iii. Arizona registry identification card;
 - iv. Photograph page in the designated caregiver's U. S. passport; or
 - v. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the designated caregiver:
 - (1) Birth certificate verifying U.S. citizenship,
 - (2) U. S. Certificate of Naturalization, or
 - (3) U. S. Certificate of Citizenship;
 - g. If the qualifying patient is designating an individual not previously designated as the qualifying patient's designated caregiver, one of the following:
 - i. A statement that the designated caregiver does not currently hold a valid registry identification card, or
 - ii. The assigned registry identification number for the designated caregiver for each valid registry identification card currently held by the designated caregiver;
 - h. A current photograph of the designated caregiver;
 - i. An attestation signed and dated by the designated caregiver that the designated caregiver has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
 - j. A statement in a Department-provided format signed by the designated caregiver:
 - i. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - ii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
 - k. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - i. The designated caregiver's fingerprints on a fingerprint card that includes:
 - (1) The designated caregiver's first name; middle initial, if applicable; and last name;
 - (2) The designated caregiver's signature;
 - (3) If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
 - (4) The designated caregiver's address;
 - (5) If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
 - (6) The designated caregiver's date of birth;



- (7) The designated caregiver's Social Security number;
- (8) The designated caregiver's citizenship status;
- (9) The designated caregiver's gender;
- (10) The designated caregiver's race;
- (11) The designated caregiver's height;
- (12) The designated caregiver's weight;
- (13) The designated caregiver's hair color;
- (14) The designated caregiver's eye color; and
- (15) The designated caregiver's place of birth; or
- ii. If the designated caregiver's fingerprints and information required in subsection (A)(6)(k)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application;
- 7. If the qualifying patient's designated caregiver's registry identification card has the same expiration date as the qualifying patient's registry identification card and the designated caregiver's name in subsection (A)(6)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
 - a. An Arizona driver's license,
 - b. An Arizona identification card, or
 - c. The photograph page in the designated caregiver's U.S. passport; and
- 8. The applicable fees in R9-17-102 for applying to:
 - a. Renew a qualifying patient's registry identification card; and
 - b. If applicable, issue or renew a designated caregiver's registry identification card.
- B.** To renew a registry identification card for a qualifying patient who is under 18 years of age, the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient shall submit to the Department the following:
 - 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's:
 - i. First name; middle initial, if applicable; last name; and suffix, if applicable; and
 - ii. Date of birth;
 - b. The qualifying patient's residence address and mailing address;
 - c. The county where the qualifying patient resides;
 - d. The registry identification number on the qualifying patient's current registry identification card;
 - e. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - f. The qualifying patient's custodial parent's or legal guardian's residence address and mailing address;
 - g. The county where the qualifying patient's custodial parent or legal guardian resides;
 - h. The qualifying patient's custodial parent's or legal guardian's e-mail address;
 - i. The registry identification number on the qualifying patient's custodial parent's or legal guardian's current registry identification card;
 - j. The name, address, and telephone number of a physician who has a physician-patient relationship with the qualifying patient and is providing the written certification for medical marijuana for the qualifying patient;
 - k. The name, address, and telephone number of a second physician who has conducted a comprehensive review of the qualifying patient's medical record maintained by other treating physicians, and is providing a written certification for medical marijuana for the qualifying patient;
 - l. Whether the qualifying patient's custodial parent or legal guardian is requesting approval for cultivating marijuana plants for the qualifying patient's medical use because the qualifying patient's custodial parent or legal guardian believes that the qualifying patient resides at least 25 miles from the nearest operating dispensary;
 - m. Whether the qualifying patient's custodial parent or legal guardian would like notification of any clinical studies needing human subjects for research on the medical use of marijuana;
 - n. A statement in a Department-provided format signed by the qualifying patient's custodial parent or legal guardian who is serving as the qualifying patient's designated caregiver:
 - i. Allowing the qualifying patient's medical use of marijuana;
 - ii. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - iii. Pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
 - o. An attestation that the information provided in the application is true and correct; and
 - p. The signature of the qualifying patient's custodial parent or legal guardian and the date the qualifying patient's custodial parent or legal guardian signed;
 - 2. If the qualifying patient's custodial parent's or legal guardian's name in subsection (B)(1)(e) is not the same name as on the qualifying patient's custodial parent's or legal guardian's current registry identification card, one of the following with the custodial parent's or legal guardian's new name:
 - a. An Arizona driver's license,
 - b. An Arizona identification card, or
 - c. The photograph page in the qualifying patient's custodial parent's or legal guardian's U.S. passport;
 - 3. A current photograph of the qualifying patient;



4. A written certification from the physician in subsection (B)(1)(j) and a separate written certification from the physician in subsection (B)(1)(k) in a Department-provided format dated within 90 calendar days before the submission of the qualifying patient's renewal application that includes:
 - a. The physician's:
 - i. Name,
 - ii. License number including an identification of the physician license type,
 - iii. Office address on file with the physician's licensing board,
 - iv. Telephone number on file with the physician's licensing board, and
 - v. E-mail address;
 - b. The qualifying patient's name and date of birth;
 - c. An identification of one or more of the debilitating medical conditions in R9-17-201 as the qualifying patient's specific debilitating medical condition;
 - d. If the debilitating medical condition identified in subsection (B)(4)(c) is a condition in:
 - i. R9-17-201(9) through (13), the underlying chronic or debilitating disease or medical condition; or
 - ii. R9-17-201(14), the debilitating medical condition;
 - e. For the physician listed in subsection (B)(1)(j):
 - i. A statement that the physician has made or confirmed a diagnosis of a debilitating medical condition as defined in A.R.S. § 36-2801 for the qualifying patient;
 - ii. A statement, initialed by the physician, that the physician:
 - (1) Has established a medical record for the qualifying patient, and
 - (2) Is maintaining the qualifying patient's medical record as required in A.R.S. § 12-2297;
 - iii. A statement, initialed by the physician, that the physician has conducted an in-person physical examination of the qualifying patient within the previous 90 calendar days appropriate to the qualifying patient's presenting symptoms and the qualifying patient's debilitating medical condition diagnosed or confirmed by the physician;
 - iv. The date the physician conducted the in-person physical examination of the qualifying patient;
 - v. A statement, initialed by the physician, that the physician reviewed the qualifying patient's:
 - (1) Medical records including medical records from other treating physicians from the previous 12 months,;
 - (2) Response to conventional medications and medical therapies, and
 - (3) Profile on the Arizona Board of Pharmacy Controlled Substances Prescription Monitoring Program database; ~~and~~
 - vi. A statement, initialed by the physician, that the physician has explained the potential risks and benefits of the use of medical marijuana to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient; and
 - vii. A statement, initialed by the physician, that the physician has provided information to the qualifying patient's custodial parent or legal guardian responsible for health care decisions for the qualifying patient, if the qualifying patient is female, that warns about:
 - (1) The potential dangers to a fetus caused by smoking or ingesting marijuana while pregnant or to an infant while breastfeeding, and
 - (2) The risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report.
 - f. For the physician listed in subsection (B)(1)(k), a statement, initialed by the physician, that the physician conducted a comprehensive review of the qualifying patient's medical records from other treating physicians;
 - g. A statement, initialed by the physician, that in the physician's professional opinion the qualifying patient is likely to receive therapeutic or palliative benefit from the qualifying patient's medical use of marijuana to treat or alleviate the qualifying patient's debilitating medical condition;
 - h. A statement, initialed by the physician, that if the physician has referred the qualifying patient's custodial parent or legal guardian to a dispensary, the physician has disclosed to the qualifying patient's custodial parent or legal guardian any personal or professional relationship the physician has with the dispensary;
 - i. An attestation that the information provided in the written certification is true and correct; and
 - j. The physician's signature and the date the physician signed; and
5. A current photograph of the qualifying patient's custodial parent or legal guardian;
6. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - a. The qualifying patient's custodial parent's or legal guardian's fingerprints on a fingerprint card that includes:
 - i. The qualifying patient's custodial parent's or legal guardian's first name; middle initial, if applicable; and last name;
 - ii. The qualifying patient's custodial parent's or legal guardian's signature;
 - iii. If different from the qualifying patient's custodial parent or legal guardian, the signature of the individual physically rolling the qualifying patient's custodial parent's or legal guardian's fingerprints;
 - iv. The qualifying patient's custodial parent's or legal guardian's address;
 - v. If applicable, the qualifying patient's custodial parent's or legal guardian's surname before marriage and any names previously used by the qualifying patient's custodial parent or legal guardian;
 - vi. The qualifying patient's custodial parent's or legal guardian's date of birth;
 - vii. The qualifying patient's custodial parent's or legal guardian's Social Security number;
 - viii. The qualifying patient's custodial parent's or legal guardian's citizenship status;
 - ix. The qualifying patient's custodial parent's or legal guardian's gender;
 - x. The qualifying patient's custodial parent's or legal guardian's race;
 - xi. The qualifying patient's custodial parent's or legal guardian's height;
 - xii. The qualifying patient's custodial parent's or legal guardian's weight;



- xiii. The qualifying patient's custodial parent's or legal guardian's hair color;
- xiv. The qualifying patient's custodial parent's or legal guardian's eye color; and
- xv. The qualifying patient's custodial parent's or legal guardian's place of birth; or
- b. If the qualifying patient's custodial parent's or legal guardian's fingerprints and information required in subsection (B)(6)(a) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the patient's custodial parent or legal guardian serving as the qualifying patient's designated caregiver as a result of the application; and
- 7. The applicable fees in R9-17-102 for applying to renew a:
 - a. Qualifying patient's registry identification card, and
 - b. Designated caregiver's registry identification card.
- C. Except as provided in subsection (A)(6), to renew a qualifying patient's designated caregiver's registry identification card, the qualifying patient shall submit to the Department, at least 30 calendar days before the expiration date of the designated caregiver's registry identification card, the following:
 - 1. An application in a Department-provided format that includes:
 - a. The qualifying patient's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - b. The registry identification number on the qualifying patient's current registry identification card;
 - c. The designated caregiver's first name; middle initial, if applicable; last name; and suffix, if applicable;
 - d. The designated caregiver's date of birth;
 - e. The designated caregiver's residence address and mailing address;
 - f. The county where the designated caregiver resides;
 - g. The registry identification number on the designated caregiver's current registry identification card;
 - 2. If the designated caregiver's name in subsection (C)(1)(a) is not the same name as on the designated caregiver's current registry identification card, one of the following with the designated caregiver's new name:
 - a. An Arizona driver's license,
 - b. An Arizona identification card, or
 - c. The photograph page in the designated caregiver's U.S. passport;
 - 3. A current photograph of the designated caregiver;
 - 4. A statement in a Department-provided format signed by the designated caregiver:
 - a. Agreeing to assist the qualifying patient with the medical use of marijuana; and
 - b. Pledging not to divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1; and
 - 5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
 - a. The designated caregiver's fingerprints on a fingerprint card that includes:
 - i. The designated caregiver's first name; middle initial, if applicable; and last name;
 - ii. The designated caregiver's signature;
 - iii. If different from the designated caregiver, the signature of the individual physically rolling the designated caregiver's fingerprints;
 - iv. The designated caregiver's address;
 - v. If applicable, the designated caregiver's surname before marriage and any names previously used by the designated caregiver;
 - vi. The designated caregiver's date of birth;
 - vii. The designated caregiver's Social Security number;
 - viii. The designated caregiver's citizenship status;
 - ix. The designated caregiver's gender;
 - x. The designated caregiver's race;
 - xi. The designated caregiver's height;
 - xii. The designated caregiver's weight;
 - xiii. The designated caregiver's hair color;
 - xiv. The designated caregiver's eye color; and
 - xv. The designated caregiver's place of birth; or
 - b. If the designated caregiver's fingerprints and information required in subsection (C)(1)(j)(i) were submitted as part of an application for a designated caregiver or a dispensary agent registry identification card to the Department within the previous six months, the registry identification number on the registry identification card issued to the designated caregiver as a result of the application; and
 - 6. The applicable fee in R9-17-102 for renewing a designated caregiver's registry identification card.

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

R9-17-310. Administration

- A. A dispensary shall:
 - 1. Ensure that the dispensary is operating and available to dispense medical marijuana to qualifying patients and designated caregivers at least 30 hours weekly between the hours of 7:00 a.m. and 10:00 p.m.;
 - 2. Develop, document, and implement policies and procedures regarding:
 - a. Job descriptions and employment contracts, including:
 - i. Personnel duties, authority, responsibilities, and qualifications;
 - ii. Personnel supervision;



- iii. Training in and adherence to confidentiality requirements;
 - iv. Periodic performance evaluations; and
 - v. Disciplinary actions;
 - b. Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers, and supporting documents, including agreements, checks, invoices, and vouchers;
 - c. Inventory control, including:
 - i. Tracking;
 - ii. Packaging;
 - iii. Accepting marijuana from qualifying patients and designated caregivers;
 - iv. Acquiring marijuana from other dispensaries; and
 - v. Disposing of unusable marijuana, which may include submitting any unusable marijuana to a local law enforcement agency;
 - d. Qualifying patient records, including purchases, denials of sale, any delivery options, confidentiality, and retention; and
 - e. Patient education and support, including:
 - i. Availability of different strains of marijuana and the purported effects of the different strains;
 - ii. Information about the purported effectiveness of various methods, forms, and routes of medical marijuana administration;
 - iii. Methods of tracking the effects on a qualifying patient of different strains and forms of marijuana; and
 - iv. Prohibition on the smoking of medical marijuana in public places;
 3. Maintain copies of the policies and procedures at the dispensary and provide copies to the Department for review upon request;
 4. Review dispensary policies and procedures at least once every 12 months from the issue date of the dispensary registration certificate and update as needed;
 5. Employ or contract with a medical director;
 6. Ensure that each dispensary agent has the dispensary agent's registry identification card in the dispensary agent's immediate possession when the dispensary agent is:
 - a. Working or providing volunteer services at the dispensary or the dispensary's cultivation site, or
 - b. Transporting marijuana for the dispensary;
 7. Ensure that a dispensary agent accompanies any individual other than another dispensary agent associated with the dispensary when the individual is present in the enclosed, locked facility where marijuana is cultivated by the dispensary;
 8. Not allow an individual who does not possess a dispensary agent registry identification card issued under the dispensary registration certificate to:
 - a. Serve as a principal officer or board member for the dispensary,
 - b. Serve as the medical director for the dispensary,
 - c. Be employed by the dispensary, or
 - d. Provide volunteer services at or on behalf of the dispensary;
 9. Provide written notice to the Department, including the date of the event, within 10 working days after the date, when a dispensary agent no longer:
 - a. Serves as a principal officer or board member for the dispensary,
 - b. Serves as the medical director for the dispensary,
 - c. Is employed by the dispensary, or
 - d. Provides volunteer services at or on behalf of the dispensary;
 10. Document and report any loss or theft of marijuana from the dispensary to the appropriate law enforcement agency;
 11. Maintain copies of any documentation required in this Chapter for at least 12 months after the date on the documentation and provide copies of the documentation to the Department for review upon request;
 12. Post the following information in a place that can be viewed by individuals entering the dispensary:
 - a. If applicable, the dispensary's approval to operate;
 - b. The dispensary's registration certificate;
 - c. The name of the dispensary's medical director and the medical director's license number on a sign at least 20 centimeters by 30 centimeters; ~~and~~
 - d. The hours of operation during which the dispensary will dispense medical marijuana to a qualifying patient or a designated caregiver; ~~and~~
 - e. A sign in a Department-provided format that contains the following language:
 - i. "WARNING: There may be potential dangers to fetuses caused by smoking or ingesting marijuana while pregnant or to infants while breastfeeding." ~~and~~
 - ii. "WARNING: Use of marijuana during pregnancy may result in a risk of being reported to the Department of Child Safety during pregnancy or at the birth of the child by persons who are required to report:"
 13. Not lend any part of the dispensary's income or property without receiving adequate security and a reasonable rate of interest;
 14. Not purchase property for more than adequate consideration in money or cash equivalent;
 15. Not pay compensation for salaries or other compensation for personal services that is in excess of a reasonable allowance;
 16. Not sell any part of the dispensary's property or equipment for less than adequate consideration in money or cash equivalent; and
 17. Not engage in any other transaction that results in a substantial diversion of the dispensary's income or property.
- B.** If a dispensary cultivates marijuana, the dispensary shall cultivate the marijuana in an enclosed, locked facility.

NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING

DEPARTMENT OF AGRICULTURE WEIGHTS AND MEASURES SERVICES DIVISION

[R17-55]

- 1. Title and its heading:** 3, Agriculture
Chapter and its heading: 7, Department of Agriculture - Weights and Measures Services Division
Article and its heading: 1, Administration and Procedures
2, Commercial Devices
3, Packaging, Labeling, and Method of Sale
4, Price Verification and Price Posting
5, Public Weighmasters
6, Registered Service Agencies and Representatives
7, Motor Fuels and Petroleum Products
9, Gasoline Vapor Control for sites with both Stage I and Stage II Vapor Recovery Systems
10, Stage I Vapor Recovery Systems
- Section numbers:** R3-7-101 through R3-7-104, R3-7-108, through R3-7-110, Table 1, R3-7-201, R3-7-203, R3-7-302, R3-7-402, R3-7-501 through R3-7-507, R3-7-601 through R3-7-604, R3-7-701 through R3-7-718, R3-7-749 through R3-7-757, R3-7-759, Table A, R3-7-760 through R3-7-762, Table 1, Table 2, R3-7-901 through R3-7-905, R3-7-907 through R3-7-913, R3-7-1001 through R3-7-1005, R3-7-1007 through R3-7-1013

- 2. The subject matter of the proposed rule:**
The Department is updating the rules following the transfer of the Arizona Department of Weights and Measures to the Department of Agriculture, Weights and Measures Services Division and to conform to additional requirements passed in Laws 2015, Chapter 244 (HB2480) and Laws 2016, Chapter 232 (HB2171). Additionally, the Department has conducted a review of rules with interested stakeholders and is streamlining rules to reduce the regulatory burden, provide consistency with current federal and industry standards, and the allow use of more modern technologies.

- 3. A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 23 A.A.R. 895, April 28, 2017 (*in this issue*)

- 4. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name: Michelle Wilson
Address: Department of Agriculture
Weights and Measures Services Division
1688 W. Adams St.
Phoenix, AZ 85007
Telephone: (602) 771-4933
Fax: (602) 939-8586
E-mail: Mwilson@AZDA.gov

- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**

Written comments may be submitted at any time prior to the close of the public record on May 31, 2017 at 12:00 p.m. Written comments not submitted at the oral proceeding described below should be submitted to Michelle Wilson, Arizona Department of Agriculture, Weights and Measures Services Division, 1688 West Adams Street, Phoenix, AZ 85007. An oral Proceeding will be



held on May 31, 2017 from 10:00 a.m. at the Arizona Department of Agriculture, Room 206. Oral comments may be made at the oral proceeding.

- 6. A timetable for agency decisions or other action on the proceeding, if known:**
To Be Determined

**NOTICE OF RULEMAKING DOCKET OPENING
BOARD OF EXAMINERS FOR NURSING CARE INSTITUTION ADMINISTRATORS
AND ASSISTED LIVING FACILITY MANAGERS**

[R17-56]

- 1. Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 33, Board of Examiners for Nursing Care Institution Administrators and Assisted Living Facility Managers
Article and its heading: 1, General
 2, Nursing Care Institution Administrator Licensing,
 3, Administrator-in-Training Program
 7, Assisted Living Facility Caregiver Training Programs
Section numbers: R4-33-101, R4-33-103, Table 1, R4-33-104, R4-33-201, R4-33-202, R4-33-204, R4-33-206, R4-33-301, and R4-33-701 through R4-33-706
(Additional Sections may be made, amended, or repealed as necessary).
- 2. The subject matter of the proposed rule:**
 The Board is making changes to Article 2 that will increase the number of individuals qualified for licensure and make it easier for licensed administrators in other states to obtain licensure in Arizona. The Board is amending Article 7 to make it easier for certified nursing assistants to become qualified as a caregiver in an assisted living facility and to allow use of virtual technology for more hours of the caregiver training program. The Board is also making corrections identified as needed in a five-year-review report approved by the Council on March 7, 2017. An exemption from EO2016-01 was provided by Mara Mellstrom, Policy Advisor in the Governor's Office, in an e-mail dated January 4, 2017.
- 3. A citation to all published notices relating to the proceeding:**
None
- 4. Name and address of agency personnel with whom persons may communicate regarding the rule:**
 Name: Allen Imig, Executive Director
 Address: Board of Examiners for Nursing Care Administrators and Assisted Living Facility Managers
 1400 W. Washington St., Suite B-8
 Phoenix, AZ 85007
 Telephone: (602) 364-2273
 Fax: (602) 542-8316
 E-mail: allen.imig@nciabd.state.az.us
 Web site: www.aznciaboard.us
- 5. The time during which the agency will accept written comments and the time and place where oral comments may be made:**
 The Board will accept comments during business hours at the address listed in item 4. Information regarding an oral proceeding will be included in the Notice of Proposed Rulemaking.
- 6. A timetable for agency decisions or other action on the proceeding, if known:**
To be determined



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2017-02

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

[M17-23]

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2017, as a notice to the public regarding state agencies' rulemaking activities.

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, job creators and entrepreneurs are especially hurt by red tape and regulations;

WHEREAS, all government agencies of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court of the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminate rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. All directors of state agencies subject to this Order shall engage their respective regulated or stakeholder communities to solicit comment on which rules the regulated community believes to be overly burdensome and not necessary to protect consumers, public health, or public safety. Each agency shall submit a report regarding the aforementioned information to the Governor's Office no later than September 1, 2017.
4. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.
5. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, "person," "rule," and "rulemaking" have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.



6. This Executive Order expires on December 31, 2017.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this Eleventh day of January in the Year Two Thousand and Seventeen and of the Independence of the United States of America the Two Hundred and Forty-First.

ATTEST:

Michele Reagan
SECRETARY OF STATE

REGISTER INDEXES

The *Register* is published by volume in a calendar year (See “General Information” in the front of each issue for more information).

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

PN = Proposed new Section
PM = Proposed amended Section
PR = Proposed repealed Section
P# = Proposed renumbered Section

SUPPLEMENTAL PROPOSED RULEMAKING

SPN = Supplemental proposed new Section
SPM = Supplemental proposed amended Section
SPR = Supplemental proposed repealed Section
SP# = Supplemental proposed renumbered Section

FINAL RULEMAKING

FN = Final new Section
FM = Final amended Section
FR = Final repealed Section
F# = Final renumbered Section

SUMMARY RULEMAKING**PROPOSED SUMMARY**

PSMN = Proposed Summary new Section
PSMM = Proposed Summary amended Section
PSMR = Proposed Summary repealed Section
PSM# = Proposed Summary renumbered Section

FINAL SUMMARY

FSMN = Final Summary new Section
FSMM = Final Summary amended Section
FSMR = Final Summary repealed Section
FSM# = Final Summary renumbered Section

EXPEDITED RULEMAKING**PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section
PEM = Proposed Expedited amended Section
PER = Proposed Expedited repealed Section
PE# = Proposed Expedited renumbered Section

SUPPLEMENTAL EXPEDITED

SPEN = Supplemental Proposed Expedited new Section
SPEM = Supplemental Proposed Expedited amended Section
SPER = Supplemental Proposed Expedited repealed Section
SPE# = Supplemental Proposed Expedited renumbered Section

FINAL EXPEDITED

FEN = Final Expedited new Section
FEM = Final Expedited amended Section
FER = Final Expedited repealed Section
FE# = Final Expedited renumbered Section

EXEMPT RULEMAKING**EXEMPT PROPOSED**

PXN = Proposed Exempt new Section
PXM = Proposed Exempt amended Section
PXR = Proposed Exempt repealed Section
PX# = Proposed Exempt renumbered Section

EXEMPT SUPPLEMENTAL PROPOSED

SPXN = Supplemental Proposed Exempt new Section
SPXR = Supplemental Proposed Exempt repealed Section
SPXM = Supplemental Proposed Exempt amended Section
SPX# = Supplemental Proposed Exempt renumbered Section

FINAL EXEMPT RULEMAKING

FXN = Final Exempt new Section
FXM = Final Exempt amended Section
FXR = Final Exempt repealed Section
FX# = Final Exempt renumbered Section

EMERGENCY RULEMAKING

EN = Emergency new Section
EM = Emergency amended Section
ER = Emergency repealed Section
E# = Emergency renumbered Section
EEXP = Emergency expired

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

TN = Terminated proposed new Sections
TM = Terminated proposed amended Section
TR = Terminated proposed repealed Section
T# = Terminated proposed renumbered Section

RULE EXPIRATIONS

EXP = Rules have expired
See also “emergency expired” under emergency rulemaking

CORRECTIONS

C = Corrections to Published Rules

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RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

Table with 12 columns: January, February, March, April, May, June. Each month has sub-columns for Date Filed and Effective Date. Rows list dates from 1/1 to 1/31 and corresponding effective dates.



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1	12/2	1/31
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2	12/3	2/1
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3	12/4	2/2
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4	12/5	2/3
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5	12/6	2/4
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6	12/7	2/5
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7	12/8	2/6
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8	12/9	2/7
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9	12/10	2/8
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10	12/11	2/9
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11	12/12	2/10
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12	12/13	2/11
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13	12/14	2/12
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14	12/15	2/13
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15	12/16	2/14
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16	12/17	2/15
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17	12/18	2/16
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18	12/19	2/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19	12/20	2/18
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20	12/21	2/19
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21	12/22	2/20
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22	12/23	2/21
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23	12/24	2/22
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24	12/25	2/23
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25	12/26	2/24
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26	12/27	2/25
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27	12/28	2/26
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28	12/29	2/27
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29	12/30	2/28
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from March 3, 2017 to September 22, 2017.



GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and Register deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by 5 p.m. of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit www.grrc.state.az.us.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2017

[M16-300]

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

*Materials must be submitted by 5 P.M. on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
NOTICE OF ACTION TAKEN AT THE
APRIL 4, 2017 MEETING**

[M17-81]

RULES:**RADIATION REGULATORY AGENCY (R-17-0104)**

Title 12, Chapter 1, Article 1, General Provisions; Article 2, Registration, Installation, and Service of Ionizing Radiation-Producing Machines and Certification of Mammography Facilities; Article 8, Radiation Safety Requirements for Analytical X-Ray Operations; Article 11, Industrial Uses of X-Rays, Not Including Analytical X-Ray Systems

Amend: R12-1-102; R12-1-201; R12-1-202; R12-1-203; R12-1-204; R12-1-206;
R12-1-207; R12-1-208; R12-1-209; Appendix A (Article 2); R12-1-802;
R12-1-804; R12-1-805; R12-1-807; R12-1-808; R12-1-809; R12-1-1102;
R12-1-1104; R12-1-1106; R12-1-1108; R12-1-1110; R12-1-1112;
R12-1-1116; R12-1-1120; R12-1-1126; R12-1-1128; R12-1-1130;
R12-1-1132; R12-1-1134; R12-1-1140; R12-1-1142; R12-1-1146; Appendix A (Article 11)

Repeal: R12-1-1122; R12-1-1136

COUNCIL ACTION: **APPROVED**

BOARD OF PHARMACY (R-17-0402)

Title 4, Chapter 23, Article 4, Professional Practices

New Section: R4-23-407.1

COUNCIL ACTION: **APPROVED**

DEPARTMENT OF HEALTH SERVICES (R-17-0403)

Title 9, Chapter 17, Article 2, Qualifying Patients and Designated Caregivers; Article 3, Dispensaries and Dispensary Agents

Amend: R9-17-202; R9-17-204; R9-17-310

COUNCIL ACTION: **APPROVED**

REGISTRAR OF CONTRACTORS (R-17-0404)

Title 4, Chapter 9, Article 1, General Provisions

Amend: R4-9-102

COUNCIL ACTION: **APPROVED**

FIVE-YEAR-REVIEW REPORTS:**DEPARTMENT OF ENVIRONMENTAL QUALITY (F-16-1102)**

Title 18, Chapter 9, Article 10, Arizona Pollutant Discharge Elimination System – Disposal, Use, and Transportation of Biosolids

COUNCIL ACTION: **APPROVED**

COMMISSION ON THE ARTS (F-17-0401)

Title 2, Chapter 2, Articles 1, Matching Private Monies with Monies from the Arizona Arts Endowment Fund; Article 2, Grantmaking Procedures for Grants from the Arizona Arts Trust Fund

COUNCIL ACTION: **APPROVED**



LAND DEPARTMENT (F-17-0403)

Title 12, Chapter 5, Article 18, Mineral Leases; Article 19, Prospecting Permits

COUNCIL ACTION: **APPROVED**

DEPARTMENT OF HEALTH SERVICES (F-17-0404)

Title 9, Chapter 25, Article 1, Definitions; Article 12, Time-Frames for Department Approvals

COUNCIL ACTION: **APPROVED**

REGISTRAR OF CONTRACTORS (F-17-0301)

Title 4, Chapter 9, Article 1, General Provisions

COUNCIL ACTION: **TABLED UNTIL MAY 2, 2017**

DEPARTMENT OF HEALTH SERVICES (F-16-1005)

Title 9, Chapter 16, Article 1, Licensing of Midwifery

COUNCIL ACTION: **APPROVED**

CONSIDERATION AND DISCUSSION OF MATTERS RELATED TO THE FIVE-YEAR-REVIEW REPORT OF THE CITIZENS CLEAN ELECTIONS COMMISSION

COUNCIL ACTION: **RETURNED PAGES 9 THROUGH 23, SECTIONS RELATING TO R2-20-109, R2-20-110 AND R2-20-111**

COUNCIL ACTION: **APPROVED THE BALANCE OF THE REPORT**

CONSIDERATION AND DISCUSSION OF THE REVIEW OF RULES OUTSIDE OF THE FIVE-YEAR-REVIEW PROCESS:

DEPARTMENT OF REVENUE

R15-2C-206. Partnership Income or Loss

R15-2C-207. Income-producing Property – Different Basis

R15-2C-210. Individual Net Operating Losses

R15-2C-304. Lottery Winnings

COUNCIL ACTION: **REPORT REQUIRED BY APRIL 11, 2017**