



NOTICES OF FINAL RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the *Administrative Procedures Act*. These rules were either approved by the Governor’s Regulatory Review Council or the Attorney General’s Office. Certificates of Approval are on file with this Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated the rules. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the *Arizona Administrative Code*.

**NOTICE OF FINAL RULEMAKING
TITLE 1. RULES AND THE RULEMAKING PROCESS
CHAPTER 6. GOVERNOR’S REGULATORY REVIEW COUNCIL**

[R17-147]

PREAMBLE

| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R1-6-101 | Amend |
| R1-6-102 | Amend |
| R1-6-103 | Amend |
| R1-6-104 | Amend |
| R1-6-201 | Amend |
| R1-6-202 | Amend |
| R1-6-203 | Amend |
| R1-6-204 | Amend |
| R1-6-205 | Amend |
| R1-6-206 | Amend |
| R1-6-207 | Repeal |
| R1-6-301 | Amend |
| R1-6-302 | Amend |
| R1-6-303 | Amend |
| R1-6-304 | Repeal |
| Article 4 | Amend |
| R1-6-401 | Amend |
| R1-6-402 | New Section |
| R1-6-403 | New Section |
| R1-6-404 | New Section |
| Article 5 | Repeal |
| R1-6-501 | Repeal |
| R1-6-502 | Repeal |
| Article 6 | Repeal |
| R1-6-601 | Repeal |
| Article 7 | Repeal |
| R1-6-701 | Repeal |
| Article 8 | Repeal |
| R1-6-801 | Repeal |
| R1-6-802 | Repeal |

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. § 41-1051(E)

Implementing statutes: A.R.S. §§ 41-1008, 41-1027, 41-1033, 41-1052, 41-1053, 41-1055, 41-1056, 41-1056.01, 41-1081

3. The effective date for the rules:

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

August 9, 2017. The Council has selected this early effective date to prevent the rules from being inconsistent with state law, namely the amendments to A.R.S. § 41-1027 and A.R.S. § 41-1033 that become effective on this date, in accordance with A.R.S. § 41-1032(A)(2). The need for this effective date was not created due to the Council’s delay or inaction.

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable



4. 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. 1376, May 19, 2017
Notice of Proposed Rulemaking: 23 A.A.R. 1347, May 19, 2017

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

Name: Chris Klemminich
Address: 100 N. 15th Ave., Suite 305
Phoenix, AZ 85007
Telephone: (602) 542-2024
E-mail: christopher.klemminich@azdoa.gov
Web site: <http://grrc.az.gov>

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

The Governor's Regulatory Review Council (Council) is amending the rules in 1 A.A.C. 6, based upon a critical and comprehensive review of its rules. The proposed rules also account for changes to the Arizona Administrative Procedure Act (A.R.S. Title 41, Chapter 6) made by SB 1055 and SB 1437, both signed by the Governor in April 2017. The Council believes that the rulemaking will result in rules that are more clear, concise, and effective.

The rulemaking eliminates administrative burdens for members of the public and state agencies by removing all requirements to submit paper copies of documents to the Council. In addition, to encourage greater public participation in the rulemaking and rule review processes, potential limitations on public testimony and written comments are being eliminated from R1-6-203 and R1-6-301. The proposed rules also eliminate redundancy by consolidating many of the Council's separate petition and appeal rules into one general rule, R1-6-402, thereby eliminating Articles 5-8 of the Chapter. The Council believes that the resulting rules are organized in a manner that is more understandable for the stakeholders that refer to them.

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:

None

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:

The Council anticipates that the primary economic impact of the rules will be derived from the elimination of requirements for submission of paper copies of documents to the Council. Additional changes to clarify existing rules should have a beneficial economic impact on all users of the rules. The rulemaking will apply to all state agencies subject to Council review, currently estimated at 100 agencies. The rulemaking will also apply to members of the public making comments or filing petitions and appeals with the Council.

The economic impact of the rulemaking is expected to be minimal (less than \$1,000) for all persons involved in the rulemaking, five-year review, and petition and appeal processes. Simplifying procedures for filing petitions or appeals make the most efficient use of staff resources while providing necessary information to the Council in a timely fashion.

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

Only clarifying and technical changes, none of which are substantial under the standards set forth in A.R.S. § 41-1025, have been made between the proposed rulemaking and the final rulemaking.

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

The Council received three written stakeholder comments about the rulemaking.

Comment #1 – Mr. Paul Swietek of the Arizona Department of Public Safety:

First, I would like to thank the GRRC for streamlining government by switching from paper documents to electronic submission and for the other changes throughout the NPRM.

Response: The Council appreciates the support.

Secondly, when I would file paper documents with the GRRC, I would utilize the Secretary of State's Agency Receipt format and have GRRC staff physically stamp the document. GRRC has no paper receipt format. The stamped receipt was my proof for the rulemaking record that a Final Notice of Rulemaking (FNR) was filed with GRRC within 120 days of the close of the record pursuant to R1-1-601(A) or that a Five-Year Report was filed on time in accordance with ARS 41-1056. When filing electronically, the opportunity to get that stamped receipt no longer exists. The proposed rules make no mention on how GRRC will inform or confirm to an agency that submitted electronically that the transmission was officially received.

Electronic submission, which will essentially be e-mail, poses a problem with the date. The proposed rules do not specifically state what date will be used to comply with R1-1-601(A) or other requirements; such as ARS 41-1056. Will it be the date the agency sent the e-mail or will it be the date GRRC staff opened and looked at their email? The latter option of those two could put the rulemaking package out of compliance with the 120 day rule or submission requirements for Five-year Review reports, Expedited Rulemaking and so forth.



I recommend that the rules in Articles 1 through 4 allowing for electronic submission be specified to include that GRRC shall provide the agency with an electronic receipt stating that the rule package/report/petition/appeal was received on the day the agency transmitted it to GRRC so that proof of receipt of submission can be retained in the historical rulemaking record.

Additionally, it would benefit the agencies and GRRC if a generic e-mail was created for agencies to submit to. This generic e-mail does not have to be published in the rules; just created as part of in-house procedure. That way, any GRRC staff member can have access to open and process incoming rule packages and reports. Without a generic e-mail address, agencies will play a guessing game on which GRRC staff member to submit to and if that staff member is away on vacation, sick or gone on other leave, the agency would be left wondering for days or weeks until the staff member returned if their rule package was received okay.

Response: Under A.R.S. § 41-1024(B)(1), an agency “shall...[s]ubmit the rule to the council” [emphasis added] within 120 days of the close of record. In addition, A.R.S. § 41-1056(J) provides that, in the context of the five-year-review process, rules expire if “an agency fails to submit its report” [emphasis added] by the report’s due date. Accordingly, time limits for submission to the Council are satisfied at the time of submission, whether in electronic or paper form, rather than receipt.

Therefore, in the Council’s view, an agency’s rulemaking record only needs to include proof that the agency made timely submission to the Council. When e-mail is used as a method of submission, Council staff recommends that agencies use the date and time stamp generated on the e-mail(s) sent to the Council as proof of submission. If any agencies would like to maintain their practice of having the Council stamp a paper receipt, Council staff will oblige such requests.

The Council will consider the potential benefits and costs of creating a generic e-mail address for submissions. The Council has not experienced any problems with its current practice of allowing e-mail submissions to be made to any and/or all individuals on the Council’s staff.

Comment #2 – Ms. Jane McVay of the Arizona Department of Transportation:

R1-6-103 - The title of the rule and Subsection (A)(1) refer to Council Rulemaking and Council rule, respectively. Since the Administrative Procedure Act defines “agency” to refer to various state departments and administrative units involved in rule making, it seems more appropriate to use the term “agency” in these references rather than “Council”, and to change the reference from “Council” practice to an “agency” practice” in Subsection (A)(2). Use of “agency” is also consistent with A.R.S. § 41-1033, which provides that any person may petition an agency to review or make a final rule.

Response: R1-6-103 relates only to the Council’s rules, substantive policy statements, and practices. The rule does not apply to agencies generally. The term “Council rule” in R1-6-103(A) has been changed in this Notice of Final Rulemaking to read “rule promulgated by the Council” to make that distinction clearer.

R1-6-201(B)(4) – Prior to the changes made in the proposed rules, this language required an agency to submit a copy of the existing rule only if any subsections in the existing rule that was amended were designated as “no change.” The proposed changes require an agency to always submit the text of the existing rule in all rule makings. The previous rule text will be displayed in the proposed and final rules with this requirement. This is an extra requirement for rule writers that increases the size of rulemaking documents that agencies send to GRRC. In the past, rule writers have also typed an unofficial version of the existing rules if the official Administrative Code version was not available on-line when needed for a rulemaking. The workload of GRRC staff is increased to download larger documents on GRRC’s website.

Response: The Council understands the commenter’s concerns. The language requiring an agency to submit a copy of the existing rule only if any subsections in the existing rule that was amended were designated as “no change” has been restored in this Notice of Final Rulemaking.

R1-6-203(A), (D)(6) – Language in Subsections (A) and Subsection (D)(6) was struck that removes the notification to an agency that a written comment was received on an agency rule and allows the agency to submit a written response. Frequently, an agency does not receive notification from an interested party that they are submitting written comments to a rule after the final rule filing. In the past, an agency was notified of the comment and received a copy of the comment from GRRC in advance of the GRRC meeting, if possible. In some cases, GRRC has received a written comment minutes before a meeting, and because there was no time for the agency to respond and in order to be fair to the agency, as referenced in language struck in Subsection (E), GRRC did not require the agency to respond to the issue. In the proposed rules there is no guidance to agencies on how receipt of comments received by GRRC will be handled and if agencies will be notified.

Response: The Council seeks encourage greater public participation in the rulemaking and rule review processes, and seeks to remove language in R1-6-203, including subsection (D)(6), that could impose potential limitations on public testimony and written comments. The Council does understand the commenter’s concerns related to R1-6-203(A). As such, language from R1-6-203(A) requiring Council staff to notify an agency of any written comments received by the Council has been restored in this Notice of Final Rulemaking as R1-6-201(E).

Comment #3 – Ms. Jeanne Hann of Arizona Rules, LLC

Thanks so much for the change to R1-6-201! All electronic submission has been a long time coming--heck, I remember the days when an agency placed a rulemaking on GRRC’s agenda by submitting 11 hard copies!! And thanks so much for the changes to R1-6-302(A)(2) and (B). Those provisions just got more reasonable.

Response: The Council appreciates the support.

R1-6-301(A)(2): I believe this exceeds GRRC’s statutory authority. ARS 41-1056(A)(1) refers to a rule’s objective. There is no reference to the rule’s purpose. I believe you understand there is a very finite number of reasons any rule exists--to comply with a statutory requirement, to protect public health and safety, to create efficiency in licensing and regulatory procedures, etc. Indeed, a reading of ARS 41-1093.01 might lead to the conclusion that many rules submitted to GRRC can have only one reason for exist-



tence! While I am willing to repeat these “reasons” throughout a 5YRR, I fail to understand what good is being accomplished by this requirement. Copying and pasting a “reason” from one Section to another is easy to do but the requirement is a bit burdensome.

Response: The Council does not believe that R1-6-301(A)(2) exceeds its statutory authority, nor does it impose an unnecessary burden. The term “purpose” in this context is used to provide clarity regarding one aspect of a rule’s objective that agencies should focus their attention on.

R1-6-303: Why is the time for an automatic extension for a 5YRR being shortened? Has there been a problem this change is addressing? I understand that ultimately, more time may be obtained but that requires the burden of going before GRRC. Why has this additional burden been added to the 5YRR requirements? I encourage you not to make this change.

Response: The Council understands the commenter’s concerns. The 120-day period for an automatic five-year-review report extension has been restored in this Notice of Final Rulemaking.

No comments were made at the oral proceeding held on June 26, 2017.

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:

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 rules do not require issuance of a regulatory permit, license or agency authorization.

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:

No corresponding federal laws apply. The rules are being promulgated under state law.

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

None

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

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 not previously made as an emergency rule.

15. The full text of the rules follows:

**TITLE 1. RULES AND THE RULEMAKING PROCESS
CHAPTER 6. GOVERNOR’S REGULATORY REVIEW COUNCIL**

ARTICLE 1. GENERAL RULES OF PROCEDURE

Section

- R1-6-101. Definitions
- R1-6-102. Meetings
- R1-6-103. ~~Schedule and Submission Deadlines~~ Submitting a Petition for Council Rulemaking or Review
- R1-6-104. Appearance by the Agency A.R.S. § 41-1008(E) Extension Requests

ARTICLE 2. RULEMAKING PROCEDURES

Section

- R1-6-201. Submitting a Regular Rule
- R1-6-202. Submitting an Expedited Rule
- R1-6-203. ~~Testimony and Written Comments~~ Delivering a Notice of Proposed Expedited Rulemaking
- R1-6-204. Submitting an Approved Regular or Expedited Rule with Changes
- R1-6-205. Filing a Regular or Expedited Rule Approved by the Council
- R1-6-206. Returned Rules
- R1-6-207. ~~Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)~~ Repealed

ARTICLE 3. FIVE-YEAR REVIEW REPORTS

Section

- R1-6-301. Submitting a Five-year Review Report
- R1-6-302. Rescheduling a Five-year Review Report
- R1-6-303. Extension of the Due Date for a Five-year Review Report
- R1-6-304. ~~Petition under A.R.S. § 41-1056(M) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal~~ Repealed



ARTICLE 4. APPEAL OF A DELEGATION AGREEMENT APPEALS AND PETITIONS

Section

- R1-6-401. Appeal of a Delegation Agreement Applicability
 R1-6-402. Filing of Petitions or Appeals: Agency Response: Council Decision
 R1-6-403. Additional Requirements for an Appeal of a Delegation Agreement
 R1-6-404. Additional Requirements for an Appeal Related to the Economic, Small Business, and Consumer Impact of a Rule

ARTICLE 5. PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT REPEALED

Section

- R1-6-501. Petition for Council Rulemaking or Review Repealed
 R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement Repealed

ARTICLE 6. APPEAL OF AN ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT REPEALED

Section

- R1-6-601. Appeal of an Economic, Small Business, and Consumer Impact Statement Repealed

ARTICLE 7. EARLY REVIEW PETITION REPEALED

Section

- R1-6-701. Early Review Petition of a Proposed Rule Repealed

ARTICLE 8. REQUEST OR PETITION REGARDING A FEE ESTABLISHED OR INCREASED BY EXEMPT RULEMAKING REPEALED

Section

- R1-6-801. Request for Extension of the Two Year Time Period under A.R.S. § 41-1008(E) for Charging or Receiving a Fee Established or Increased by Exempt Rulemaking Repealed
 R1-6-802. Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G) Repealed

ARTICLE 1. GENERAL RULES OF PROCEDURE

R1-6-101. Definitions

- A. The definitions in A.R.S. § 41-1001 apply to this Chapter.
- B. In this Chapter:
1. "Agency head" means the chief officer of an agency or another person directly or indirectly purporting to act on behalf or under the authority of the agency head.
 2. "Chair" means the chairperson of the Council or the chairperson's designee.
 3. "Electronic copy" means a document submitted or filed by e-mail or CD.
 4. "Expedited rule" means a rule made according to the procedures in A.R.S. §§ 41-1027 and 41-1053.
 5. "Five-year Review Report" means a report submitted to the Council according to the procedures in A.R.S. § 41-1056 or 41-1095.
 - ~~5-6.~~ "Open Meeting Law" means A.R.S. Title 38, Chapter 3, Article 3.1.
 6. ~~"Paper copy" means a document submitted on paper.~~
 7. "Regular rule" means a rule made according to the procedures in A.R.S. §§ 41-1021 through 41-1024 and 41-1052.

R1-6-102. Meetings

- A. The Chair, in consultation with the Council, shall set monthly meeting dates of the Council and a schedule containing submission deadlines based on those meeting dates for each calendar year by the preceding ~~October 31~~ September 15 and shall post notice of each monthly meeting according to the Open Meeting Law.
- B. The Chair or Council may schedule a special meeting to consider any matter it may consider at a regularly scheduled monthly meeting. The Council shall post notice of a special meeting according to the Open Meeting Law at least 24 hours before the special meeting.
- C. The Council may recess a regularly scheduled monthly or special meeting to a later date if, before recessing, the Chair gives notice of the date and time of the resumption of the meeting and posts a notice of resumption of the meeting according to the Open Meeting Law.
- D. The Chair may temporarily adjourn or recess a regularly scheduled monthly or special meeting on the meeting day in an effort to ensure that a quorum of the Council is present.
- E. For the purpose of responding to questions from the Council, a representative of an agency shall appear at a Council meeting at which the agency has been notified that its rule or five-year review report is on the agenda for consideration.

R1-6-103. Schedule and Submission Deadlines Submitting a Petition for Council Rulemaking or Review

The Chair, in consultation with Council, shall establish for each calendar year, by the preceding ~~October 31~~, a schedule containing submission deadlines based on the meeting dates established under ~~R1-6-102~~ for:

- ~~1. Rules submitted or, if applicable, resubmitted to the Council including new, amended, repealed, or renumbered rules; and~~
- ~~2. Five-year review reports.~~

- A. A person may petition the Council under A.R.S. § 41-1033(A) for a:



1. Rulemaking action relating to a rule promulgated by the Council, including making a new rule or amending or repealing an existing rule; or
 2. Review of an existing Council practice or substantive policy statement alleged to constitute a rule.
- B.** To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office one electronic copy of a petition, in the form of a letter signed by the person submitting the petition, that includes the following information:
1. Name, mailing address, e-mail address, and telephone number of the person submitting the petition;
 2. Name of any person represented by the person submitting the petition; and
 3. If the petition is for rulemaking action:
 - a. A statement of the rulemaking action sought, including the Arizona Administrative Code citation of all existing rules, and the specific language of a new rule or rule amendment; and
 - b. Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;
 4. If the petition is for a review of an existing practice or substantive policy statement:
 - a. Subject matter of the existing practice or substantive policy statement, and
 - b. Reasons why the existing practice or substantive policy statement constitutes a rule.
- C.** The petition shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- D.** A person may submit supporting information with a petition, including:
1. Statistical data; and
 2. A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.
- E.** The Council shall send a letter in response to the petition no later than 60 calendar days after the date the Council receives the petition.

R1-6-104. Appearance by the Agency A.R.S. § 41-1008(E) Extension Requests

- A.** ~~A representative of an agency shall appear at the Council meeting at which the agency’s rule or five-year review report is to be considered for legal action to respond to questions by the Council.~~
- B.** ~~If an agency representative fails to appear at the Council meeting at which the agency’s rule or five-year review report is considered for legal action, the Council may:~~
1. ~~Reschedule consideration of the rule or report;~~
 2. ~~Return a regular rule or report, in whole or in part, to the agency;~~
 3. ~~Approve a regular rule or report, in whole or in part, after allowing public comment, if any;~~
 4. ~~For an expedited rule, approve the rule, reject the rule, order the initiation of regular rulemaking, or provide comments on the expedited rule to the agency within the scope of A.R.S. § 41-1027(A) and require the agency to respond to comments or testimony in writing.~~
- A.** Under A.R.S. § 41-1008(E), an agency may file a written request for an extension of the two-year period during which a fee established or increased by exempt rulemaking is effective.
- B.** The agency shall file a request, in the form of a letter signed by the agency head, at least 40 days before expiration of the two-year period so that the request may be considered at a regularly scheduled Council meeting. The agency representative filing a request shall submit to the Council office one electronic copy of the request. The request shall contain:
1. The name, mailing address, e-mail address, and telephone number of the agency and the agency representative filing the request;
 2. The statutory authority under which the request is allowed;
 3. The length of the extension sought;
 4. The reasons why the two-year period should be extended; and
 5. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the request is denied, if applicable.
- C.** The request shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- D.** The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency’s request.
- E.** Within seven calendar days after the Council’s decision on the request, the Chair shall provide written notification of the Council’s decision to the affected agency head, including the reasons for and date of the decision.

ARTICLE 2. RULEMAKING PROCEDURES

R1-6-201. Submitting a Regular Rule

- A.** ~~To submit a regular rule for consideration by the Council, an agency shall deliver submit to the Council office one paper copy and one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:~~
1. ~~A request for approval, in the form of an original a cover letter signed by the agency head. The cover letter shall specify:~~
 - a. ~~The close of record date;~~
 - b. ~~Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;~~



- c. Whether the rule establishes a new fee and, if it does, citation of the statute expressly authorizing the new fee;
 - d. Whether the rule contains a fee increase;
 - e. Whether an immediate effective date is requested for the rule under A.R.S. § 41-1032;
 - f. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule;
 - g. If one or more full-time employees are necessary to implement and enforce the rule, a certification that the preparer of the economic, small business, and consumer impact statement has notified the Joint Legislative Budget Committee of the number of new full-time employees necessary to implement and enforce the rule; and
 - h. A list of all documents enclosed.
2. A Notice of Final Rulemaking, ~~required by A.A.C. R1-1-602,~~ including the preamble, table of contents for the rulemaking, and text of each rule;
 3. An economic, Economic, small business, and consumer impact statement that contains the information required by A.R.S. § 41-1055;
 4. The written comments received by the agency concerning the proposed rule and a written record, transcript, or minutes of any testimony received if the agency maintains a written record, transcript, or minutes; and
 5. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.
- B.** In addition to the documents required in subsection (A), an agency shall ~~submit~~ submit one electronic ~~or paper~~ copy of each reference document that follows:
1. Material incorporated by reference, if any;
 2. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 3. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 4. The existing rule if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.
- C.** After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1021 through 41-1024 and 41-1052 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall submit ~~one paper copy and~~ one electronic copy of the revised rulemaking document to the Council for review, ~~according to the schedule established by R1-6-103.~~
- D.** After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.
- E.** Council staff shall notify the agency of any written comments received by the Council related to an agency's rulemaking.
- ~~**F.**~~ If it is necessary for a rule to be heard at more than one Council meeting, the agency shall submit any revised documents for the later meeting, consistent with this Section.

R1-6-202. Submitting an Expedited Rule

- A.** To submit an expedited rule for consideration by the Council, an agency shall ~~deliver~~ submit to the Council office ~~one paper copy and~~ one electronic copy of each rulemaking document that follows, prepared in the manner required by this subsection, subsection (B), and the rules of the Office of the Secretary of State:
1. A request for approval, in the form of ~~an original~~ a cover letter signed by the agency head. The cover letter shall specify:
 - a. The close of record date;
 - b. An explanation of how the expedited rule meets the criteria in A.R.S. § 41-1027(A);
 - c. Whether the rulemaking activity relates to a five-year review report and, if applicable, the date the report was approved by the Council;
 - d. A certification that the preamble discloses a reference to any study relevant to the rule that the agency reviewed and either did or did not rely on in the agency's evaluation of or justification for the rule; and
 - e. A list of all documents enclosed.
 2. A Notice of Final Expedited Rulemaking, ~~required by A.A.C. R1-1-803,~~ including the preamble, table of contents for the rulemaking, and text of each rule;
 3. The written comments, including objections that the rulemaking does not meet the criteria in A.R.S. § 41-1027(A), received by the agency or contained in a notice concerning the proposed rule; and
 4. Any analysis submitted to the agency regarding the rule's impact on the competitiveness of businesses in this state as compared to the competitiveness of businesses in other states.
- B.** In addition to the documents required in subsection (A), an agency shall ~~submit~~ submit one electronic ~~or paper~~ copy of each reference document that follows:
1. Material incorporated by reference, if any;
 2. For a statute declared unconstitutional, the court's decision;
 3. The general and specific statutes authorizing the rule, including relevant statutory definitions;
 4. If a term is defined in the rule by referring to another rule or a statute other than the general and specific statutes authorizing the rule, the statute or other rule referred to in the definition; and
 5. The text of the existing rule, ~~if any subsections within the existing rule are designated as "no change" in the revised text of a rule the agency is amending.~~



- C. After a rule is placed on a Council agenda, Council staff shall review the rule for compliance with the requirements of A.R.S. §§ 41-1027, 41-1053, and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any rulemaking document in response to a question or suggested change, the agency shall submit ~~one paper copy and~~ one electronic copy of the revised rulemaking document to the Council for review, ~~according to the schedule established by R1-6-103.~~
- D. After a rule is placed on a Council agenda, an agency may have the rule moved to the agenda of a later meeting by having the agency head send a written notice to the Chair that includes the date of the later meeting. If the agency makes a subsequent request that the rule be moved, the Chair may grant or deny the request at the Chair's discretion.

R1-6-203. Testimony and Written Comments Delivering a Notice of Proposed Expedited Rulemaking

- ~~A. Consistent with A.R.S. §§ 41-1027(G) and 41-1052(I) a person may submit written comments about an agency rulemaking to the Council within 30 days from Council receipt of the rulemaking. Written comments may include any visual aids or written materials supplementing planned testimony. For an expedited rulemaking, a person may submit written comments to the Council that are within the scope of A.R.S. § 41-1027(A). The date of receipt of the rule shall be posted on the Council's web site. Council staff shall notify the agency of any written comments received by the Council. An agency may submit a written response to the Council before or during the scheduled Council meeting or, if more time is needed to respond, request in writing that the rulemaking be moved to the next regularly scheduled Council meeting.~~
- ~~B. A person may provide testimony about regular rulemaking at a Council meeting and may request that an expedited rulemaking be removed from the consent agenda and heard by the Council under A.R.S. § 41-1052 for the purpose of providing testimony.~~
- ~~C. The Chair may limit the time allotted to each speaker and preclude repetitious testimony.~~
- ~~D. A person who provides testimony or submits written comments to the Council shall:

 1. Ensure that the testimony or comments relate to a final rulemaking submitted to the Council;
 2. Address the provision of A.R.S. §§ 41-1027 or 41-1052(D) through (G) that is the basis for the Council's authority to consider each issue addressed;
 3. State specifically how each issue relates to the particular provision addressed;
 4. Explain the efforts the person made to communicate with the rulemaking agency about each issue;
 5. Submit to Council staff one electronic copy and one paper copy of each written comment, including any visual aid or written material supplementing planned testimony; and
 6. At the same time written comments are provided to the Council, provide a copy of written comments, including any visual aids or written materials supplementing planned testimony, to the agency.~~
- ~~E. If a person does not comply with the requirements of this Section, the Chair, in the Chair's discretion, shall consider the reason for the noncompliance, fairness to the rulemaking agency, and the best interests of the state in determining the action to take under A.R.S. §§ 41-1027, 41-1052, or 41-1053.~~
- ~~A. Under A.R.S. § 41-1027(B), before filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, an agency is required to submit an electronic copy of the Notice of Proposed Expedited Rulemaking to the Council.~~
- ~~B. Upon filing a Notice of Proposed Expedited Rulemaking with the Office of the Secretary of State, the agency shall:

 1. Post the Notice of Proposed Expedited Rulemaking on its website as soon as practicable; and
 2. Notify Council staff of the filing as soon as practicable. Upon receipt of this notice, Council staff shall post the Notice of Proposed Expedited Rulemaking on the Council's website as soon as practicable.~~
- ~~C. For the purposes of submitting a final expedited rule for consideration by the Council in accordance with R1-6-202, if the agency and the Council post the Notice of Proposed Expedited Rulemaking on their respective websites on different dates, the Council shall consider the 30-day public comment window established in A.R.S. § 41-1027(C) to have opened on the date of the agency's posting.~~

R1-6-204. Submitting an Approved Regular or Expedited Rule with Changes

- A. If a final regular or expedited rule is approved by the Council with changes, an agency shall ~~deliver~~ submit to the Council office within 14 calendar days after Council approval, unless a later date is arranged under subsection (B), ~~one paper copy and~~ one electronic copy of each rulemaking document that follows, prepared in the manner required by this Chapter and the rules of the Office of the Secretary of State:
 1. A letter identifying each change made at the direction of the Council; and
 2. The following rulemaking documents:
 - a. A notice ~~Notice~~ of Final Rulemaking or Notice of Final Expedited Rulemaking, as applicable; and
 - b. An economic ~~Economic~~, small business, and consumer impact statement, if applicable.
- B. If an agency is unable to ~~deliver~~ submit an approved regular rule or expedited rule to the Council office within the time specified in subsection (A), the agency shall contact the Council office in writing and arrange to submit the approved rule at a later date.

R1-6-205. Filing a Regular or Expedited Rule Approved by the Council

- A. If the Council approves a final regular or expedited rule as submitted, an agency shall ~~print the Council's scanned original certificate of approval, the approved notice and, if applicable, the approved economic, small business, and consumer impact statement, submitted by e-mail to the agency by Council staff, and file the final regular or expedited rule according to the rules of the Office of the Secretary of State. The Council shall file with the Office of the Secretary of State the original certificate of approval, specifying the Sections approved and the date of Council approval. The Council shall submit by e-mail the Council's scanned original certificate of approval to the Office of the Secretary of State.~~
- B. If the Council approves a final regular or expedited rule subject to the agency making changes as directed by the Council, and the agency submits the rulemaking documents required by R1-6-204:
 1. Council staff shall verify whether each change required by the Council was made.
 2. Once Council staff notifies the agency that the verification process is complete, the agency shall ~~print the notice and, if applicable, the economic, small business, and consumer impact statement, approved as revised, as well as the Council's scanned original certificate of approval, submitted by e-mail to the agency by Council staff, and file the final regular or expedited rule~~



according to the rules of the Office of the Secretary of State. ~~The Council shall file with the Office of the Secretary of State the original of a certificate of approval, specifying the Sections approved and the date of Council approval. The Council shall submit by e-mail the Council's scanned original certificate of approval to the Office of the Secretary of State.~~

3. If an agency submits a revised preamble; table of contents; rule; or economic, small business, and consumer impact statement that does not contain the exact words approved by the Council, Council staff shall notify the agency and require that the items be submitted as approved or schedule the matter for reconsideration by the Council.
- C. Except as specified in subsection (B), an agency shall not make any change to a preamble; table of contents; rule; economic, small business, and consumer impact statement; or materials incorporated by reference after Council approval.

R1-6-206. Returned Rules

The Council may vote to return a preamble; table of contents; rule; or economic, small business, and consumer impact statement under A.R.S. § 41-1052(C), after identifying the manner in which the returned portion does not meet the standards at A.R.S. § 41-1052(D) through (G).

1. The Council may schedule a date for resubmission in consultation with the agency representative.
2. An agency shall resubmit the notice, with a revised preamble; table of contents; ~~or rule;~~ or the economic, small business, and consumer impact statement; ~~or both~~ to the Council, and attach to each resubmitted document a letter that:
 - a. Identifies all changes made in response to the Council's explanation for the returned portion,
 - b. Explains how the changes ensure that the document meets the standards at A.R.S. § 41-1052(D) through (G), and
 - c. If applicable, shows that the resubmitted rule is not substantially different from the proposed rule under the standards in A.R.S. § 41-1025.
3. In accordance with ~~R1-6-104~~ **R1-6-102**, an agency representative shall appear at the Council meeting at which the resubmitted notice, with a revised preamble, table of contents, or rule, or economic, small business, and consumer impact statement is to be considered for legal action.

~~R1-6-207. Petition Regarding an Economic, Small Business and Consumer Impact Statement under A.R.S. § 41-1055(E)~~ Repealed

- ~~A. Under A.R.S. § 41-1055(E), an agency may petition the Council for a determination that the agency is not required to file an economic, small business and consumer impact statement for a regular rule. The agency shall file a petition in the form of a letter, signed by the agency head. The agency representative filing the petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:~~
- ~~1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the petition;~~
 - ~~2. The statutory authority under which petition is allowed;~~
 - ~~3. A statement that the agency is seeking a determination that it is not required to file an economic, small business and consumer impact statement; and~~
 - ~~4. The reasons why the petition should be granted, based on an analysis of the factors in A.R.S. § 41-1055(E).~~
- ~~B. The petition shall be printed on one side, not exceed five double-spaced or space and a half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.~~
- ~~C. The Council shall place the petition on the agenda of its next meeting if at least four Council members request that the matter be considered within 14 days after the filing of the petition. The Chair or the Chair's designee shall provide written notification to the agency that the Council is considering the petition.~~
- ~~D. Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to notify the affected agency head of the Council's decision, including the reasons for and date of the decision.~~

ARTICLE 3. FIVE-YEAR REVIEW REPORTS

R1-6-301. Submitting a Five-year Review Report

- A. To submit a five-year review report for consideration by the Council, an agency shall ~~deliver~~ **submit** to the Council office ~~an original one electronic copy of the cover letter signed by the agency head; one set of paper documents and one set of electronic documents, prepared in the manner required by this subsection and subsections (C) and (D). The agency shall ensure that the submission contains one paper copy and one electronic copy of the five-year review report required by A.R.S. § 41-1056, including rules made pursuant to an exemption, in whole or in part, from A.R.S. Title 41, Chapter 6. Consistent with subsection (B), the agency shall concisely analyze and provide the following information in the five-year review report in the following order for each rule:~~
1. General and specific statutes authorizing the rule, including any statute that authorizes the agency to make rules;
 2. Objective of the rule, including the purpose for the existence of the rule;
 3. Effectiveness of the rule in achieving the objective, including a summary of any available data supporting the conclusion reached;
 4. Consistency of the rule with state and federal statutes and other rules made by the agency, and a listing of the statutes or rules used in determining the consistency;
 5. Agency enforcement policy, including whether the rule is currently being enforced and, if so, whether there are any problems with enforcement;
 6. Clarity, conciseness, and understandability of the rule;
 7. Summary of the written criticisms of the rule received by the agency within the five years immediately preceding the five-year review report, including letters, memoranda, reports, written analyses submitted to the agency questioning whether the rule is based on valid scientific or reliable principles or methods, and written allegations made in litigation or administrative proceedings in which the agency was a party that the rule is discriminatory, unfair, unclear, inconsistent with statute, or beyond the authority of the agency to enact, and the result of the litigation or administrative proceedings;



- 8. A comparison of the estimated economic, small business, and consumer impact of the rule with the economic, small business, and consumer impact statement prepared on the last making of the rule or, if no economic, small business, and consumer impact statement was prepared on the last making of the rule, an assessment of the actual economic, small business, and consumer impact of the rule;
 - 9. Any analysis submitted to the agency by another person regarding the rule’s impact on this state’s business competitiveness as compared to the competitiveness of businesses in other states;
 - 10. If applicable, how the agency completed the course of action indicated in the agency’s previous five-year review report;
 - 11. A determination after analysis that the probable benefits of the rule within this state outweigh the probable costs of the rule, and the rule imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs necessary to achieve the underlying regulatory objective;
 - 12. A determination after analysis that the rule is not more stringent than a corresponding federal law unless there is statutory authority to exceed the requirements of that federal law;
 - 13. For a rule adopted after July 29, 2010, that requires issuance of a regulatory permit, license or agency authorization, whether the rule complies with A.R.S. § 41-1037; and
 - 14. Course of action the agency proposes to take regarding each rule, including the month and year in which the agency anticipates submitting the rules to the Council if the agency determines it is necessary to amend or repeal an existing rule, or to make a new rule. If no issues are identified for a rule in the report, an agency may indicate that no action is necessary for the rule.
- B.** To avoid repetition, an agency shall use a narrative format rather than a tabular format to present the information in the report. The narrative shall be organized according to the categories in subsection (A). For subsection (A)(2), the agency shall provide a specific objective, including the purpose for the existence of each individual rule. Within the remaining categories, an agency shall analyze each rule individually or, if the analysis for each rule is the same, consolidate the analysis, either by article or for all rules in the report. If the analysis for a category is identical for all of the rules in a report, the agency shall specify that the analysis within that category applies to all of the rules in the report. If the analysis for a category is identical for all of the rules in an article, the agency shall specify that the analysis within that category applies to all of the rules in the article.
- C.** In addition to the documents required in subsection (A), an agency shall submit ~~one paper copy and~~ one electronic copy of the cover letter. The cover letter shall provide the following information:
- 1. A person to contact for information regarding the report,
 - 2. Any rule that is not reviewed with the intention that the rule will expire under A.R.S. § 41-1056(J),
 - 3. Any rule that is not reviewed because the Council rescheduled the review of an article under A.R.S. § 41-1056(H), and
 - 4. The certification that the agency is in compliance with A.R.S. § 41-1091.
- D.** In addition to the documents required in subsections (A) and (C), an agency shall submit one electronic copy of the following reference documents:
- 1. Rules being reviewed;
 - 2. General and specific statutes authorizing the rules, including any statute that authorizes the agency to make rules; and
 - 3. If an economic, small business, and consumer impact statement was prepared on the last making of a rule being reviewed, the economic, small business, and consumer impact statement for the rule.
- E.** After a five-year review report is placed on a Council agenda, Council staff shall review the report for compliance with the requirements of A.R.S. § 41-1056 and this Chapter and may ask questions or suggest changes to the agency. If the agency revises any document in response to a question or suggested change, the agency shall submit ~~one paper copy and~~ one electronic copy of the revised document to the Council for review, ~~according to the schedule established by R1-6-103.~~
- F.** After a five-year review report is placed on a Council agenda, an agency may have the report moved to the agenda of a later meeting by having the agency head ~~send~~ submit a written notice to ~~the Chair~~ Council staff that includes the date of the later meeting. If the agency makes a subsequent request to have a five-year review report moved, the Chair may grant or deny the request at the Chair’s discretion.
- G.** A person may submit written comments to the Council, ~~that are within the scope of subsection (A).~~ The Council may also permit testimony at a Council meeting, ~~within the scope of subsection (A).~~

R1-6-302. Rescheduling a Five-year Review Report

- A.** To request that a five-year review report be rescheduled under A.R.S. § 41-1056(H), an agency head shall submit a letter to the Chair before the report is due that includes the following information:
- 1. The title, chapter, and article of the rules for which rescheduling is sought;
 - 2. Whether the rules were initially made or substantially revised with an effective date or date of Council approval that is within two years before the due date of the report; and
 - a. If substantially revised:
 - i. A description of the revisions,
 - ii. Why the revisions are believed to be substantial, ~~and~~
 - iii. The date of Council approval of the rules, if applicable, and
 - iv. The date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules; or
 - b. If initially made:
 - i. The date of Council approval of the rules, if applicable, and
 - ii. The ~~the~~ date on which the rules were published in the *Register* by the Office of the Secretary of State and the effective date of the rules.
- B.** The Chair, in the Chair’s discretion, may grant the rescheduling of a five-year review report ~~if all~~ for the rules within an article that meet the requirements of this Section.



- C. The Chair may, on the Chair's own initiative, reschedule a five-year review report if all rules within an article meet the requirements of this Section.

R1-6-303. Extension of the Due Date for a Five-year Review Report

- A. An agency may obtain an extension of 120 days to submit a five-year review report by filing a written notice of extension with the Council before the due date of the report. The agency shall specify in the notice the reason for the extension.
- B. An agency may, as an alternative, request a longer extension that is more than 120 days but does not exceed ~~180 days~~ one year by sending a written request to the Chair at least 40 days prior to the due date of the report. The agency shall specify the length of the requested extension and the reason for the requested extension.
1. A request for an extension that is more than 120 days but does not exceed ~~180 days~~ one year shall be placed on the agenda of a Council meeting scheduled to occur prior to the due date of the report.
 2. ~~The~~ Council shall consider the reason for the requested extension and may grant a request for an extension that is more than 120 days but does not exceed ~~180 days~~ one year.

R1-6-304. ~~Petition under A.R.S. § 41-1056(M) for an Agency to Consider Including an Obsolete Rule in a Scheduled Five-year Review Report with Recommendation for Repeal~~ Repealed

- ~~A.~~ A person shall file a petition under A.R.S. § 41-1056(M) at least 60 days before the original due date of the five-year review report in which the rule is scheduled to be reviewed. The person filing the petition shall deliver to the Council office both an original and one electronic copy of a petition in the form of a letter. The petition shall be signed by the person filing the petition, and shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. A statement of why the rule is obsolete and should be repealed; and
 4. A statement of how the person is regulated or could be regulated by the rule.
- ~~B.~~ The petition shall be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible typeface from 9 to 12 point.
- ~~C.~~ The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter, signed by the agency head, that either:
1. Indicates the agency will consider including the rule in the five-year review report with a recommendation for repeal, or
 2. Includes a statement of why the rule is not obsolete and should not be repealed.
- ~~D.~~ The Council shall schedule the petition for the next Council meeting as soon as practicable after receipt of the agency's response under subsection (C) if the agency's response states that the rule is not obsolete and should not be repealed.
- ~~E.~~ Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to the affected agency head and the person filing the petition advising them of the Council's decision, including the reasons for and date of the decision.

ARTICLE 4. APPEAL OF A DELEGATION AGREEMENT APPEALS AND PETITIONS

R1-6-401. Appeal of a Delegation Agreement Applicability

- ~~A.~~ Under A.R.S. § 41-1081(F), a person appealing an agency's decision to enter into a delegation agreement shall file in the Council office an original and one electronic copy of an appeal. The appeal shall consist of an original letter, signed by the person filing the appeal, that includes the following:
1. All written objections to the delegation agreement submitted to the delegating agency by the person filing the appeal;
 2. The name, mailing address, and e-mail address of each agency and each political subdivision entering into the delegation agreement;
 3. The name, mailing address, e-mail address, fax and telephone numbers of the person filing the appeal;
 4. The name of the person being represented by the person filing the appeal, if applicable;
 5. The subject matter of the delegation agreement; and
 6. The reasons why the person is objecting to the delegation agreement and filing the appeal.
- ~~B.~~ The head of an agency whose delegation agreement is being appealed shall file in the Council office an original and one electronic copy of a response. The response shall contain an original submittal letter, signed by the agency head and the following:
1. A memorandum that includes:
 - a. The date the delegating agency gave written notice of the decision to enter into the delegation agreement;
 - b. The dates of all public proceedings regarding the delegation agreement; and
 - c. The name, mailing address, e-mail address, fax and telephone numbers of each agency and each political subdivision contact person;
 2. The delegation agreement; and
 3. The agency's written summary, prepared as required by A.R.S. § 41-1081(E), responding to all oral or written comments received by the agency regarding the delegation agreement.
- ~~C.~~ The appeal and response letters in subsections (A) and (B) and the memorandum in subsection (B)(1) shall each be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- ~~D.~~ The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following receipt of the appeal letter. The agency head shall file in the Council office the information and documents listed in subsection (B) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- ~~E.~~ Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the delegating agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If an appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.



F. Within seven calendar days after the Council approves or disapproves a delegation agreement that has been appealed, the Chair shall send a letter to the delegating agency head and person filing the appeal that specifies the reasons for the approval or disapproval and the date of the Council decision.

For purposes of this article, the term “petition or appeal” refers to the following:

1. The A.R.S. § 41-1008(G) Petition for an alternative expiration date for fees established or increased by exempt rulemaking;
2. The A.R.S. § 41-1033(B) Appeal of an agency’s decision on a petition requesting the making of a final rule or a review of an existing agency practice or substantive policy statement that the petitioner alleges to constitute a rule;
3. The A.R.S. § 41-1033(C) Petition to request a review of a final rule based on a person’s belief that a final rule does not meet the requirements prescribed in A.R.S. § 41-1030;
4. Pursuant to A.R.S. § 41-1033(D), the Council’s receipt of information indicating that an existing agency practice or substantive policy statement may constitute a rule or that a final rule does not meet the requirements prescribed in A.R.S. § 41-1030;
5. The A.R.S. § 41-1052(B) Early Review Petition;
6. The A.R.S. § 41-1055(E) Petition for a determination that an agency is not required to file an economic, small business, and consumer impact statement;
7. The A.R.S. § 41-1056(M) Petition to require an agency that has an obsolete rule to consider including the rule in a five-year review report with a recommendation for repeal of the rule;
8. The A.R.S. § 41-1056(N) Petition to require an agency to consider including a recommendation for reducing a licensing time frame in a five-year review report;
9. The A.R.S. § 41-1056.01(D) Appeal related to the economic, small business, and consumer impact of a rule; and
10. The A.R.S. § 41-1081(F) Appeal of a delegation agreement.

R1-6-402. Filing of Petitions or Appeals; Agency Response; Council Decision

- A.** A person filing a petition or appeal shall submit to the Council one electronic copy of the petition or appeal. The petition or appeal shall contain:
1. The name, mailing address, e-mail address, and telephone number of the person filing the petition or appeal;
 2. The name of the person being represented by the person filing the petition or appeal, if applicable;
 3. The reasons for submitting the petition or appeal, including relevant facts, laws, and statutory authority;
 4. The reasons why the Council should grant the petition or appeal; and
 5. Any supporting documents relevant to the petition or appeal.
- B.** The petition or appeal shall not exceed five double-spaced pages and shall be in a clear and legible typeface.
- C.** If applicable, the Council shall notify the affected agency head of the petition or appeal by 5:00 p.m. of the business day following receipt of the petition or appeal. The agency may submit a response to the petition or appeal to the Council.
- D.** When required by statutes, within 14 calendar days after a petition or appeal is received by the Council, the Chair shall send written notice to the person filing the petition or appeal and the affected agency head stating whether the required number of Council members have requested that a given petition or appeal be considered at a Council meeting.
- E.** No later than seven calendar days after the Council renders a decision on a petition or appeal, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the reasons for, and date of, the decision.

R1-6-403. Additional Requirements for an Appeal of a Delegation Agreement

- A.** Under A.R.S. § 41-1081(F), a person who has filed a written comment with a delegating agency in objection to all or part of a proposed delegation agreement may, within thirty days after the agency gives written notice of its decision pursuant to A.R.S. § 41-1081(E), appeal an agency’s decision to enter into a delegation agreement.
- B.** In addition to the information required by R1-6-402(A), an appeal of a delegation agreement shall contain:
1. The name of each agency and each political subdivision entering into the delegation agreement;
 2. The subject matter of the delegation agreement;
 3. Copies of all written comments made by the appellant that object to the delegation agreement and have been filed with the delegating agency; and
 4. The reasons why the appellant is objecting to the delegation agreement and filing the appeal.
- C.** The Council shall notify the delegating agency head of an appeal of a delegation agreement by 5:00 p.m. of the business day following receipt of the appeal.
- D.** The delegating agency head shall submit electronic copies of the following information and documentation by 5:00 p.m. on the third business day following notification by the Council of the appeal:
1. A memorandum that includes:
 - a. The date the delegating agency gave written notice of the decision to enter into the delegation agreement;
 - b. The dates of all public proceedings regarding the delegation agreement; and
 - c. The name, mailing address, e-mail address, and telephone number of the contact persons for each agency and each political subdivision involved in the agreement.
 2. A copy of the delegation agreement; and
 3. The agency’s written summary, prepared as required by A.R.S. § 41-1081(E), responding to all oral or written comments received by the agency regarding the delegation agreement.

R1-6-404. Additional Requirements for an Appeal Related to the Economic, Small Business, and Consumer Impact of a Rule

- A.** Under A.R.S. § 41-1056.01(D), a person who is or may be affected by an agency’s final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) may, within thirty days of publication of the decision, file an appeal.



- B.** In addition to the information required by R1-6-402(A), an appeal of an agency’s final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) shall contain a statement indicating how the person filing the appeal is or may be affected by the agency’s decision.
- C.** The Council shall notify the affected agency head of an appeal of an agency’s final decision on a petition filed pursuant to A.R.S. § 41-1056.01(A) by 5:00 p.m. of the business day following receipt of the appeal.
- D.** The affected agency head shall submit electronic copies of the following information and documentation by 5:00 p.m. on the third business day following notification by the Council of the appeal:
 - 1. A memorandum that includes:
 - a. The date of publication of the agency’s final decision under A.R.S. § 41-1056.01(C);
 - b. The name, mailing address, e-mail address, and telephone number of the agency’s contact person; and
 - c. Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact;
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
 - iii. The agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 - 2. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule’s economic, small business, and consumer impact statement were insufficient or inaccurate;
 - 3. A copy of the rule being appealed; and
 - 4. A copy of the agency’s written summary of comments received, the agency’s response to those comments, and the agency’s final decision on whether to initiate rulemaking, prepared and published as required by A.R.S. § 41-1056.01(C).

ARTICLE 5. PETITION FOR REVIEW OR APPEAL OF AN AGENCY PRACTICE OR SUBSTANTIVE POLICY STATEMENT REPEALED

R1-6-501. Petition for Council Rulemaking or Review Repealed

- A.** ~~A person may petition the Council under A.R.S. § 41-1033(A) for a:~~
 - 1. ~~Rulemaking action relating to a Council rule, including making a new rule or amending or repealing an existing rule; or~~
 - 2. ~~Review of an existing Council practice or substantive policy statement alleged to constitute a rule.~~
- B.** ~~To act under A.R.S. § 41-1033(A) and this Section, a person shall submit to the Council office a petition, in the form of a letter, signed by the person submitting the petition, that includes the following information:~~
 - 1. ~~Name, mailing address, email address, telephone number, and fax number, if any, of the person submitting the petition;~~
 - 2. ~~Name of any person represented by the person submitting the petition;~~
 - 3. ~~If the petition is for rulemaking action:~~
 - a. ~~Statement of the rulemaking action sought, including the Arizona Administrative Code citation of all existing rules, and the specific language of a new rule or rule amendment; and~~
 - b. ~~Reasons for the rulemaking action, including an explanation of why an existing rule is inadequate, unreasonable, unduly burdensome, or unlawful;~~
 - 4. ~~If the petition is for a review of an existing practice or substantive policy statement:~~
 - a. ~~Subject matter of the existing practice or substantive policy statement, and~~
 - b. ~~Reasons why the existing practice or substantive policy statement constitutes a rule.~~
- C.** ~~The petition shall be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible type-face from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.~~
- D.** ~~A person may submit supporting information with a petition, including:~~
 - 1. ~~Statistical data; and~~
 - 2. ~~A list of other persons likely to be affected by the rulemaking action or the review, with an explanation of the likely effects.~~
- E.** ~~The Council shall send a letter in response to the petition within 60 calendar days of the date the Council receives the petition.~~

R1-6-502. Appeal of an Existing Agency Practice or Substantive Policy Statement Repealed

- A.** ~~Under A.R.S. § 41-1033(B), a person may appeal an agency’s final decision regarding a petition for review of an existing agency practice or substantive policy statement. The person shall file with the Council office an original and one electronic copy of an appeal within 30 days after the agency gives written notice of its decision. The appeal shall consist of:~~
 - 1. ~~A letter, signed by the person filing the appeal, which includes the following:~~
 - a. ~~Name of the agency;~~
 - b. ~~Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;~~
 - c. ~~Name of the person being represented by the person filing the appeal;~~
 - d. ~~Subject matter of the existing agency practice or substantive policy statement being appealed; and~~
 - e. ~~Reasons why the existing agency practice or substantive policy statement constitutes a rule.~~
 - 2. ~~The petition requesting a review of the agency’s existing practice or substantive policy statement; and~~
 - 3. ~~The agency’s written decision that is being appealed.~~
- B.** ~~The Council shall notify the affected agency head of an appeal of an agency’s decision regarding a petition for review of an existing agency practice or a substantive policy statement by 5:00 p.m. of the business day following receipt of the appeal. The agency shall file in the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.~~
- C.** ~~The head of an agency whose final decision is being appealed shall file in the Council office an original and one electronic copy of a response. The response shall contain an original submittal letter, signed by the agency head, and the following:~~
 - 1. ~~A memorandum that includes:~~



- a. Date the agency gave written notice of its decision under A.R.S. § 41-1033(A);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person; and
 - e. Reasons why the agency believes that the existing agency practice or substantive policy statement does not constitute a rule.
2. The existing agency practice or substantive policy statement being appealed; and
 3. If a petition other than that of the appellant was submitted to the agency, requesting a review of the same existing practice or substantive policy statement being appealed:
 - a. The other petition; and
 - b. The agency's written decision regarding the other petition.
- D.** The appeal and response letters in subsections (A)(1) and (C) and the memorandum in subsection (C)(1) shall each be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- E.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.
- F.** Within seven calendar days after the Council decides whether the agency practice or substantive policy statement constitutes a rule, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision and the reasons for and date of the Council decision.

ARTICLE 6. APPEAL OF AN ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT REPEALED

R1-6-601. Appeal of an Economic, Small Business, and Consumer Impact Statement Repealed

- A.** A person appealing an agency's final decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(D), shall file in the Council office an original and one electronic copy of an appeal. The appeal shall consist of:
1. An original letter, signed by the person filing the appeal, citing the rule or rules being appealed and:
 - a. Name of the agency upon which the appeal is taken;
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the appeal;
 - c. Name of the person being represented by the person filing the appeal, if applicable;
 - d. How the person filing the appeal is or may be affected by the agency's final decision made under A.R.S. § 41-1056.01(C); and
 - e. Why the person appealing believes that:
 - i. Under A.R.S. § 41-1056.01(A)(1), the actual economic, small business, or consumer impact significantly exceeded the estimated impact; or
 - ii. Under A.R.S. § 41-1056.01(A)(2), the actual economic, small business, or consumer impact was not estimated on adoption of the rule; and the impact imposes a significant burden on persons subject to the rule; or
 - iii. Under A.R.S. § 41-1056.01(A)(3), the agency did not select the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 2. A copy of the economic, small business, and consumer impact statement being addressed in the appeal; and
 3. The data, if any, used by the person appealing to support the reasons listed under subsection (A)(1)(e).
- B.** The Council shall notify the affected agency head of an appeal of the agency's decision on whether to initiate a rulemaking under A.R.S. § 41-1056.01(C) by 5:00 p.m. of the business day following receipt of the appeal. The affected agency head shall file in the Council office the information and documents listed in subsection (C) no later than 5:00 p.m. on the third business day following notification by the Council of the appeal.
- C.** The head of an agency whose final decision is being appealed shall file in the Council office an original and one electronic copy, of a response. The response shall contain an original submittal letter, signed by the agency head, and the following:
1. A memorandum that includes:
 - a. Date of publication of the agency's final decision under A.R.S. § 41-1056.01(C);
 - b. Name, mailing address, e-mail address, telephone number, and fax number, if any, of each agency contact person;
 - e. Reasons why the agency believes that:
 - i. The actual economic, small business, and consumer impact did not significantly exceed the estimated economic, small business, and consumer impact;
 - ii. The actual economic, small business, and consumer impact was estimated on approval of the rule and the impact does not impose a significant burden on persons subject to the rule; or
 - iii. The agency selected the alternative that imposes the least burden and costs to persons regulated by the rule, including paperwork and other compliance costs, necessary to achieve the underlying regulatory objective.
 2. A copy of final judgments, if any, issued by a court of competent jurisdiction that are based on whether the contents of the rule's economic, small business, and consumer impact statement were insufficient or inaccurate;
 3. A copy of the rule being appealed; and
 4. The agency's written summary of comments received, the agency's response to those comments, and the final decision of agency on whether to initiate rulemaking, prepared and published as required by A.R.S. § 41-1056.01(C).
- D.** The appeal and response letters in subsections (A)(1) and (C) and the memorandum in subsection (C)(1) shall each be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible typeface from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person or agency of why a different format is necessary.
- E.** Within 14 calendar days after an appeal is filed with the Council, the Chair shall send written notice to the person filing the appeal and the affected agency head stating whether three Council members have requested that the appeal be considered at a Council meeting. If the appeal is to be considered at a Council meeting, the notice shall include the date and time of the Council meeting.



- F.** Within seven calendar days after the Council decides whether one or more of the provisions in A.R.S. § 41-1056.01(A) are met, the Chair shall send a letter to the affected agency head and the person filing the appeal that specifies the decision, the reasons for and date of the Council decision, and the action, if any, required by the agency.

ARTICLE 7. EARLY REVIEW PETITION REPEALED

R1-6-701. Early Review Petition of a Proposed Rule Repealed

- A.** Under A.R.S. § 41-1052(D), a person may file an early review petition with Council, in the form of a letter signed by the person filing the petition, after a proposed rule is published in the *Register* but before the rule is filed with Council as a final rule under R1-6-201 or R1-6-202.
- B.** The person filing a petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:
1. The name, mailing address, e-mail address, and fax and telephone numbers of the person filing the petition;
 2. The name of the person being represented by the person filing the petition, if applicable;
 3. An explanation of how the proposed rule violates any of the criteria in A.R.S. § 41-1052(D);
 4. An explanation of why the Council should consider the petition at the proposed rulemaking stage; and
 5. An explanation of how the person would be adversely affected by the proposed rule.
- C.** The petition shall be printed on one side, not exceed five double spaced or space and a half pages and be in a clear and legible type-face from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- D.** The Council shall notify the agency head of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter signed by the agency head. The response letter shall contain:
1. An explanation of why the proposed rule does not violate any of the criteria in A.R.S. § 41-1052(D);
 2. If applicable, an explanation of why the person would not be adversely affected by the proposed rule; and
 3. An explanation of why the rulemaking should be permitted to proceed to final rulemaking.
- E.** An early review petition filed under this Section does not stay the rulemaking process.
- F.** The Council shall consider the petition at a scheduled Council meeting as soon as practicable after receipt of the agency's response under subsection (D).
- G.** Within seven calendar days after the Council considers the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision, including the reasons for and date of the decision.

ARTICLE 8. REQUEST OR PETITION REGARDING A FEE ESTABLISHED OR INCREASED BY EXEMPT RULEMAKING REPEALED

R1-6-801. Request for Extension of the Two Year Time Period under A.R.S. § 41-1008(E) for Charging or Receiving a Fee Established or Increased by Exempt Rulemaking Repealed

- A.** An agency may obtain an extension of the two year time period during which a fee established or increased by exempt rulemaking is effective by filing a written request for an extension under A.R.S. § 41-1008(E). The agency shall file a request, in the form of a letter, signed by the agency head, before expiration of the two year time period established in the statute so that the request may be considered at a regularly scheduled Council meeting. The agency representative filing the request shall deliver to the Council office both an original and one electronic copy of the request. The request shall contain:
1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the agency and the agency representative filing the request;
 2. The statutory authority under which the request is allowed;
 3. The extended time period sought;
 4. The reasons why the request should be considered and the two year time period extended; and
 5. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the request is denied, if applicable.
- B.** The request shall be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible type-face from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the agency of why a different format is necessary.
- C.** The Council shall schedule consideration of the request for a Council meeting as soon as practicable after receipt of the agency's request.
- D.** Within seven calendar days after the Council's decision on the request, the Chair shall provide written notification of the Council's decision to the affected agency, including the reasons for and date of the decision.

R1-6-802. Petition for an Alternative Expiration Date under A.R.S. § 41-1008(G) Repealed

- A.** Under A.R.S. § 41-1008(G), a person regulated by a fee established or increased by exempt rulemaking from and after September 30, 2012, may petition the Council to establish an expiration date that is different than the two year or the extended expiration date under A.R.S. § 41-1008(E), but no earlier than two years after the exempt rule is made. The person shall file a petition, in the form of a letter, signed by the person making the petition, before expiration of the two year time period or the extended time period so that the petition may be considered at a regularly scheduled Council meeting. The person filing the petition shall deliver to the Council office both an original and one electronic copy of the petition. The petition shall contain:
1. The name, mailing address, e-mail address, telephone number, and fax number, if any, of the person filing the petition and any person representing the petitioner's interest, if applicable;
 2. The statutory authority under which petition is allowed;
 3. The expiration date sought;
 4. The reasons why the petition should be heard and a different expiration date selected;



- 5. An explanation of how the person is regulated by the fee rule; and
- 6. Other supporting information, such as statistical data or a description of persons likely to be adversely affected if the petition is denied, if applicable.
- ~~B.~~ The petition shall be printed on one side, not exceed five double spaced or space and a half pages, and be in a clear and legible type-face from 9 to 12 point. The Chair may allow for a different format, based on a written explanation by the person of why a different format is necessary.
- ~~C.~~ The Council shall notify the agency of the petition by 5:00 p.m. of the business day following receipt of the petition. Within 14 days of the date the petition is filed the agency shall file an original and one electronic copy of a response, in the form of a letter signed by the agency head, indicating whether the agency:
 - 1. Agrees with the expiration date proposed by the petitioner, or
 - 2. Disagrees with the expiration date proposed by the petitioner and providing any reasons for denying the petition.
- ~~D.~~ The Council shall schedule the petition for a Council meeting as soon as practicable, but no later than 60 days after receipt of the agency's response under subsection (C).
- ~~E.~~ Within seven calendar days after the Council's decision on the petition, the Chair shall send a letter to the affected agency head and the person filing the petition, advising them of the Council's decision, including the reasons for and date of the decision.

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

[R17-146]

PREAMBLE

| 1. <u>Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R3-7-101 | Amend |
| R3-7-102 | Amend |
| R3-7-103 | Amend |
| R3-7-104 | Amend |
| R3-7-108 | Amend |
| R3-7-109 | Amend |
| R3-7-110 | Amend |
| Table 1 | Amend |
| R3-7-201 | Amend |
| R3-7-203 | Amend |
| R3-7-302 | Amend |
| R3-7-402 | Amend |
| R3-7-501 | Amend |
| R3-7-502 | Amend |
| R3-7-503 | Amend |
| R3-7-504 | Amend |
| R3-7-505 | Amend |
| R3-7-506 | Amend |
| R3-7-507 | Amend |
| R3-7-601 | Amend |
| R3-7-602 | Amend |
| R3-7-603 | Amend |
| R3-7-604 | Amend |
| R3-7-701 | Amend |
| R3-7-702 | Amend |
| R3-7-703 | Amend |
| R3-7-704 | Amend |
| R3-7-705 | Amend |
| R3-7-706 | Repeal |
| R3-7-707 | Amend |
| R3-7-708 | Amend |
| R3-7-709 | Repeal |
| R3-7-710 | Amend |
| R3-7-711 | Amend |
| R3-7-712 | Amend |
| R3-7-713 | Amend |
| R3-7-714 | Amend |
| 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 both 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. The effective date for the rules:

October 2, 2017

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
Not applicable

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable

4. Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 23 A.A.R. 982, April 28, 2017

Notice of Proposed Rulemaking: 23 A.A.R. 895, April 28, 2017

5. 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/

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

The 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 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 ensure consistency 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 discovery of consumer credit card skimming devices in 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 requirements;
• Clarify and streamline price posting requirements for retailers;
• Streamline weighmaster licensing and weight ticket issuance to allow for electronic signatures and stamps, and to remove exam requirements for deputy public 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 of the Division 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 that 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 greater 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 of such fuel.
• Provide greater 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 in the same rule;
• Revised product transfer document (PTD) requirements to allow use of up to 5 percent biodiesel 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.



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

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

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

Not applicable

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

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 public weighmasters; and
- Reduction in costs to business and the Department for issuance of civil penalties on minor offenses 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.

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

Two minor changes were made to clarify rules. In response to a comment received, R3-7-717(C) was updated to provide allowable exceptions to fuel dispenser requirements to accommodate rare instances when a fuel dispenser was not manufactured to utilize fuel filters. R3-7-718(A)(2) was updated to require annual biofuel volumes to be reported to the Department instead of monthly biofuel volumes. Additionally, minor editorial changes have been made.

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

The Department received one written comment from members of the regulated community and no comments from the public during the public comment period. Six members of the regulated community and interested stakeholders attended the oral proceeding on May 31, 2017, but no written or oral comments were received during the oral proceeding. The public comment received stated that there are a handful of motor fuel dispensing sites that do not currently utilize fuel filters due to site-specific configurations and requested R3-7-717(C) be modified to clarify that the use of fuel filters is not mandated at these sites.

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:

A.R.S. § 3-3414(D) requires the Associate Director of the Weights and Measures Services Division 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. § 3-3433(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.

In November 2010 and January 2011, the Environmental Protection Agency issued partial waivers allowing the use of gasoline containing 10 to 15 percent by volume of ethanol (commonly referred to as E15). The former rules prohibit the sale of gasoline containing greater than 4.0 weight percent oxygen or 10 volume percent ethanol. The Division is removing these limitations and clarifying that E15 may be sold in areas outside of the cleaner-burning gasoline (CBG)-covered area. The CBG covered area will continue to require gasoline containing 10 volume percent ethanol in the winter and no more than 10 volume percent ethanol in the summer as required by the statutes and rules that are part of the federally-enforced State Implementation Plan approved by EPA.

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:

The following materials are incorporated at R3-7-101:



United States 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*, 2017 edition.

United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, 2017 edition.

United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, 2017 edition.

The following materials are incorporated at R3-7-702:

Government Publishing Office, 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 14, 2016 Edition.

American Petroleum Institute, 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.

ASTM International, ASTM Standard D975, 2016a (ASTM D975- 16a), "Standard Specification for Diesel Fuel Oils," published 2016.

ASTM International, ASTM Standard D4806, 2016a (ASTM D4806- 16a), "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," published 2016.

ASTM International, ASTM Standard D4814, 2016ee1 (ASTM D4814- 16ee1), "Standard Specification for Automotive Spark-Ignition Engine Fuel," published 2016.

United States Environmental Protection Agency, Waiver Requests under Section 211(f) of the Clean Air Act, August 22, 1995.

ASTM International, ASTM Standard D5798, 2015 (ASTM D5798- 15), "Standard Specification for Ethanol Fuel Blends for Flexible-Fuel Automotive Spark-Ignition Engines," published 2015.

ASTM International, ASTM Standard D6751, 2015ce1 (ASTM D6751- 15ce1), "Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels," published 2015.

California Air Resources Board, "California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model," adopted April 20, 1995.

Government Publishing Office, the Federal Complex Model contained in 40 CFR 80.45, January 1, 1999.

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.

California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001.

ASTM International, ASTM Standard D7467, 2015ce1 (ASTM D7467- 15ce1), "Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20)," published 2015.

SAE International, SAE J285, "Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines," published May 5, 2012.

The following materials are incorporated at R3-7-714:

Government Publishing Office, 40 CFR 80.1501, July 18, 2014.

The following materials are incorporated at R3-7-754:

American Petroleum Institute, API Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992).

The following materials are incorporated at R3-7-755:

Government Publishing Office, 40 CFR 80.69(a)(7), July 1, 1996.

Government Publishing Office 40 CFR 80.69(e)(2), July 1, 1996.

The following materials are incorporated at R3-7-901:

Environmental Protection Agency, Appendix J.5 of Technical Guidance – Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Vol. II: Appendices, November 1991 edition (EPA450/391022b).

San Diego Air Pollution Control District, *San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996.

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.

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.

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.

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.

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.



California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003.

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.

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.

The following materials are incorporated at R3-7-1001:

California Environmental Protection Agency, Air Resources Board, Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003.

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.

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.

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.

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.

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.

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

None of the rules were previously made, amended, or repealed as an emergency rule.

15. 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
- R3-7-108. Time-frames for Licenses, Renewals, and Authorities to Construct
- R3-7-109. Administrative Hearing Procedures
- R3-7-110. Motion for Rehearing or Review
- Table 1. Time-frames (~~in~~ calendar days)

ARTICLE 2. COMMERCIAL DEVICES

- Section R3-7-201. Licensing Process
- 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 R3-7-302. Handbook 130 and Handbook 133

ARTICLE 4. PRICE VERIFICATION AND PRICE POSTING

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

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
- R3-7-749. Definitions Applicable to Arizona CBG and AZRBOB
- R3-7-750. Registration Relating to Arizona CBG or AZRBOB
- R3-7-751. Arizona CBG Requirements
- R3-7-752. 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
- R3-7-759. 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

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
- R3-7-911. Compliance Inspections
- R3-7-912. Enforcement
- R3-7-913. State II Decommissioning



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 |
| R3-7-1007. | 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 |

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 ~~41-2131~~ 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 public 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 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 Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (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 Publishing 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 Publishing 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 or~~ 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 41 3, Chapter ~~45~~ 19, Handbook 44, or this Chapter.
- 26-25. “Person” as defined in A.R.S. § 41-2051 3-3401, means an owner or operator of a commercial device or vapor recovery system, retail seller, wholesaler, registered supplier, pipeline distributor, packer, manufacturer, licensee, transporter, or consignee.
- 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 41 3, Chapter ~~45~~ 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. § 491001(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 41 3, Chapter ~~45~~ 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 e-mail if the owner has provided an e-mail address to the Division. Inspection results and violations shall be posted on the Division website.
- C. The person who owns or operates a location inspected by the 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 44 ~~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 44 ~~3~~, Chapter ~~15~~ 19, Handbook 44, and this Chapter.
 - ~~5-6.~~ The Department Division may 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 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 public 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; or
 - 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 permits an unlicensed person to perform deputy Weighmaster public 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 public 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 public weighmaster duties; and
 - c. Confiscate the public weighmaster’s records, equipment, and devices if the public weighmaster permits an unlicensed person to perform deputy public weighmaster duties more than twice.

H. 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 ~~41~~ 41 ~~3~~, Chapter ~~15~~ 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 ~~41~~ 41 ~~3~~, Chapter ~~15~~ 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 ~~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 ~~41~~ 41 ~~3~~, Chapter ~~15~~ 15 ~~19~~, and this Chapter; and
 - ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title ~~41~~ 41 ~~3~~, Chapter ~~15~~ 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 ~~41~~ 41 ~~3~~, Chapter ~~15~~ 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, R3-7-1005, or R3-7-1010.~~ 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 45 ~~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 subsections (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) 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 45 ~~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)(1)(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.

R3-7-108. 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. If the Division, within 10 days of submittal, fails to send a written notice of administrative completeness or deficiency notice outlined in subsection (B)(1), the application shall automatically be deemed administratively complete.
- C. For each type of license, renewal, or authority issued by the 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.

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 Additional Information | Overall Time-frame |
|---|-------------------------------------|---|---|--|---|-------------------------|
| Commercial Device R3-7-201 | <u>R3-7-201</u> | 10 <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> | 10 <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> | 10 <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> <u>R3-7-1004</u> | 10 <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 e-mail address for the owner or operator for the Division to provide licenses, invoices, inspections and reports, enforcement action, and other notifications.

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

R3-7-302. 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.

ARTICLE 4. PRICE VERIFICATION AND PRICE POSTING

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 be used to display single-item purchase prices in areas where space is limited, or used to display a price for purchase of multiple items and single-item purchase prices at the point of display as long as it is located at, above or near the point of display;
 - ~~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.



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 public weighmaster will issue weight tickets.
 - 1. The application form includes:
 - a. The applicant's name, address, and telephone number;
 - b. A statement by the applicant that the applicant knows and understands weighmaster laws and rules;
 - c. The name, address, and telephone number of each of the applicant's public weighmaster locations; and
 - d. The applicant's signature.
 - 2. The public weighmaster's application form also includes:
 - a. The name of each deputy public weighmaster operating at each location;
 - b. A statement that the public weighmaster understands they are responsible to ensure that any deputy public weighmasters working at the location are adequately trained and licensed;
 - ~~b-c.~~ The name and address of the scale; and
 - ~~e-d.~~ The scale description.
 - 3. The deputy public weighmaster application shall include a certification that they understand the requirements on a form provided by the Division and be signed by both the public weighmaster and the applicant.
 - ~~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 public weighmasters are licensed for the location prior to their issuance of weight tickets.
 - 6. An applicant shall submit information and documentation concerning lawful presence required by A.R.S. §41-1080.
- D. Before the ~~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 ~~45~~ 19, and this Chapter.
- E. The ~~Department~~ Division does not charge a fee to process a change in name or address.
- F. In the event a public weighmaster leaves employment, a licensed deputy public weighmaster may utilize a public weighmaster stamp which contains only the location identity as issued under R3-7-506(B) for 30 days at a location while a public weighmaster license application is underway. A public weighmaster stamp containing the public weighmaster's name may not be continued to be used following a public weighmaster's departure.

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 public weighmasters are licensed prior to their issuance of a weight ticket and cancel deputy public weighmasters licenses within 10 days of their leaving employment to ensure each location has the correct licensed deputy public weighmasters. A deputy public weighmaster license may be canceled by sending an e-mail or other written notification to the Division.

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 ~~41~~ 3, Chapter ~~45~~ 19, or this Chapter;
 - 4. Has falsified a weight certificate;
 - 5. Has delegated authority to someone other than a licensed public weighmaster or deputy public weighmaster;
 - 6. Has improperly used a weighmaster's seal of authority;
 - 7. Has presigned certificates for later use;
 - 8. Has issued a weight certificate on which changes or alterations were made; or
 - 9. Has used a scale for public weighing that is not properly licensed.

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 public weighmaster has accurately and personally determined.
- B. A public weighmaster or deputy public weighmaster shall not make any entries on a weight certificate issued by another person.
- C. By signing a weight certificate, a weighmaster or the weighmaster's deputy shall be responsible for the accuracy of all entries on the weight certificate.
- D. A weight certificate is valid only when properly signed and sealed by the issuing public weighmaster or the ~~weighmaster's~~ deputy public weighmaster. The name and image of the seal of the public weighmaster and deputy public weighmaster may be imprinted electronically on the weighmaster certificate in lieu of a handwritten signature and embossed seal if the electronically imprinted name and seal is that of the weighmaster or deputy public weighmaster who weighed, measured, or counted the commodity. To issue an electronic signature or seal, the weighmaster or deputy public weighmaster shall have an individual login associated with the electronic signature and seal or other security measures in place to prevent non-licensed persons from use.
- E. If an error is made on a weight certificate, the weighmaster shall void the certificate and issue a new certificate. No changes or alterations shall be made on a certificate.
- F. A weight certificate shall state:
 - 1. The date of issuance;
 - 2. The name of the declared owner, agent, or consignee of the material weighed;
 - 3. The accurate weight of the material weighed or counted;
 - 4. The means by which the material is being transported at the time it is weighed or counted;
 - 5. An identification number of the transporting unit, including a license number; and
 - 6. The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE. This is to certify that the described merchandise was weighed, counted, or measured by a public or deputy public weighmaster, and when properly signed and sealed, is prima facie evidence of the accuracy of the weight, count, or measure shown as prescribed by law."
 - 7. The printed name, signature, and license number of the public weighmaster or deputy public weighmaster issuing the weight ticket.
- G. A public weighmaster shall maintain a legible copy of each weight certificate issued at each scale location, for a minimum of one year. A weighmaster also shall ensure that weight certificates are consecutively numbered and filed numerically, including voids. A weighmaster shall not use another filing system without ~~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). The Division shall provide a template of 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 public weighmaster authorized to act for a public weighmaster;
 - 3. Possess unfilled or unused public weighmaster weight certificate forms without being a licensed public weighmaster or a ~~person~~ deputy public weighmaster authorized to act for a public weighmaster;
 - 4. Furnish or give false information to a weighmaster for use in the completion of a weight certificate;
 - 5. Present a certificate for payment falsified by the insertion of any weight, measure, or count not determined by the issuing weighmaster;



- 6. Use without authorization the title “licensed public weighmaster” or any similar title;
 - 7. Represent oneself to be a public weighmaster without holding a license issued by the ~~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 public weighmaster.
 - 11. Nothing in this subsection shall be construed to prevent administrative staff of the public or deputy public weighmaster from performing administrative duties such as filing weight tickets.
- B. People engaged in the business of printing weight certificate forms, their representatives, and the ~~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 ~~15~~ 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 ~~15~~ 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 ~~15~~ 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 ~~44~~ 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 ~~44~~ 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 recovery registered service representative license shall additionally bring copies of CARB test procedures, Executive Orders, and Division Standard Operating Procedures.
 3. An applicant shall complete the competency examination within the time specified by the ~~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;
 - ~~f.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 ~~45~~ 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 ~~45~~ 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 A.R.S. §3-3401 and R3-7-101, the following definitions apply to this Article unless the context otherwise requires:

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

“Area A” has the same meaning as in A.R.S. ~~§ 49-541~~ § 3-3401.

“Area B” has the same meaning as in A.R.S. ~~§ 49-541~~ § 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. Per ASTM D975, diesel fuel may contain 5 percent or less biodiesel and is not considered to be a biodiesel blend.

“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 trans-mix 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~~ 2016e1 (ASTM D4814-~~09b~~ 16e1), “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 International, SAE J285, “Dispenser Nozzle Spouts for Liquid Fuels Intended for Use with Spark Ignition and Compression Ignition Engines,” published May 5, 2012, SAE International, 400 Commonwealth Drive, Warrendale, PA 15096-0001 or www.sae.org.



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

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, #1 Diesel, No. 2 Diesel, #2 Diesel, Diesel, or premium diesel. Describes other fuel for use in compression ignition engines as biodiesel, or biodiesel blend. Diesel fuel No. 2 may be labeled on dispensers as diesel fuel without indication of the fuel grade; 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 be advertised at the motor fuel dispensing site.
- B. ~~If For~~ For the following terms ~~are used in~~ are used on a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index as determined by the test average of ASTM D 2699 and ASTM D 2700, also known as the (R+M)/2 method:

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

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

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~~ motor fuel dispensing station owner or operator shall ensure that information regarding pricing, motor fuel grade, octane rating, and lead-substitute addition displayed on a ~~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 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 be advertised at the motor fuel dispensing site.~~

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

- 1. Gasoline containing fuel ethanol.
 - a. Gasoline containing greater than 1.5 percent by weight oxygen or 4.3 percent by volume fuel ethanol shall be labeled with the following statement to indicate the maximum percent by volume of fuel ethanol contained in the gasoline: "May contain up to _____% fuel ethanol."
 - b. Within the CBG-covered area and area B, gasoline containing fuel ethanol shall be labeled with the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles."
 - c. Gasoline for sale outside of the CBG-covered area with an ethanol content greater than 10 volume percent and less than or equal to 15 volume percent shall additionally be labeled in accordance with 40 CFR 80.1501, as it existed on July 18, 2014, is incorporated by reference and on file with the Division. A copy may be obtained at the Government Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.
- 2. Gasoline containing an oxygenate other than fuel ethanol. Gasoline containing greater than 1.5 percent by weight shall be labeled with the following statement to indicate the type and maximum percent by volume of oxygenate contained in the gasoline: "May contain up to _____% _____."
- 3. The labels in subsection B(1) and (B)(2) shall be printed in black and white block letters on a sharply contrasting background with lettering no smaller than 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, ~~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; or
 - b. Biodiesel and biomass-based diesel blends containing more than 5 percent biodiesel or biomass-based diesel shall contain a declaration of the volume percent biodiesel or biomass-based diesel in the blend, as well as the grade of diesel in the blend; and
 - c. All other biofuel or biofuel blends shall contain the percentage of biofuel in the finished product.
 - 10. The final destination:
 - a. When a terminal is the transferor, the owner or operator of the terminal shall include on the product transfer document the terminal name and address; ~~and~~ the transporter name and address; ~~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~~ 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, ~~or~~
 10. Other fuel as designated on the product transfer document.
- B.** An owner or operator of a motor fuel dispensing site shall ensure that the label required under subsection (A) is at least 1 1/2" x 5" with at least 1/4" black or white block lettering on a sharply contrasting background and that the label is clean, visible, and legible at all times.
- C.** An owner or operator of a motor fuel dispensing site may display other information on the reverse side of a two-sided label.
- D.** An owner or operator of a motor fuel dispensing site shall not put motor fuel into storage tanks without attaching the proper label.
- E.** A person shall not deliver motor fuel to a motor fuel dispensing site unless the product transfer documents confirm the motor fuel is the correct type as indicated on the tank fill pipes labeled under subsection (A) or the product being delivered meets or exceeds the standards.
- F.** If tank manhole covers are color-coded, the color coding shall comply with API 1637.

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 smaller nominal pore-sized filter;
 2. Dispensers that dispense gasoline-alcohol blends shall have fuel filters designed for use with gasoline-alcohol blends;
 3. All biodiesel, biodiesel blends, diesel, and kerosene dispensers have a 30 micron or smaller nominal pore-sized filter; or
 4. In the event a fuel dispenser is not manufactured to be equipped to use fuel filters, they shall be installed in line with the fuel dispensing hose at the base of the dispenser. If this is not feasible, the motor fuel dispensing site owner may provide evidence that fuel filters cannot be installed at the site due to the configuration and apply for a waiver from these requirements from the Associate Director.
- ~~D.~~** From and after September 30, 2018, all retail diesel fuel dispensers shall be equipped with nozzles that have a green grip guard and ethanol flex fuel dispensers shall be equipped with nozzles that have a yellow grip guard. No other nozzles shall be equipment with these color grip guards.
- ~~E.~~** Motor fuel dispensers shall meet appropriate UL ratings and be compatible with the motor fuel being dispensed.

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.



- B. Specific requirements for producers or suppliers of E85.**
1. The owner or operator of a motor fuel dispensing site at which E85 is dispensed shall ensure that:
 - a. Both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that:
 - i. Indicate E85 is not gasoline;
 - ii. Indicate E85 is intended for use only in a flexible fuel vehicle, and
 - iii. State “Check your owner’s manual to ensure that this fuel can be used in your vehicle,” and
 - b. Any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements of this Chapter and A.R.S. § 41-2083.
 2. Additional requirement for producing E85 for sale in the CBG-covered area. A producer of E85 for sale in the CBG-covered area shall:
 - a. Use Arizona CBG or AZRBOB and pressurant as needed to meet the hydrocarbon requirement of ASTM D5798; and
 - b. Ensure that the fuel ethanol used meets the standards in this Chapter.
 3. Reporting requirement for a producer of E85. A producer of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the E85 produced:
 - a. The amount of fuel ethanol used to produce E85 in the previous month;
 - b. The amount of gasoline used to produce E85 in the previous month;
 - c. The total amount of E85 produced during the previous month;
 - d. The following fuel quality properties for the finished E85:
 - i. Appearance;
 - ii. American Petroleum Institute gravity;
 - iii. Organic chloride;
 - iv. Water content;
 - v. Vapor pressure; and
 - vi. Sulfur content.
 4. Reporting requirement for a supplier of E85. A supplier of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
 - a. The amount of E85 sold during the previous month; and
 - b. A certification by the supplier of E85 that the E85 sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
 5. Quality Assurance and Quality Control (QA/QC) program for a producer of E85. A producer of E85 shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person’s operation at which E85 is produced. The producer shall ensure that the sampling and testing protocol meets the following minimum standards:
 - a. All samples of E85 are collected after any applicable blend component is added;
 - b. All samples of E85 are collected using approved ASTM methods;
 - c. Sampling is done at one of the following rates:
 - i. If E85 is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
 - ii. If E85 is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 500 times E85 is blended or transferred or one sample per week, whichever is more frequent;
 - iii. If E85 is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 250 times E85 is blended or transferred or two samples per week, whichever is more frequent;
 - d. All testing of E85 is conducted using the appropriate ASTM test method outlined in ASTM D5798;
 - e. Test results are used to certify the quality of the E85 produced;
 - f. Sample handling and storage procedures are specified; and
 - g. Sample retention time frames are specified.
 6. Non-compliant E85. If test results for E85 shipped from a facility indicate that the E85 does not comply with the requirements of this Chapter, the producer of the E85 shall immediately:
 - a. Notify the Director of the test results;
 - b. Take all reasonable steps to stop the sale of the non-compliant E85; and
 - c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of non-compliance.
- 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;
 - e. 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;
 - e. 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 non-compliance.~~
- 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.

R3-7-749. 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.

R3-7-752. 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 perfor-



mance 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 American Petroleum Institute (API) Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992), incorporated by reference and on file with the ~~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 ~~AZRBOB~~ AZRBOB 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~~ Publishing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
1. 40 CFR 80.69(a)(7). The word “RBOB” is changed to read “AZRBOB”;
 2. 40 CFR 80.69(a)(7). “...using the methodology specified in § 80.46...” is changed to read “...using the methodology specified in R3-7-759...;” and
 3. 40 CFR 80.69(a)(7)(ii). “(within the correlation ranges specified in § 80.65(e)(2)(i))” is changed to read “(within the ranges of the applicable test methods).”
- E. General requirements for an independent third-party quality assurance sampling and testing program. A registered supplier may contract with an independent third party that conducts a quality assurance sampling and testing program for one or more registered suppliers. The registered supplier shall ensure that the quality assurance sampling and testing program:
1. Is designed and conducted by a third party that is independent of the registered supplier. To be considered independent:
 - a. The third party shall not be an employee of a registered supplier,
 - b. The third party shall not have an obligation to or interest in any registered supplier, and
 - c. The registered supplier shall not have an obligation to or interest in the third party;
 2. Is conducted from November 1 through March 31 on all samples collected under the program design previously approved by the associate director ~~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 Publishing~~ Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
 - a. 40 CFR 80.69(e)(2). The word “RBOB” is changed to read “AZRBOB;”
 - b. 40 CFR 80.69(e)(2)(iv). “... using the testing methodology specified at § 80.46 ...” is changed to read “... using the testing methodology specified in R3-7-759...;” and
 - c. 40 CFR 80.69(e)(2)(v). “(within the ranges specified in § 80.70(b)(2)(I))” is changed to read “(within the ranges of the applicable test methods).”
4. Additional requirements for in-line oxygenate blending in pipelines using computer-controlled blending.
 - a. An oxygenate blender that produces Arizona CBG by blending 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.

R3-7-759. 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 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; and
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 | % by weight |

* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R3-7-751(G), (H), and (I) for the use of the PM.
 ** Maximum oxygen content shall comply with the EPA oxygenate waiver requirements.
 A registered supplier shall certify all Arizona CBG using fuel ethanol 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.

**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 (EPA450/391022b), published by the U.S. Environmental Protection Agency, Office of Air Quality, Planning and Standards, Research Triangle Park, North Carolina 27711.
2. *San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996, Third Revision, Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.
3. The following CARB test procedures:
 - a. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.4, Determination of Dynamic Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - b. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.5, Determination (by Volume Meter) of Air to Liquid Volume Ratio of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - c. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2C, Determination of Spillage of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - d. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.6, Determination of Liquid Removal of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - e. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2B, Determination of Flow Versus Pressure for Equipment in Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - f. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase I 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 ~~41~~ 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 poppeted fill tube, or the coaxial cap is not installed, is missing, broken, or without gaskets; or
 - d. A fill tube is missing, not sealed, has holes, broken or damaged overfill preventors, or if the high point of the bottom opening is more than 6 inches above the tank bottom;
- 14. The tank rise cap with instrument lead wire for an electronic monitoring system is not tightly installed, or any other tank riser is not securely sealed and capped;
- 15. The under-dispenser vapor recovery piping is not securely intact or is crimped, does not slope to the underground vapor pipe riser, hoses used for connection are deteriorated or not approved for use with gasoline, resettable impact type shear valves are closed, or there is any other valve or restriction to impede the vapor path;
- 16. An above-ground storage tank that does not display a permanently attached UL approval plaque;
- 17. A vacuum assist system with an inoperative central vacuum unit;
- 18. A vacuum assist system with an inoperative vapor processing (burner) unit;
- 19. A vacuum assist system with a monitoring system certified by CARB or the authority to construct that is not operational or malfunctions; or
- 20. Any other component identified in the diagrams, exhibits, attachments or other documents that are certified by CARB or required by the authority to construct for that system is missing, disconnected, or malfunctioning.
- E. The owner or operator of a gasoline dispensing site shall inspect for the presence and proper placement of public information signs required by A.R.S. § ~~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 onsite 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 (nondecal) 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 44 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 44 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 44 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 dis-



pensing 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;~~
 - ~~11. Has risers into gasoline storage tanks that are capped with UL-approved caps;~~
 - ~~12. Has lead wires for instrumentation that pass through a leak-tight grommet with a compression fitting suitable for exposure to gasoline vapors;~~
 - ~~13. 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

~~14-13~~. 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 ~~45~~ 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 onsite 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.

NOTICE OF FINAL RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION

[R17-148]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R9-22-712.35 | Amend |
| R9-22-712.61 | Amend |
| R9-22-712.71 | 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. § 36-2903.01(A)
 Implementing statute: A.R.S. § 36-2903.01(G)(12)
- 3. The effective date of the rule:**
 October 1, 2017
- 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:**
 Notice of Rulemaking Docket Opening: 23 A.A.R. 1046, May 5, 2017
 Notice of Proposed Rulemaking: 23 A.A.R. 1015, May 5, 2017
 Notice of Rulemaking Docket Opening: 22 A.A.R. 784, April 8, 2016
 Notice of Proposed Rulemaking: 22 A.A.R. 761, April 8, 2016
 Notice of Final Rulemaking: 22 A.A.R. 2187, August 19, 2016
- 5. The agency's contact person who can answer questions about the rulemaking:**
 Name: Gina Relkin
 Address: AHCCCS
 Office of Administrative Legal Services
 701 E. Jefferson, Mail Drop 6200
 Phoenix, AZ 85034
 Telephone: (602) 417-4232



Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.gov

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

AHCCCS Value Based Purchasing (VBP) initiatives are strategically designed to reward quality outcomes and reduce growth in the cost of health care. The objective of VBP Differential Adjusted Payments delineated in this rulemaking is to reward hospital providers that have taken designated actions to improve patients' care experience, improve members' health, and reduce the growth of the cost of care. Hospitals which satisfy the requirements delineated in rule will receive increased payments from the AHCCCS Administration and Contractors for inpatient and outpatient services. The VBP rulemaking represent the AHCCCS Administration's expanding efforts to enhance accountability of the health care delivery system beyond the 2016-2017 timeframe. The rulemaking will amend and clarify rules specifying requirements for receipt of VBP Differential Adjusted Payments for qualifying hospitals for both inpatient and outpatient services for the time period of October 1, 2017 through September 30, 2018. Although AHCCCS' initial undertaking was reflected in rulemaking which became effective in October 2016, those rules limit VBP payments to the October 1, 2016 through September 30, 2017 timeframe and will be expiring soon. Thus, the rulemaking will authorize AHCCCS to continue rewarding innovative activities and broaden the reach of the present model, emphasizing improved patient care and reduced growth in the cost of care. Also through this rulemaking, inpatient VBP payments will be extended to hospitals that are reimbursed for inpatient services on a per diem basis rather than exclusively under the diagnostic related group (DRG) methodology as limited under the existing rules.

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:

A study was not referenced or relied upon when revising these regulations.

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:

This rulemaking does not diminish a previous grant of authority of a political subdivision.

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

The Administration anticipates a moderate economic impact on the implementing agency, small businesses and consumers as a result of this rulemaking. Value Based Purchasing (VBP) as reflected in this rulemaking is anticipated to result in approximately \$9.1 million of additional payments for the contract year October 1, 2017 through September 30, 2018 to about 70 qualifying hospitals that have taken designated actions to improve patients' care experience, improve members' health, and reduce the growth of the cost of care for inpatient and outpatient services.

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

No changes between the proposed rulemaking and the final rulemaking have been made.

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

No comments from the public were submitted in response to the proposed rulemaking.

12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.

There are no other matters prescribed by statute applicable to rulemaking specific to this agency, to this specific rule, or to this class of rules.

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 the provider to obtain a permit or a general 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:

The rule must comply with 42 CFR 438.6 and is not more stringent than federal law.

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

No such 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 rules:

The rule does not include any incorporation by reference of materials as specified in statute.

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 not previously made, amended or repealed as an emergency rule.

15. The full text of the rules follows:



TITLE 9. HEALTH SERVICES
CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS)
ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees

R9-22-712.61. DRG Payments: Exceptions

R9-22-712.71. Final DRG Payment

ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-712.35. Outpatient Hospital Reimbursement: Adjustments to Fees

- A. For all claims with a begin date of service on or before September 30, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule established under R9-22-712.20 (except for laboratory services and out-of-state hospital services) for the following hospitals submitting any claims:
1. By 48 percent for public hospitals on July 1, 2005, and hospitals that were public anytime during the calendar year 2004;
2. By 45 percent for hospitals in counties other than Maricopa and Pima with more than 100 Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
3. By 50 percent for hospitals in counties other than Maricopa and Pima with 100 or less Medicare PPS beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
4. By 115 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the criteria during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective;
5. By 113 percent for a Freestanding Children's Hospital with at least 110 pediatric beds during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective; or
6. By 14 percent for a University Affiliated Hospital which is a hospital that has a majority of the members of its board of directors appointed by the Board of Regents during the contract year in which the Outpatient Capped Fee-for-service Schedule rates are effective.
B. For all claims with a begin date of service on or after October 1, 2011, AHCCCS shall increase the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services) for the following hospitals. A hospital shall receive an increase from only one of the following categories:
1. By 73 percent for public hospitals;
2. By 31 percent for hospitals in counties other than Maricopa and Pima with more than 100 licensed beds as of October 1 of that contract year;
3. By 37 percent for hospitals in counties other than Maricopa and Pima with 100 or fewer licensed beds as of October 1 of that contract year;
4. By 100 percent for hospitals designated as Critical Access Hospitals or hospitals that have not been designated as Critical Access Hospitals but meet the critical access criteria;
5. By 78 percent for a Freestanding Children's Hospital with at least 110 pediatric beds as of October 1 of that contract year; or
6. By 41 percent for a University Affiliated Hospital, this is a hospital that has a majority of the members of its board of directors appointed by the Arizona Board of Regents.
C. In addition to subsections (A) and (B), an Arizona Level 1 trauma center as defined by R9-22-2101 shall receive a 50 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services and out-of-state hospital services) for Level 2 and 3 emergency department procedures.
D. Hospitals with greater than 100 pediatric beds not receiving an increase under subsection (B) shall receive an 18 percent increase to the Outpatient Capped Fee-for-service Schedule (except for laboratory services, and out-of-state hospital services).
E. For outpatient services with dates of service from October 1, 2016 through September 30, 2018, the payment otherwise required for outpatient hospital services provided by qualifying hospitals shall be increased by a percentage established by the administration. The percentage is published on the Administration's public website as part of its fee schedule subsequent to the public notice published no later than September 1, 2017. To qualify, a hospital providing outpatient hospital services must meet the following criteria:
1. By June 1, 2016 by May 15, 2017, the hospital must have executed an agreement with and electronically submitted admission, discharge, and transfer information, as well as data from the hospital emergency department laboratory, radiology, transcription, and medication information, plus admission, discharge, and transfer information (including data from the hospital emergency department), to a qualifying health information exchange organization; and
2. No sooner than January 4, 2016, and no later than February 29, 2016, CMS must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015; or, for a children's hospital that does not participate in the Medicare electronic health record incentive program, no sooner than January 4, 2016, and no later than the date established by CMS, the administration must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015.
F. Fee adjustments made under subsection (A), (B), (C), (D), and (E) are on file with AHCCCS and current adjustments are posted on AHCCCS' web site.

**R9-22-712.61. DRG Payments: Exceptions**

- A. Notwithstanding section R9-22-712.60, claims for inpatient services from the following hospitals shall be paid on a per diem basis, including provisions for outlier payments, where rates and outlier thresholds are included in the capped fee schedule published by the Administration on its website and available for inspection during normal business hours at 701 E. Jefferson, Phoenix, Arizona. If the covered costs per day on a claim exceed the published threshold for a day, the claim is considered an outlier. Outliers will be paid by multiplying the covered charges by the outlier CCR. The outlier CCR will be the sum of the urban or rural default operating CCR appropriate to the location of the hospital and the statewide capital cost-to-charge ratio in the data file established as part of the Medicare Inpatient Prospective Payment System by CMS. The resulting amount will be the total reimbursement for the claim. There is no provision for outlier payments for hospitals described under subsection (A)(3).
1. Hospitals designated as type: hospital, subtype: rehabilitation in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website in March of each year;
 2. Hospitals designated as type: hospital, subtype: long term in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
 3. Hospitals designated as type: hospital, subtype: psychiatric in the Provider & Facility Database for Arizona Medical Facilities posted by the Arizona Department of Health Services Division of Licensing Services on its website for March of each year;
- B. Notwithstanding section R9-22-712.60, claims for inpatient services that are covered by a RBHA or TRBHA, where the principal diagnosis on the claim is a behavioral health diagnosis, shall be reimbursed as prescribed by a per diem rate described by a fee schedule established by the Administration; however, if the principal diagnosis is a physical health diagnosis, the claim shall be processed under the DRG methodology described in this section, even if behavioral health services are provided during the inpatient stay.
- C. Notwithstanding section R9-22-712.60, claims for services associated with transplant services shall be paid in accordance with the contract between the AHCCCS administration and the transplant facility.
- D. Notwithstanding section R9-22-712.60, claims from an IHS facility or 638 Tribal provider shall be paid the all-inclusive rate on a per visit basis in accordance with the rates published annually by IHS in the federal register.
- E. For hospitals that have contracts with the Administration for the provision of transplant services, inpatient days associated with transplant services are paid in accordance with the terms of the contract.
- F. For inpatient services with a date of admission from January 1, 2018 through September 30, 2018, provided by a hospital in subsection (A) that qualifies, the administration shall pay the hospital an Inpatient VBP Differential Adjusted Payment equal to the sum of the payment otherwise provided for in subsection (A) plus the product of the amount otherwise provided for in subsection (A) and a percentage published on the Administration's public website as part of its fee schedule, subsequent to a public notice published no later than December 1, 2017. To qualify for the Inpatient VBP Differential Adjusted Payment, the exempt hospital must have:
1. Executed an agreement with a qualifying health information exchange by May 15, 2017;
 2. Been determined by a qualifying health information exchange organization, based on a readiness review conducted by the organization, capable of connecting with the exchange by October 1, 2017; and
 3. Electronically submitted admission, discharge, and transfer information to a qualifying health information exchange organization by October 1, 2017, including information from the emergency department if the hospital operates an emergency department.

R9-22-712.71. Final DRG Payment

The final DRG payment is the sum of the final DRG base payment, the final DRG outlier add-on payment, and the Inpatient Value Based Purchasing (VBP) Differential Adjusted Payment.

1. The final DRG base payment is an amount equal to the product of the covered day adjusted DRG base payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
 2. The final DRG outlier add-on payment is an amount equal to the product of the covered day adjusted DRG outlier add-on payment and a hospital-specific factor established to limit the financial impact to individual hospitals of the transition from the tiered per diem payment methodology and to account for improvements in documentation and coding that are expected as a result of the transition.
 3. The factor for each hospital and for each federal fiscal year is published as part of the AHCCCS capped fee schedule and is available on the AHCCCS administration's website and is on file for public inspection at the AHCCCS administration located at 701 E. Jefferson Street, Phoenix, Arizona.
 4. For inpatient services with a date of discharge from October 1, ~~2016~~ 2017 through September 30, ~~2017~~ 2018, the Inpatient VBP Differential Adjusted Payment is the sum of the final DRG base payment and the final DRG outlier add-on payment multiplied by a percentage published on the Administration's public website as part of its fee schedule, subsequent to the public notice published no later than September 1, ~~2016~~ 2017. To qualify for the Inpatient VBP Differential Adjusted Payment, a hospital providing inpatient hospital services must ~~meet the following criteria:~~
- a. ~~By June 1, 2016 by May 15, 2017, the hospital must have executed an agreement with a qualifying health information exchange organization and electronically submitted admission, discharge, and transfer information, as well as data from the hospital emergency department laboratory, radiology, transcription, and medication information, plus admission, discharge, and transfer information (including data from the hospital emergency department), to a qualifying health information exchange organization, and~~
 - b. ~~No sooner than January 4, 2016, and no later than February 29, 2016, CMS must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015; or, for a children's hospital that does not participate in the medicare electronic health record incentive program, no sooner than January 4, 2016, and no later than the date established by CMS, the administration must have approved the hospital's attestation demonstrating meaningful use stage 2 as described in 42 CFR 495.22 during an electronic health record reporting period in 2015.~~