

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

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

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2010, Ch. 287, § 18. (See the text of § 18 on page 248.) The Governor's Office authorized the notice to proceed through the rulemaking process on August 19, 2010.

[R11-04]

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R9-28-301 | Amend |
| R9-28-303 | Amend |
| R9-28-305 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 36-2932
Implementing statute: A.R.S. § 36-2936
- 3. The effective date of the rules:**
March 12, 2011
- 4. A list of all previous notices appearing in the *Register* addressing the final rules:**
Notice of Rulemaking Docket Opening: 16 A.A.R. 1810, September 10, 2010
Notice of Proposed Rulemaking: 16 A.A.R. 1798, September 10, 2010
Notice of Public Information: 16 A.A.R. 1811, September 10, 2010
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Mariaelena Ugarte
Address: AHCCCS
Office of Administrative Legal Services
701 E. Jefferson St., Mail Drop 6200
Phoenix, AZ 85034
Telephone: (602) 417-4693
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E-mail: AHCCCSRules@azahcccs.gov
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**

The AHCCCS Administration has reviewed the validity of the PAS tools used to evaluate an individual's medical and functional eligibility for the ALTCS Program. Under the terms of the AZ demonstration project under section 1115 of the Social Security Act coverage for long term care services are limited to persons who require an institutional level of care or who are at immediate risk of institutionalization. Under federal law and the terms of the demonstration project "institutions" mean a licensed nursing facility or an intermediate care facility for the mentally retarded. The PAS tool described in this rule is the means by which AHCCCS ensures that the federal standard is met. The PAS tools are intended to reflect the current consensus of the medical community and experts in developmental disability on best practices for reliably assessing the need for institutional care. As the opinion of those experts advance, the PAS tools should be updated to reflect the new consensus. A decision was made last year to update and revise the PAS tool used for children with developmental disabilities under age six. The new tool has been developed and piloted and is now being finalized. The developmental evaluation in the tool has been expanded and updated. Developmental items used in the tool are based on questions from several standardized, up-to-date and commonly accepted assessment tools. The tool has been piloted in-house and the analysis for a new scoring methodology has been com-

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pleted. Because the current rules very specifically describe the elements and scoring routine of the current PAS tools, it is necessary to update the rules.

The new PAS tool incorporates the following: use of a new scoring algorithm with age-specific weights, greater use of developmental milestones with new milestones added at more frequent age-intervals, use of age-appropriate developmental milestones in place of adult oriented variables, updated weights for variables from the previous PAS instruments, and new variables that recognize behaviors or developmental delays related to autism spectrum disorder.

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:

AHCCCS/ALTCS retained a PAS consultant, Andrew Cohen from Pacific Health Policy Group, and convened a panel of experts to update and revise the PAS tool for children with developmental disabilities under six years of age. The standard for establishing medical and functional eligibility for ALTCS continues to be the immediate need for institutional level of care in a nursing home or intermediate care facility for the mentally retarded. The process for revision of the PAS tool for this population included data collection, reliability analysis and development of a scoring algorithm. The details of this process are described in development documents which can be made available upon request.

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

Not applicable

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

Using the current PAS tool for this population, the Agency has costs associated with misclassified applicants, as there is a potential for approval of young children who do not require an institutional level of care. The average capitation for an ALTCS case is \$3682/month.

There are also costs associated with the number of cases requiring physician review to ensure that children who require an institutional level of care are approved for ALTCS benefits. Because of improvements in classification using the new tool, it is projected that cases requiring physician review may be reduced by as much as 31%, resulting in a potential annual savings of \$31,950.

AHCCCS has spent \$242,435 for the development of the new PAS tool for children with developmental disabilities who are under age six. The tool was developed using an outside consultant as well as internal and external experts in child development and disability.

With the implementation of the revised PAS tools for this population, the integrity of the PAS eligibility process will be maintained. The increase in the number and quality of developmental questions on the tool, as compared to the current tool, gives a more thorough and accurate evaluation of a child with a developmental disability. Children applying for long-term care benefits using the new PAS tool will receive a medical eligibility determination that corresponds to the current consensus of the medical community and expertise in the field. The state will potentially save money on capitation for children who do not require care at an institutional level. The PAS process will also be easier for families with children requiring care, as the new assessment is easier to understand and easier for staff to administer.

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

No significant changes have been made between the proposed rules and the final rules. The Administration made the rules more clear, concise, and understandable by making grammatical, verb tense, punctuation, and structural changes throughout the rules.

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

The Administration received the following comments regarding the rules:

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Item #	Comment From	Comment	Analysis/ Recommendation
1.	Janet Kirwan SW Autism Research Center	<p>Concern with piece addressing Autism, in the past there were no points for autism only for the other three developmental diagnosis that were allowable for application. <u>My concern now is that it is still requiring children with autism meet a further set of criteria</u> and not just the diagnosis as they do for the points in cerebral palsy, mental retardation and for epilepsy, those points are granted based on their diagnosis. There is a further scrutiny for children with autism; <u>my concern is about some of the questions, in particular the autism behavior questions. How were those criteria reached?</u></p> <p>The fact that we have the drop of the children that fall in the 18 month to 13 month group, the number of children who are eligible using the new PAS tool, you said were going to probably be offset by the number of children who were going to be eligible in the system prior to 12 months. Very few of our children with autism will be on the radar and applying for services under 12 months. <u>Just during that period where our children are most likely to be identified and the parents would be looking for services is the area where there is a drop.</u></p>	<p>The scoring algorithm for the draft revised tool was developed through a statistical analysis of data collected on 770 children. The purpose of the analysis was to identify the appropriate combination of variables for determining whether a child meets the federal standard of eligibility. The variables coupling Autism Spectrum Disorder with developmental milestones and behaviors were constructed as part of this process. The variables were reviewed for reasonableness by developmental pediatricians before being included in the algorithm.</p> <p>The PAS tool assesses multiple criteria, such as medical, functional, and developmental factors, to determine whether an individual has a non-psychiatric medical condition or a developmental disability, by itself or in combination with other medical conditions, requiring an institutional level of care. Therefore, a combination of factors is evaluated under the PAS instrument, and the outcome is specific to the unique condition of the individual. A specific diagnosis alone does not necessarily correspond with an institutional level of care.</p> <p>The federal standards for receipt of long term care services, including HCBS, are set forth in the Terms and Conditions of AHCCCS Demonstration Project approved under Section 1115 of the SSA. See also A.R.S. § 36-2936(A). While the ALTCS program is not based on a waiver under 42 U.S.C. 1396 n(c) or (d), those waivers have the same standard.</p>

Item #	Comment From	Comment	Analysis/ Recommendation
2.	Maureen Casey	<p>How are you determining or defining moderate versus severe versus profound mental retardation?</p> <p>The tools are not that precise for children under age six for IQ, in the way you are using specific things for children with autism and behavior, etc. I would suggest that needs to be looked at for kids you are deeming cognitively impaired. It is interesting that cognition is not listed as one of the specific domains, so I am unsure if they are being caught up in the developmental milestones. As for IQ testing the tools are not that precise for children under the age of six, I caution you to look at that.</p> <p>We are clearly concerned about a group of kids that we have historically not captured accurately and we are also aware of another group of kids that are having as much difficulty getting in, children with down syndrome, children with cardio facial syndrome, lots of kids with cognitive impairment are also not getting inside the system under age five. We as a state are deciding that for children under the age of three we are going to make changes about how we are providing those services and how we are paying for those services and we wouldn't want to leave those kids behind.</p> <p>Will there be training for screeners, support coordinators, and the advocates to attend once this is put together so we can have an accurate picture of what folks can expect and respond to parent concerns?</p> <p>I ask that AZEP is a part of this, because some of those kids that we determine as AZEP only and are not accurately moved over to DD stay in AZEP up to age three then pop up in DD at age six. We want to make sure that we capture all the kids that need to be provided services.</p>	<p>AHCCCS relies on the child's available medical records for the diagnoses.</p> <p>When the PAS revision is finalized and implemented, AHCCCS will provide extensive training to its staff including PAS Assessors and physician consultants. In addition, AHCCCS will provide training to designated DES DDD staff, who will then provide direct training to its staff.</p> <p>As in the past, AHCCCS will provide an overview of the ALTCS eligibility criteria including the PAS for external groups upon request and as resources allow.</p>

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Item #	Comment From	Comment	Analysis/ Recommendation
3.	Kristina Park (would like a response to her comments)	<p>Some of my concerns about the PAS, <u>is the vagueness of some of the questions as it stood in the past.</u> One of the questions asks if a child can take off their shoes and pants. Here in AZ many children wear sandals, flip flops. Developmentally there is a big difference between sneakers versus flip flops. Many of the families going through trying to answer the questions do not think about it in a developmentally form, they try to answer the questions correctly. I have noticed that from going through this and helping other parents that this is an emotionally and rough process since you must think and admit that you cannot control your child or child cannot do many things. You cannot focus on the positives that get you through day to day. In this process you have to be willing to put everything on the table to a complete stranger since that is how you can get fair assessment of your child. When you are asked can your child take their shoes off, you need to ask what does this mean? Is it a shoe with laces, without, with Velcro? This is a very broad range. Many parents often assume that their child can do this but they can't. <u>So many times we need to understand that the question you are asking is what actually represents what our child is capable of as well as what do you mean by this when you ask this.</u> There is a particular question, "Can a child turn pages?" and further asks "Can a child turn one page?", but it needs to explain if its a paper page or cardboard page.</p> <p>Many of these families have to let their children get worse before they can qualify for services. <u>I am concerned that the part that you are keeping the same also needs to be reviewed. I am concerned whether it really is objective.</u></p> <p>There are many kids that rely on us and most of the people that this affects do not know about this meeting, or do not have access getting to places like this. It's a big burden.</p>	<p>The draft revised tool contains 101 developmental milestones, versus 50 on the existing tools. The revised and expanded milestones were selected in part for their precision and clarity. Many were based on questions from nationally-recognized and validated instruments.</p> <p>During the pilot study conducted on 770 children, parents/caregivers were able to compare the current and revised tools. All of the parents/caregivers who expressed an opinion preferred the revised tool over the current instrument.</p>

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Item #	Comment From	Comment	Analysis/ Recommendation
	Kristina Park (continued)	<p><u>I'm not seeing a lot of families here which concerns me; because every single family I have come in contact with this process has been a major stumbling block.</u> I want you to think about this as part of my information sharing with you.</p> <p>Written comment:</p> <p>PAS Tool review of questions need clarification:</p> <p>Question #8, two or more emotions (non-emotion = not emotion)</p> <p>Question #16, five examples of babble</p> <p>Question #25, when playing with sounds, does your child make grunting, growling or deep-toned sounds?</p> <p>Question #32, cloth, board, paper book – different developmental developments.</p> <p>Question #34, stack blocks (can you model?)</p> <p>Question #42, interest in other children? (don't understand)</p> <p>Question #54, play near other children? Child gets overwhelmed.</p> <p>Question #68, Paper pages?</p> <p>Question #78, Stuff's mouth – as example</p> <p>Question #94, gross versus fine skills, explain lever vs. know doors to be opened</p> <p>Wonderful changes:</p> <p>Question #18, Patta cake!</p> <p>Question #26, coo, laugh, pleasurable sounds! be cautious to indicate that it is not when tickled.</p> <p>Question #53, copy activities!</p> <p>Question #62, Sleep less than 8 hours, be cautious to indicate trying to sleep 2-3 hours.</p> <p>Question #85 ! in, on, under.</p>	<p>Extensive training, including refresher training, is provided to all PAS Assessors. Refresher training is based on results of ongoing quality control reviews conducted on completed PAS. Quality control reviews will be increased following implementation of changes to the PAS tool to ensure thorough understanding and proper use of the tool.</p> <p>Assessors are specifically trained to elicit accurate information regarding performance and behaviors, while understanding how difficult this can be for families.</p> <p>The examples provided in the written comment will be considered for use in training.</p>

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Item #	Comment From	Comment	Analysis/ Recommendation
4.	Chris Smith SW Research Center (would like a response to comments)	<p>Why is there the additional threshold for individuals with an autism spectrum, to have a diagnosis and then also meet the criteria of specific items from the tool? What is the rationale behind that?</p> <p>In addition to autism, the diagnostic information needs to be enhanced by a score of specific items in the critical.</p> <p>You stated in the presentation that you believed that the effects would be neutral on the targeted population, how do you feel that this will allow more children to be in the system that need to be in the system if the effect is neutral?</p> <p><u>Written comment received by 5 p.m. 10/12/10:</u></p> <p>As a result of the public hearing regarding the PAS revisions, please accept the following comments for public record:</p> <p>The federal standard for coverage is an accrual of 40 points on the PAS tool. Cerebral Palsy, Epilepsy, Mental Retardation, and autism spectrum disorders all get baseline point values for meeting criteria for the diagnosis. According to the guidelines of the revised PAS tool to qualify for coverage by AHCCCS an individual who has met criteria for an autism spectrum disorder and accrues 40 points on the PAS tool (meeting the federal standard) must also have accrued points from specific items in the PAS. <u>Why is this additional requirement necessary before becoming eligible for coverage from AHCCCS?</u></p>	<p>The scoring algorithm for the draft revised tool was developed through a statistical analysis of data collected on 770 children. The purpose of the analysis was to identify the appropriate combination of variables for determining whether a child meets the federal standard of eligibility. The variables coupling Autism Spectrum Disorder with developmental milestones and behaviors were constructed as part of this process. The variables were reviewed for reasonableness by developmental pediatricians before being included in the algorithm.</p> <p>An analysis of the projected impact of the revised tool found that it would be neutral at the program level in year 1. The analysis also found variation within specific age cohorts, with a projected increase in eligibility by score for children under 12 months of age and 48 months and older, and a decrease in children 36 – 47 months. Over time, the net result at the program level may be an increase in eligible customers, as larger numbers of young children continue to enter and remain in the program.</p> <p>Please see the response to Item #1. Also, please note that applicants are not required to accrue points from specific items in order to meet the eligibility standard, but only to accrue 40 or more points from any combination of algorithm variables in order to be found eligible by score. In addition, physician review is completed on cases scoring below the threshold as described in rule.</p> <p>Neither the pilot study nor the final PAS tool were designed or intended to establish a correlation between specific behaviors and any particular diagnosis. The pilot study and the PAS tool are designed to establish a correlation between functional abilities and the immediate risk of institutionalization.</p>

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Item #	Comment From	Comment	Analysis/ Recommendation
	Chris Smith (continued)	<p>These criteria become particularly problematic for the Autism + Behaviors, Children 30 to 35 months category. Children in this category need to exhibit an additional three out of four behaviors and the behaviors are not consistent with current diagnostic criteria for autism. Thus, very impaired children with autism, who will meet the federal standard of 40 points, require institutionalization (either in a facility or a home), who do not exhibit these behaviors will not be eligible for coverage. These items were selected because they were strongly correlated with autism in the pilot study, but <u>correlation does not explain causation (of severity, in this case). The purpose and implications of the selected of correlated items is unclear.</u></p> <p><u>We suggest removing the additional item requirements beyond the criteria for the federal standard of 40 points on the PAS tool.</u></p> <p>Additionally, because the deficits associated with an early identification of autism spectrum disorder can be subtle at first (and then lead to greater impairments) <u>we suggest that PAS assessors have some basic training or education specifically on the presentation of early warning signs for autism.</u> We believe this is imperative because of the reorganization of the items in the PAS tool, it appears and your data show, that it may be more difficult for younger children with an autism spectrum disorder to meet the federal standard for coverage.</p>	<p>Information about the different developmental disabilities is covered in PAS assessor training.</p> <p>To clarify, PAS assessors are identifying children who require an institutional level of care; they are not assessing for early warning signs of any particular condition, which would not indicate an institutional level of care. (also referred to as immediate risk for institutionalization.)</p>

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Item #	Comment From	Comment	Analysis/ Recommendation
5.	Leighssa Pearson-Dobrosky Health Group	<p>My concern when we have questions that are yes or no questions that are procedural, and I have a child that can do three out of six or two out of eight, mom or dad might say the child can perform toiletry skills, is the assessor going to come in and say can he do this independently? <u>Can we get these questions more broken down</u>, such as Can he pull up his pants? Can he pull down his pants? Can he do his fasteners? Etc. We have a very long chain of behaviors that are needed to do something that is procedural. A yes or no is not specific enough for something that needs to be broken down.</p> <p>Another concern is the number of words that a child may have. A child may have 150-200 words that are all objects, but they cannot tell you what they are for, color, what to do with them, can't ask for them, and some of the more important phrases missed are "I am hungry", "I am tired", "I am in pain". <u>So if we can break things down more to ensure they have functional communication</u>, such as, can they request things, comment, ask questions, may be more helpful to assess the child.</p>	<p>Please see the response to Item #3. As indicated, the revised tool strives to be precise in its wording and does seek to break tasks into discrete steps. For example, the current PAS asks a single question, "Does s/he remove her/his own shoes and pants?" The revised tool asks, "Does your child pull up clothing with elastic waistbands (for example underwear or sweatpants)?" and "Does your child put shoes on correct feet (does not need to tie laces)?"</p>

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Written Comments			
Item #	Comment From	Comment	Analysis/ Recommendation
6.	De Freedman	<p>I respectfully submit my comments to the 2010 proposed PAS Tool revision:</p> <p>As a taxpayer who just spent eight months volunteering as a member of the AZ DDD Sustainability Workgroup at the request of AZ DES Director Neal Young, <u>I am dismayed at the secretive process used by AHCCCS to create these proposed state rule changes that amend the current PAS Tool.</u> AHCCCS employees Alan Schafer and Theresa Gonzales also were members of the DDD Sustainability Workgroup and were present, if my memory serves correctly, on more than one occasion when amending the current PAS Tool for children with developmental disabilities during a few meetings of the DDD Sustainability Workgroup was discussed. It was the group consensus, based upon prior conversations with AHCCCS employees and the contributions of Alan Schafer and Theresa Gonzales when present, that the only known way to amend the PAS Tool was by legislation which is not politically feasible at this time. For that reason, revision of the PAS Tool was not discussed extensively by the DDD Sustainability Workgroup nor were any recommendations made in our report to Neal Young even though it was the consensus of the DDD Sustainability Workgroup that the current PAS Tool is seriously out of date given what has been learned since 1996 about child development, especially for children zero to three. <u>Never during their time meeting with the DDD Sustainability Workgroup did either Alan Schafer or Theresa Gonzales mention that AHCCCS had been working on revising the PAS Tool since 2009 nor that those revisions would be accomplished by a state rule change.</u></p>	<p>The rulemaking has been conducted consistent with all the notice and publication requirements of state law.</p> <p>AHCCCS notified a list of interested parties and other DD advocacy groups of the proposed regulation by e-mail. In addition the proposed regulation was posted on the agency's internet web site to inform the public of the proposed rule.</p> <p>While the standard for eligibility has not changed, the PAS tool has been updated to improve accuracy, consistency and ease of administration.</p>

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Written Comments			
Item #	Comment From	Comment	Analysis/ Recommendation
	De Freedman (continued)	<p>Instead, on September 9, 2010 I received a forwarded e-mail from Mariaelena Ugarte of AHCCCS sent to another member of the DDD Sustainability Workgroup announcing the AHCCCS PAS Tool revision to be accomplished by proposed state rule change. It is my understanding that not only were no <u>DES/DDD employees (nor any other DES employees) involved in the AHCCCS PAS Tool Revision Project</u>, but that they were as surprised as I was to learn that AHCCCS had been working on this project since 2009. I do not understand why no DDD employees, those AZ state employees who best know what should be included in the PAS Tool because they actually are the individuals responsible for overseeing the AZ state services and therapies for children with developmental disabilities, were never consulted. It is my understanding that not even DDD Medical Director Robert Klaehn, MD, was consulted.</p> <p>As the parent of a nine year old child with autism who has qualified for ALTCS since September 1, 2003, I know the inadequacies of the ALTCS qualification process including the current PAS Tool because I experienced the process first hand and I have shared experiences with other parents raising children with developmental disabilities, especially autism. <u>I am dismayed that I nor any other AZ taxpayers with similar experiences were never consulted by AHCCCS regarding its PAS Tool Revision Project.</u></p>	<p>The DD sustainability workgroup's purpose was unrelated to the ALTCS eligibility process and therefore it would not be an appropriate forum to present the DD PAS tool.</p> <p>This revision to the PAS tool was conducted in the same manner as previous revisions to the tools used for people who are elderly/ physically disabled and those used for people with developmental disabilities. Our consulting physicians, who also practice in the community, are involved in all PAS tool revisions, along with other experts in the particular field, such as, developmental pediatricians that are known locally and nationally.</p>

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Written Comments			
Item #	Comment From	Comment	Analysis/ Recommendation
	De Freedman (continued)	<p>As the Secretary of the AZ Autism Coalition (http://www.azautism.org), I would have informed AHCCCS that Coalition members <u>have been studying a PAS Tool revision for the past several years</u> and in fact have a draft proposal that we would gladly share with AHCCCS. Our membership includes over 150 stakeholders of the AZ Autism Community including parents, services providers, university professors, school personnel, psychologists, developmental pediatricians and representatives of ADE, DDD and DHS/BMH, all of whom are eager to share their experience and expertise with AHCCCS, but were never asked.</p> <p>Upon learning of the AHCCCS PAS Tool Revision Project, I immediately e-mailed Mariaelena Ugarte of AHCCCS and <u>requested the “the complete development documents including, but not limited to, the data collection, reliability analysis and development of a scoring algorithm for the 2010 proposed PAS Tool revision, notice of which was posted on 9/10/2010 on the AHCCCS web site at http://www.azahcccs.gov/reporting/Downloads/ProposedStateRules/NOPRFinal_PASool.pdf.”</u> I am disappointed with the documentation I received. I still await the ACTUAL (rather than a prepared summary report and PowerPoint presentations) “<u>data collection, reliability analysis and development of a scoring algorithm</u>” before I can address whether the 2010 proposed PAS Tool revision is what it claims to be. According to the materials sent to me by Mariaelena Ugarte, AHCCCS did an internal “mini project” of the proposed PAS Tool revision by analyzing six cases. The standard practice for such a project certainly constitutes the review of many more than six cases.</p>	<p>The Administration engaged the services of an independent consultant, Andrew Cohen from Pacific Health Policy Group, to conduct a redesign of the PAS instrument used for children under six, including a survey and analysis of existing valid and reliable tools for assessing functional impairments and input from developmental experts, with the goal of identifying reliable indicia of when a child is at immediate risk of institutionalization. This is a separate question from how best to provide services to children who have been determined to be at immediate risk of institutionalization.</p> <p>Anecdotal information regarding individual children with a developmental disability does not constitute objective statistically valid assessment criteria with respect to the question of whether the child is at risk of immediate institutionalization.</p>

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Written Comments			
Item #	Comment From	Comment	Analysis/ Recommendation
	De Freedman (continued)	<p>It is my experience that nothing conceived in total darkness can be trusted. Forgive me if I am skeptical of the 2010 proposed PAS Tool revision as I have no idea which other state PASSRs were used as models or the identities, let alone qualifications, of the individuals who did the analysis. While I know David Hirsch, MD, and respect him, it is my understanding that his participation in the development and testing of the 2010 proposed PAS Tool revision was finished in 2009 and very limited. <u>I respectfully request that before AHCCCS proceed any further with the 2010 proposed PAS Tool revision AZ stakeholder's be consulted and that the 2010 proposed PAS Tool revision actually be tested fully, certainly beyond six cases, to show that it will not adversely affect the ALTCS eligibility of AZ children with developmental disabilities.</u></p> <p>Contrary to AHCCCS claims, it is my experience that the <u>PAS Tool is a very subjective eligibility tool rather than an objective tool.</u> Those of us who have experienced the determination of ALTCS eligibility for our children with developmental disabilities, especially autism, using the PAS Tool are all too aware of the subjectivity of the PAS Tool. Without proper training for AHCCCS personnel that will not change regardless of whether the 2010 proposed PAS Tool revision is a better tool to determine ALTCS eligibility.</p>	<p>The information requested was sent via e-mail multiple times with a separate final request to confirm receipt of the information. The Administration did not receive any indication that the information sent was not received.</p> <p>The specific information on cases cannot be shared under federal and state privacy laws.</p> <p>In a mini pilot eight assessors looked at six cases each for a total of 48 cases in order to refine questions. In addition, in the full pilot at least 18 assessors completed assessments on approximately 770 cases where both the current and new tool were administered to establish the reliability of the new tool.</p> <p>The questions used in the PAS tool are derived from nationally recognized developmental assessment tools, such as, Ages and Stages, Vineland-II, Inventory for Client and Agency Planning (ICAP), Center for Disease Control (CDC) Guidelines, Modified Checklist for Autism in Toddlers (MCHAT). In the Administration's opinion these are the most objective instruments available.</p>
8.	Andrea Ford	<p>In follow up to the hearing today on the PAS proposed (and current) tool, here are our concerns:</p> <p>1/ Does not give uniform assessment for all age groups - medical points are different (attainable per age group three to five yr and zero to five are being discriminated against).</p> <p>2/ Loss of skills is not given points for zero to five age group when they lose previously attained milestones when older (over 12-year-old would or adult).</p> <p>3/ It discriminates on the basis of disability - MR gets medical points and only a special diet gets medical points (for a three to five year old/zero to five year old). Discriminatory on the basis on type of disability.</p> <p>4/ Waiver 1115 general requirements STC's require the state to comply with ADA and all federal anti-discrimination laws.</p>	<p>The objective of the tool is to measure functional limitations as measured against recognized developmental milestones that are tied to these age groups.</p> <p>Regression is captured in the accumulative design of the developmental questions by age groups.</p> <p>Use of the PAS tool does not constitute violation of any discrimination laws. Federal law requires that as a condition of eligibility for the receipt of certain long-term care and Home Community Based Services (HCBS), the administration limit eligibility for those services to persons at immediate risk of institutionalization. Persons at immediate risk of institutionalization require an institutional level of care. The risk of institutionalization is measured by the degree of disability.</p> <p>Use of the PAS tool does not constitute violation of any discrimination laws.</p>

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable

13. Incorporations by reference and their location in the rules:
Not applicable

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

No

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

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

ARTICLE 3. PREADMISSION SCREENING (PAS)

Section

R9-28-301. Definitions

R9-28-303. Preadmission Screening (PAS) Process

R9-28-305. Preadmission Screening Criteria for an Applicant or Member who is Developmentally Disabled (DD)

ARTICLE 3. PREADMISSION SCREENING (PAS)

R9-28-301. Definitions

A. Common definitions. In addition to definitions contained in A.R.S. Title 36, Chapter 29, and 9 A.A.C. 28, Article 1, the words and phrases in this Article have the following meanings for an individual who is elderly or physically disabled (EPD) or developmentally disabled (DD) unless the context explicitly requires another meaning:

“Applicant” is defined in A.A.C. R9-22-101.

“Assessor” means a social worker as defined in this subsection or a licensed registered nurse (RN) who:

Is employed by the Administration to conduct PAS assessments,

Completes a minimum of 30 hours of classroom training in both EPD and DD PAS for a total of 60 hours, and

Receives intensive oversight and monitoring by the Administration during the first 30 days of employment and ongoing oversight by the Administration during all periods of employment.

“Current” means belonging to the present time.

“Disruptive behavior” means inappropriate behavior by the applicant or member including urinating or defecating in inappropriate places, sexual behavior inappropriate to time, place, or person or excessive whining, crying, or screaming that interferes with an applicant’s or member’s normal activities or the activities of others and requires intervention to stop or interrupt the behavior.

“Frequency” means the number of times a specific behavior occurs within a specified interval.

“Functional assessment” means an evaluation of information about an applicant’s or member’s ability to perform activities related to:

Developmental milestones,

Activities of daily living,

Communication, and

Behavior.

“Immediate risk of institutionalization” means the status of an applicant or member under A.R.S. § 36-2934(A)(5) and as specified in A.R.S. § 36-2936 and in the Administration’s Section 1115 Waiver with Centers for Medicare and Medicaid Services (CMS).

“Intervention” means therapeutic treatment, including the use of medication, behavior modification, and physical restraints to control behavior. Intervention may be formal or informal and includes actions taken by friends or family to control the behavior.

~~“Limited or occasional” means a small portion of an entire task or assistance for the task if the assistance is required less than daily.~~

“Medical assessment” means an evaluation of an applicant’s or member’s medical condition and the applicant’s or member’s need for medical services.

“Medical or nursing services and treatments” or “services and treatments” means specific, ongoing medical, psychiatric, or nursing intervention used actively to resolve or prevent deterioration of a medical condition. Durable medical equipment and activities of daily living assistive devices are not treatment unless the equipment or device is used specifically and actively to resolve the existing medical condition.

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~~“Physical participation” means an applicant’s or member’s active participation.~~

~~“Physically lift” means actively bearing some part of an applicant’s or member’s weight during movement or activity and excludes bracing or guiding activity.~~

“Physician consultant” means a physician who contracts with the Administration.

“Social worker” means an individual with two years of case management-related experience or a baccalaureate or master’s degree in:

Social work,
Rehabilitation,
Counseling,
Education,
Sociology,
Psychology, or
Other closely related field.

“Special diet” means a diet planned by a dietitian, nutritionist, or nurse that includes high fiber, low sodium, or pureed food.

“Toileting” means the process involved in an applicant’s or member’s managing of the elimination of urine and feces in an appropriate place.

“Vision” means the ability to perceive objects with the eyes.

- B. EPD.** In addition to definitions contained in subsection (A), the following also apply to an applicant or member who is EPD:

“Aggression” means physically attacking another, including:

Throwing an object,
Punching,
Biting,
Pushing,
Pinching,
Pulling hair,
Scratching, and
Physically threatening behavior.

“Bathing” means the process of washing, rinsing, and drying all parts of the body, including an applicant’s or member’s ability to transfer to a tub or shower and to obtain bath water and equipment.

“Continence” means the applicant’s or member’s ability to control the discharge of body waste from bladder and bowel.

“Dressing” means the physical process of choosing, putting on, securing fasteners, and removing clothing and footwear. Dressing includes choosing a weather-appropriate article of clothing but excludes aesthetic concerns. Dressing includes the applicant’s or member’s ability to put on artificial limbs, braces, and other appliances that are needed daily.

“Eating” means the process of putting food and fluids by any means into the digestive system.

~~“Elderly” means an applicant or member who is age 65 or older.~~

“Emotional and cognitive functioning” means an applicant’s or member’s orientation and mental state, as evidenced by aggressive, self-injurious, wandering, disruptive, and resistive behaviors.

“EPD” means an applicant or member who is elderly and physically disabled.

“Grooming” means an applicant’s or member’s process of tending to appearance. Grooming includes: combing or brushing hair; washing face and hands; shaving; oral hygiene (including denture care); and menstrual care. Grooming does not include aesthetics such as styling hair, skin care, nail care, and applying cosmetics.

“Mobility” means the extent of an applicant’s or member’s purposeful movement within a residential environment.

“Orientation” means an applicant’s or member’s awareness of self in relation to person, place, and time.

“Physically disabled” means an applicant or member who is determined to be physically impaired by the Administration through the PAS assessment as allowed under the Administration’s Section 1115 Waiver with CMS.

“Resistiveness” means inappropriately obstinate and uncooperative behaviors, including passive or active obstinate

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behaviors, or refusing to participate in self-care or to take necessary medications. Resistiveness does not include difficulties with auditory processing or reasonable expressions of self-advocacy.

“Self-injurious behavior” means repeated self-induced, abusive behavior that is directed toward infliction of immediate physical harm to the body.

“Sensory” means of or relating to the senses.

“Transferring” means an applicant’s or member’s ability to move horizontally or vertically between two surfaces within a residential environment, excluding transfer for toileting or bathing.

“Wandering” means an applicant’s or member’s moving about with no rational purpose and with a tendency to go beyond the physical parameter of the residential environment.

C. DD. In addition to definitions contained in subsection (A), the following also apply to an applicant or member who is DD:

“Acute” means an active medical condition having a sudden onset, lasting a short time, and requiring immediate medical intervention.

“Aggression” means physically attacking another, including:

- Throwing objects,
- Punching,
- Biting,
- Pushing,
- Pinching,
- Pulling hair, and
- Scratching.

“Ambulation” means the ability to walk and includes quality of the walking and the degree of independence in walking.

~~“Associating time with an event and an action” means an applicant’s or member’s ability to associate a regular event with a specific time frame.~~

“Bathing or showering” means an applicant’s or member’s ability to complete the bathing process including drawing the bath water, washing, rinsing, and drying all parts of the body, and washing the hair.

~~“Caregiver training” means training received by a direct care staff person or caregiver for special health care procedures that are normally performed or monitored by a licensed professional, such as a registered nurse. These procedures may include ostomy care, positioning for medical necessity, use of an adaptive device, or respiratory services such as suctioning or a small volume nebulizer treatment.~~

~~“Chronic” means a medical condition that is always present, occurs periodically, or is marked by a long duration.~~

“Clarity of communication” means an ability to speak in recognizable language or use a formal symbolic substitution, such as American–Sign Language.

~~“Climbing stairs or a ramp” means an applicant’s or member’s ability to move up and down stairs or a ramp.~~

“Community mobility” means the applicant’s or member’s ability to move about a neighborhood or community independently, by any mode of transportation.

“Crawling and standing” means an applicant’s or member’s ability to crawl and stand with or without support.

“DD” means developmentally disabled.

“Developmental milestone” means a measure of an applicant’s or member’s functional abilities, including:

- ~~Fine and gross~~ motor skills,
- Gross motor skills.
- ~~Expressive and receptive language~~ Communication.
- ~~Social skills~~ Socialization,
- ~~Self-help skills~~ Daily living skills, and
- ~~Emotional or affective development~~ Behaviors.

“Dressing” means the ability to put on and remove an article of clothing. Dressing does not include the ability to put on or remove braces nor does it reflect an applicant’s or member’s ability to match colors or choose clothing appropriate for the weather.

“Eating or drinking” means the process of putting food and fluid by any means into the digestive system.

“Expressive verbal communication” means an applicant’s or member’s ability to communicate thoughts with words or sounds.

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“Food preparation” means the ability to prepare a simple meal including a sandwich, cereal, or a frozen meal.

“Hand use” means the applicant’s or member’s ability to use both hands, or one hand if an applicant or member has only one hand or has the use of only one hand.

“History” means a medical condition that occurred in the past, regardless of whether the medical condition required treatment in the past, and is not now active.

“Personal hygiene” means the process of tending to one’s appearance. Personal hygiene may include: combing or brushing hair, washing face and hands, shaving, performing routine nail care, oral hygiene including denture care, and menstrual care. This does not include aesthetics such as styling hair, skin care, and applying cosmetics.

~~“Physical interruption” means immediate hands-on interaction to stop a behavior.~~

~~“Remembering an instruction and demonstration” means an applicant’s or member’s ability to recall an instruction or demonstration on how to complete a specific task.~~

~~“Resistiveness or rebelliousness” means an applicant’s or member’s inappropriate, stubborn, or uncooperative behavior. Resistiveness or rebelliousness does not include an applicant’s or member’s difficulty with processing information or reasonable expression of self-advocacy that includes an applicant’s or member’s expression of wants and needs.~~

“Rolling and sitting” means an applicant’s or member’s ability to roll and sit independently or with the physical support of another person or with a device such as a pillow or specially-designed chair.

“Running or wandering away” means an applicant or member leaving a physical environment without notifying or receiving permission from the appropriate individuals.

“Self-injurious behavior” means an applicant’s or member’s repeated behavior that causes injury to the applicant or member.

“Verbal or physical threatening” means any behavior in which an applicant or member uses words, sounds, or action to threaten harm to self, others, or an object.

“Wheelchair mobility” means an applicant’s or member’s mobility using a wheelchair and does not include the ability to transfer to the wheelchair.

R9-28-303. Preadmission Screening (PAS) Process

- A. The assessor shall use the PAS instrument to determine whether the following applicants or members are at immediate risk of institutionalization:
1. The assessor shall use the PAS instrument prescribed in R9-28-304 to assess an applicant or member who is EPD except as specified in subsection (A)(2) for an applicant or member who is a physically disabled applicant or member and who is less than six years old. After assessing a child who is physically disabled child and age six years to less than 12 years, the assessor shall refer the child for physician consultant review under ~~R9-28-303~~ subsections (G) through (J).
 2. The assessor shall use the age-specific PAS instrument prescribed in R9-28-305 to assess an applicant or member who is physically disabled and less than six years old. After assessing the child, the assessor shall refer the child for physician consultant review under ~~this Section~~ subsections (G) through (J).
 3. The assessor shall use the PAS instrument prescribed in R9-28-305 to assess an applicant or member who is DD, except as specified in subsection (A)(4) for an applicant or member who is DD and residing in a NF. After assessing a child who is DD and less than six months of age, the assessor shall refer the child for physician consultant review under subsections (G) through ~~(H)~~ (J).
 4. The assessor shall use the PAS instrument prescribed in R9-28-304 for an applicant or a member who is DD and residing in a NF.
 5. The assessor shall use the PAS instrument prescribed in R9-28-304 or R9-28-305, whichever is applicable, to assess an applicant or member who is classified as ventilator-dependent, under Section 1902(e)(9) of the Social Security Act.
- B. For an initial assessment of an applicant who is in a hospital or other acute care setting:
1. A registered nurse assessor shall complete the PAS assessment, or
 2. In the event that a registered nurse assessor is not available, a social worker assessor shall complete the PAS assessment; and
 3. The assessor shall conduct the PAS assessment and determine medical eligibility when discharge is scheduled within seven days.
- C. An assessor shall conduct a face-to-face PAS assessment with an applicant or member, except as provided in subsection (F). The assessor shall make reasonable efforts to obtain the applicant’s or member’s available medical records. The assessor may also obtain information for the PAS assessment from face-to-face interviews with the:
1. Applicant or member,
 2. Parent,

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3. Guardian,
 4. Caregiver, or
 5. Any person familiar with the applicant's or member's functional or medical condition.
- D. Using the information described in subsection (C), an assessor shall complete the PAS assessment based on the assessor's education, experience, professional judgment, and training.
- E. After the assessor completes the PAS assessment, the assessor shall calculate a PAS score. The assessor shall compare the PAS score to an established threshold score. The scoring methodology and threshold scores are specified in R9-28-304 and R9-28-305. Except as determined by physician consultant review as provided in subsections (G) through (J), the threshold score is the point at which an applicant or member is determined to be at immediate risk of institutionalization.
- F. Upon request, from a person acting on behalf of the applicant, the Administration shall conduct a PAS assessment to determine whether a deceased applicant who was residing in a NF or who received services in an ICF-MR any time during the time period covered by the application would have been eligible to receive ALTCS benefits for those months.
- G. In the following circumstances, the Administration shall request that a physician consultant review the PAS assessment, the available medical records, and use professional judgment to make the determination that an applicant or member has a developmental disability or has a nonpsychiatric medical condition that, by itself or in combination with ~~a medical condition~~ other medical conditions, places an applicant or member at immediate risk of institutionalization:
1. The PAS score of an applicant or member who is EPD is less than the threshold specified in R9-28-304, but is at least 56;
 2. The PAS score of an applicant or member who is DD is less than the threshold specified in R9-28-305, but is at least 38;
 3. An applicant or member scores below the threshold specified in R9-28-304, but the Administration has reasonable cause to believe that the applicant's or member's unique functional abilities or medical condition may place the applicant or member at immediate risk of institutionalization;
 4. An applicant or member scores below the threshold specified in R9-28-304 and has a documented diagnosis of autism, autistic-like behavior, or pervasive developmental disorder;
 5. An applicant or member who is seriously mentally ill as defined in A.R.S. § 36-550 who scores at or above the threshold specified in R9-28-304, but may not meet the requirements of A.R.S. § 36-2936. When an applicant or member who is seriously mentally ill scores at or above the threshold, the physician consultant shall exercise professional judgment to determine whether the applicant or member meets the requirements of A.R.S. § 36-2936.
 6. An applicant is an AHCCCS acute care member and scores at or above the threshold specified in R9-28-304 but the Administration has reasonable cause to believe that the applicant's condition is convalescent and requires less than 90 days of institutional care;
 7. An applicant or member is a child who is physically disabled ~~child who is~~ and is at least six but less than 12 years of age;
 8. An applicant or member is a child who is physically disabled ~~child~~ and is under six years of age; and
 9. An applicant is under six months of age.
- H. The physician consultant shall consider the following:
1. Activities of daily living dependence;
 2. Delay in development;
 3. Continence;
 4. Orientation;
 5. Behavior;
 6. Any medical condition, including stability and prognosis of the condition;
 7. Any medical nursing treatment provided to the applicant or member including skilled monitoring, medication, and therapeutic regimens;
 8. The degree to which the applicant or member must be supervised;
 9. The skill and training required of the applicant or member's caregiver; and
 10. Any other factor of significance to the individual case.
- I. If the physician consultant is unable to make the determination from the PAS assessment and the available medical records, the physician consultant may conduct a face-to-face review with the applicant or member or contact others familiar with the applicant's or member's needs, including a primary care physician or other caregiver, to make the determination.
- J. The physician consultant shall state the reasons for the determination in the physician review comment section of the PAS instrument.

R9-28-305. Preadmission Screening Criteria for an Applicant or Member who is Developmentally Disabled (DD)

- A. The Administration shall conduct a PAS assessment of an applicant or member who is DD using one of ~~four~~ three PAS instruments specifically designed to assess an applicant or member in the following age groups:
1. ~~12~~ Twelve years of age and older,
 2. ~~6 to~~ Six through 11 years of age, and

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3. ~~3 to 5~~ Birth through 5 years of age, ~~and,~~
 4. ~~Less than 3 years of age.~~
- B.** The PAS instruments for an applicant or member who is DD include three major categories:
1. Intake information category. The assessor solicits intake information category information on an applicant's or member's demographic background. The components of this category are not included in the calculated PAS score.
 2. Functional assessment category. The functional assessment category differs by age group as indicated in subsections (B)(2)(a) through (B)(2)(e):
 - a. For an applicant or member 12 years of age and older, the assessor solicits the functional assessment category information on an applicant's or member's:
 - i. Need for assistance with independent living skills, including hand use, ambulation, wheelchair mobility, transfer, eating or drinking, dressing, personal hygiene, bathing or showering, food preparation, community mobility, and toileting;
 - ii. Communication skills and cognitive abilities, including expressive verbal communication, clarity of communication, associating time with an event and action, and remembering an instruction and a demonstration; and
 - iii. Behavior, including aggression, verbal or physical threatening, self-injurious behavior, and resistive or rebellious behavior.
 - b. For an applicant or member 6 through 11 years of age, the assessor solicits the functional assessment category information on an applicant's or member's:
 - i. Need for assistance with independent living skills, including rolling and sitting, crawling and standing, ambulation, climbing stairs or ramps, wheelchair mobility, dressing, personal hygiene, bathing or showering, toileting, level of bladder control, and orientation to familiar settings;
 - ii. Communication, including expressive verbal communication and clarity of communication; and
 - iii. Behavior, including aggression, verbal or physical threatening, self-injurious behavior, running or wandering away, and disruptive behavior.
 - c. For an applicant or member ~~3~~ six months through 5 years of age, the assessor solicits the functional assessment category information on an applicant's or member's:
 - ~~i. Performance performance~~ with respect to a series of developmental milestones that measure an applicant's or member's degree of functional growth;
 - ~~ii. Need for assistance with independent living skills, including toileting and dressing, and an applicant's or member's orientation to familiar settings;~~
 - ~~iii. Communication, including clarity of communication; and~~
 - ~~iv. Behavior, including aggression, verbal or physical threatening, and self-injurious behavior.~~
 - ~~d. For an applicant or member 6 months of age through 3 years of age, the assessor solicits the functional assessment category information on age-specific developmental milestones.~~
 - ~~e.d.~~ For an applicant or member less than ~~6~~ six months of age, the assessor shall not complete a functional assessment. The assessor shall include a description of the applicant's or member's development in the PAS instrument narrative summary.
 3. Medical assessment category. The assessor solicits medical assessment category information on an applicant's or member's:
 - a. Medical condition;
 - b. Specific services and treatments the applicant or member receives or needs and the frequency of those services and treatments;
 - c. Current medication;
 - d. Medical stability;
 - e. Sensory functioning;
 - f. Physical measurements; and
 - g. Current ~~placement~~ living arrangement, ventilator dependency and eligibility for DES Division of Developmental Disabilities program services.
- C.** The assessor shall use the PAS instrument to assess an applicant or member who is DD. A copy of the PAS instrument is available from the Administration. The Administration uses the assessor's PAS instrument responses to calculate three scores: a functional score, a medical score, and a total score.
1. Functional score.
 - a. The Administration calculates the functional score from responses to scored items in the functional assessment category. Each response is assigned ~~a scored~~ a number of points which is multiplied by a weighted numerical value, resulting in a weighted score for each response.
 - b. The following items are scored as indicated in subsection (D), under the Functional Assessment matrix:
 - i. For an applicant or member 12 years of age and older, all items in the behavior section are scored. Designated items in the independent living skills, communication skills, and cognitive abilities sections are also

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- scored;
- ii. For an applicant or member 6 through 11 years of age, all items in the communication section are scored. Designated items in the independent living skills and behavior sections are scored;
 - iii. For an applicant or member 3 six months of age through 5 years of age, ~~all~~ items in the developmental milestones ~~section and behavior section are scored. Designated items in the independent living skills~~ are scored based on the age of the applicant; and
 - iv. ~~For an applicant or member 6 months of age up to 3 years of age, all items regarding age-specific milestones are scored.~~
- c. The sum of the weighted scores equals the functional score. The range of weighted score per item and maximum functional score for each age group is presented below:

AGE GROUP	RANGE FOR WEIGHTED SCORE PER ITEM	MAXIMUM FUNCTIONAL SCORE ATTAINABLE
12+	0 - 11.2	124.1
6-11	0 - 24	112.5
30-5	0 - 15.65 <u>0 - 15.0</u>	78.2 <u>106.02</u>
0-2	0 - 1.4	70

- d. No minimum functional score is required.
2. Medical score.
- a. Items (i) through (iii) are scored as indicated in subsection (D), under the Medical Assessment matrix:
 - i. The assessor shall score designated items in the medical conditions for an applicant or member 12 years of age and older and 6 years of age through 11 years of age.
 - ii. The assessor shall score designated items in the medical conditions and medical stability sections for an applicant or member ~~3 years~~ six months of age through ~~6~~ 5 years of age.
 - iii. ~~The assessor shall score designated items in the medical conditions, services and treatments, and medical stability sections for an applicant or member 6 months of age through 3 years of age.~~
 - iv. iii. The assessor shall complete only the medical assessment section of the PAS for an applicant or member less than ~~6~~ six months of age. There is no weighted or calculated score assigned. The assessor shall refer the applicant or member for physician consultant review.
 - b. The Administration calculates the medical score from information obtained in the medical assessment category. Each response to a scored item is assigned a number of points. The sum of the points equals the medical score. The range of points per item and the maximum medical score attainable by an applicant or member is presented below:

AGE GROUP	RANGE OF POINTS PER ITEM	MAXIMUM MEDICAL SCORE ATTAINABLE
12+	0 - 20.6	21.4
6-11	0 - 2.5	5
30-5	0 - 14.8 <u>0 - 10</u>	23.6 <u>40</u>
0-2	0 - 7	44.3

- c. No minimum medical score is required.
3. Total score.
- a. The sum of an applicant's or member's functional and medical scores equals the total score.
 - b. The total score is compared to an established threshold score in R9-28-304. For an applicant or member who is DD, the threshold score is 40. Based upon the PAS instrument an applicant or member with a total score equal to or greater than 40 is at immediate risk of institutionalization.
- D.** The following matrices represent the number of points available and the weight for each scored item.
- 1. Functional assessment points. An applicant or member age group zero to five: The value is received for each negative response. An applicant or member age groups 6 to 11 and 12+: the lowest value in the range of points available per item in the functional assessment category indicates minimal to no impairment. Conversely, the highest value indicates severe impairment.
 - 2. Medical assessment points. The lowest value in the range of points available per item in the medical assessment category, 0 zero, indicates that the applicant or member:
 - a. Does not have a medical condition specified in the following matrices,
 - b. Does not need medical or nursing ~~services~~ service as specified in the following matrices, or

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- c. Does not receive any medical or nursing services service as specified in the following matrices.

AGE GROUP 12 AND OLDER FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Independent Living Skills Section			
Hand Use, Food Preparation	0-3	3.5	0-10.5
Ambulation, Toileting, Eating, Dressing, Personal Hygiene	0-4	2.8	0-11.2
Communicative Skills and Cognitive Abilities Section			
Associating Time, Remembering Instructions	0-3	0.5	0 - 1.5
Behavior Section			
Aggression, Threatening, Self Injurious	0-4	2.8	0-11.2
Resistive	0-3	3.5	0-10.5

AGE GROUP 12 AND OLDER MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Conditions Section			
Cerebral Palsy, Epilepsy	0-1	0.4	0-4
Moderate, Severe, Profound Mental Retardation	0-1	20.6	0-20.6

AGE GROUP 6-11 FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Independent Living Skills Section			
Climbing Stairs, Wheelchair Mobility, Bladder Control	0-3	1.875	0-5.625
Ambulation, Dressing, Bathing, Toileting	0-4	1.5	0-6
Crawling or Standing	0-5	1.25	0-6.25
Rolling or Sitting	0-8	0.833	0-6.66
Communication Section			
Clarity	0-4	1.5	0-6
Expressive Communication	0-5	1.25	0-6.25
Behavior Section			
Wandering	0-4	6	0-24
Disruptive	0-3	7.5	0-22.5

AGE GROUP 6 - 11 MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Conditions Section			
Cerebral Palsy, Epilepsy	0-1	2.50	0-2.5

AGE GROUP 3-5 FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Developmental Milestones Section			

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Factors Measuring an Individual's Degree of Functional Growth	0-1	0.70	0-7
Independent Living Skills Section			
Toileting, Dressing	0-4	3.90	0-15.6
Behavior Section			
Aggression, Threatening, Self Injurious	0-4	1.00	0-4

AGE GROUP 3-5 MEDICAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Medical Conditions Section			
Moderate, Severe, Profound Mental Retardation	0-1	14.80	0-14.8
Medical Stability Section			
Direct Caregiver Required, Special Diet	0-1	4.10	0-4.1

AGE GROUP 0-2 FUNCTIONAL ASSESSMENT	# of Points Available Per Item (P)	Weight (W)	Range of Possible Weighted Score Per Item (P) x (W)
Developmental Milestones Section			
Factors Measuring an Individual's Degree of Functional Growth	0-1	1.40	0-1.4

AGE GROUP 0-2 MEDICAL ASSESSMENT	# of Points Available Per Item	Weight	Range of Possible Weighted Score Per Item (P) x (W)
Services and Treatments Section			
Non-Bladder or Bowel Ostomy, Tube Feeding, Oxygen	0-1	6.10	0-6.1
Medical Conditions Section			
Any Mental Retardation, Epilepsy, Cerebral Palsy	0-1	7.00	0-7
Medical Stability Section			
Services and Treatments Section			
Trained Direct Caregiver, Special Diet or a Minimum of Two Hospitalizations	0-1	5.00	0-5

AGE GROUP 0-5 FUNCTIONAL ASSESSMENT	Weight
6-9 Months	5.0
9-11 Months	4.1
12-17 Months	2.9
18-23 Months	2.125
24-29 Months	1.75
30-35 Months	1.55
36-47 Months	1.34
48-59 Months	1.14
60 Months+	1.03

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<u>AGE GROUP 0 - 5</u>	<u>Weight</u>
<u>MEDICAL ASSESSMENT</u>	
<u>Cerebral Palsy</u>	<u>5.0</u>
<u>Epilepsy</u>	<u>5.0</u>
<u>Moderate, Severe, or Profound Mental Retardation (36 Months and older only)</u>	<u>15.0</u>
<u>Autism + M-CHAT (18 Months and older only) Fails at least six M-CHAT based questions</u>	<u>7.0</u>
<u>Autism + Behaviors (30-35 Months only) Exhibits at least 3 of 4 specific behaviors</u>	<u>5.0</u>
<u>Autism + Behaviors (36 Months and older only) Exhibits at least 6 of 8 specific behaviors</u>	<u>10.0</u>
<u>Drug Regulation + Administration (6 Months to 35 Months)</u>	<u>1.0</u>
<u>Drug Regulation + Administration (36 Months and older)</u>	<u>1.5</u>
<u>Non-Bowel/Bladder Ostomy Care (6 Months to 35 Months)</u>	<u>7.0</u>
<u>Non-Bowel/Bladder Ostomy Care (36 Months and older)</u>	<u>5.0</u>
<u>Tube Feeding (6 Months to 35 Months)</u>	<u>7.0</u>
<u>Tube Feeding (36 Months and older)</u>	<u>5.0</u>
<u>Physical Therapy or Occupational Therapy (6 Months to 35 Months)</u>	<u>1.0</u>
<u>Physical Therapy or Occupational Therapy (36 Months and older)</u>	<u>1.5</u>
<u>Acute Hospital Admission (One)</u>	<u>1.0</u>
<u>Acute Hospital Admissions (Two or more)</u>	<u>2.0</u>
<u>Direct Care Staff Trained (6 Months to 11 Months)</u>	<u>0.5</u>
<u>Direct Care Staff Trained (12 Months and older)</u>	<u>1.0</u>
<u>Special Diet</u>	<u>2.0</u>

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

Editor's Note: The following Notice of Final Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on February 9, 2010.

[R11-03]

PREAMBLE

1. Sections Affected

R20-2-701
R20-2-702
R20-2-704
R20-2-707
R20-2-708
R20-2-709
R20-2-713
R20-2-714
R20-2-715
R20-2-718
R20-2-719
R20-2-749
R20-2-751
R20-2-752
R20-2-754
R20-2-755

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Amend
Repeal
New Section
Amend
Amend
Amend
Amend

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R20-2-756	Amend
R20-2-757	Amend
R20-2-759	Amend
Table A	Amend
R20-2-760	Amend
Table 1	Amend
Table 2	Amend

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

Authorizing statute: A.R.S. §§ 41-2065(A)(4), (D), and 41-2083(N)

Implementing statute: A.R.S. §§ 41-2083 and 41-2122

3. The effective date for the rules:

March 12, 2011

4. List of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 16 A.A.R. 535, April 2, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 980, June 25, 2010

Notice of Rulemaking Docket Opening: 16 A.A.R. 1228, July 9, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 1198, July 9, 2010

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

Name: Duane Yantorno
Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302
Telephone: (602) 771-4933
Fax: (623) 939-7825
E-mail: Dyantorno@azdwm.gov

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

In a rulemaking that was effective in September 2006, the effect of several subsections was contingent upon the State's Implementation Plan regarding CARB 3 and shortening the winter season to November 1 through January 31 being approved by the U.S. Environmental Protection Agency. The EPA did not approve the State's Implementation Plan regarding CARB 3 because the Energy Policy Act of 2005 prohibited EPA from adding any boutique fuels to the list of approved fuels. EPA did not approve the State's Implementation Plan regarding shortening the winter season because an analysis conducted by EPA suggested that shortening the winter season would increase particulate pollution.

Because EPA did not approve the SIP regarding CARB 3 and the shorter winter season, in this rulemaking the Department is:

- Deleting reference to a winter season that runs from November 1 through January 31. This will make the winter season run from November 1 through March 31; and
- Removing CARB (California Air Resources Board) phase 3 reformulated gasoline as an alternative standard for motor fuel in the CBG-covered area.

In this rulemaking, the Department is also:

- Responding to amendments made in 2007 to A.R.S. § 41-2083 regarding product transfer document requirements for a final destination and labeling requirements for dispensers at motor fuel dispensing sites;
- Responding to HB 2621, enacted in 2008, regarding biofuel standards and requirements;
- Moving definitions relating to Arizona CBG and AZRBOB from R20-2-701 to a new Section, R20-2-749;
- Modifying motor fuel standards for ethanol blending;
- Updating materials incorporated by reference; and
- Amending R20-2-754, in response to a five-year-review report approved by Council on February 6, 2007, to clarify that third-party terminals as well as pipelines may blend transmix into Arizona CBG or AZRBOB. R20-2-707 and R20-2-713, which are included in this rulemaking, were also noted for amendment in that five-year-review report.

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

None

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

Not applicable

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

The economic impact of this rulemaking will be minimal. Because implementation of rules regarding use of CARB 3 and shortening the winter season was contingent on EPA approving the SIP and because EPA did not approve the SIP, reference to these two items is being deleted. This will cause the rules to remain as they have been.

The rules made in response to recent statutory amendments to A.R.S. § 41-2083 will have some economic impact. Producers, suppliers, and blenders of biofuels and biofuel blends will have to comply with the registration, reporting, labeling, and quality assurance and quality control requirements in this rulemaking. However, these requirements, which are required by statute and minimally burdensome on producers, suppliers, and blenders of biofuels and biofuel blends, are needed to protect the public and to protect the producer, supplier, or blender from liability for any damage resulting when a consumer misfuels. Any cost associated with compliance is a cost of doing business that will be passed to the ultimate consumer. The requirement regarding transfer documents, which already exists and is simply being clarified to be consistent with statute, is minimally burdensome.

The updated materials incorporated by reference are simply the latest industry standards. Incorporation of a new standard regarding biofuel and biofuel blends is required by statute.

Transmix is an off-grade product generally sold at a reduced price to a transmix processor. The amendment to R20-2-754 allows pipelines and third-party terminals to blend a small amount of transmix into a final product rather than selling it at a reduced price. This is an economic benefit to the pipelines and third-party terminals.

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

In addition to the changes identified in item 11, all of which are non-substantive, minor changes were made between the proposed and final rules. Some of these changes result from comments by G.R.R.C. staff.

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

The Department received comments regarding the proposed rules from the National Biodiesel Board, Western States Petroleum Association, Shuler Government Affairs LLC for Pinal Energy, Caljet, Arizona Petroleum Marketers Association, and BP:

COMMENT	DWM ANALYSIS	RESPONSE
Change the definition of “biodiesel” to be consistent with the definition used by ASTM, EPA, and other entities. (Biodiesel Board; WSPA)	The term “biodiesel” is defined in statute. The Department must use the statutory definition.	To clarify its reliance on the statutory definition, the Department used the exact statutory definition and noted its use by placing it in italics. The statutory definition of “biodiesel” includes an internal definition of “nonpetroleum renewable resources.” As a result, the Department deleted its definition of “renewable resource” and clarified its reliance on the statutory definition by using “nonpetroleum renewable resource” in the rule text.
Use a letter other than “B” to distinguish biofuel and biofuel blends. The FTC has developed labeling requirements that limit use of “B” to designate biodiesel blends. (Biodiesel Board)	The Department recognizes that using “B” regarding biofuel blend may cause confusion. To avoid this, the Department changed the letter designation to “C” for biofuel blend.	R20-2-701: Changed the “B” to “C” within the definition of biofuel blend.
The definitions of “biodiesel blend” and “biodiesel” do not clearly indicate that B5 and below is treated as diesel per ASTM D975 rather than biodiesel blend. (WSPA)	Both “biodiesel” and “biodiesel blend” are defined in statute. The Department must use the statutory definitions. However, consistent with ASTM D975, B5 and below is treated as diesel rather than biodiesel blend. The definition of “diesel” references ASTM D975.	To clarify its reliance on the statutory definition, the Department used the exact statutory definition of “biodiesel blend” and noted its use by placing it in italics.

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Include a definition of “non-ester renewable diesel” to be consistent with EPA and to clarify the definition of “non-ester renewable diesel blend.” (Biodiesel Board)	A careful review of the rule text showed that the term “non-ester renewable diesel blend” is not used. As a result, the Department determined the term could be deleted.	Deleted the definition of “non-ester renewable diesel blend.”
The definition of biodiesel FAME (mono-alkyl ester) includes the statement that it is intended to be used in engines designed for conventional fuel, but this is not necessarily the case. (WSPA)	The commenter is correct.	The Department clarified the definition by inserting the word “some.” It now indicates that biodiesel FAME is intended for use in some engines designed for conventional fuel.
R20-2-707(A)(9): To be consistent with ASTM D975, clarify that a biodiesel blend with up to 5.49% of biofuel does not have to be labeled with the exact percentage of biofuel. (Biodiesel Board)	Under A.R.S. § 41-2083(M), a person is required to prepare a product transfer document in a manner that notifies the transferee of any volume per cent of biodiesel intentionally added to or known by the transferor to be in the product. There is no requirement for labeling. This requirement applies to a product transfer document.	No change
R20-2-708: What is the Department’s reason for not including the WSPA recommended language regarding T V/L=20 limits? (WSPA)	Standards regarding these limits have not been finalized so the Department elected not to include them. When standards are finalized, the Department will revisit this issue.	No change
The definition of “motor fuels” is awkward. (WSPA)	The term “motor fuels” is defined in statute. The Department must use the statutory definition.	To clarify its reliance on the statutory definition, the Department used the exact statutory definition of “motor fuel” and noted its use by placing it in italics.
A few provisions still specify the minimum oxygen content at 3.7 wt.%. This should be 3.5 wt.% when there is 10 vol% ethanol. (WSPA)	The Department checked with EPA to determine the correct maximum oxygen content by weight percent. To be consistent with EPA guidance, the maximum oxygen content should be 4.0 wt.%.	Maximum oxygen content was changed to 4.0 wt.% in all places. In certain circumstances, the minimum oxygen content is specified in the rules but the maximum is always 4.0 wt.%.
R20-2-718: This Section needs to clarify that the QA/QC and reporting requirements do not apply to E10 or B5. (WSPA)	The lead to R20-2-718(A)(2) and (3) indicates the requirements are applicable to a person required to register with the EPA under 40 CFR 80, Subpart K. This means the reporting and QA/QC requirements apply regarding B5 but do not apply regarding E10.	No change
R20-2-714 and 751: Clarify that the 9.0 psi gasoline RVP specification is for terminals and a 10 psi is applicable to motor-fuel dispensing sites. (WSPA)	The standards in both R20-2-714 and R20-2-751 are applicable downstream from a terminal. They are not applicable to a terminal. The difference between the two Sections is that R20-2-714 applies outside the CBG-covered area and R20-2-751 applies to CBG.	No change
R20-2-709(C): Delete the added phrase “in the winter.” (WSPA)	The Department added this phrase to required labeling because it determined the additional information was needed by the public.	No change

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R20-2-701: The definition of “terminal” is so broad that it applies to all bulk storage facilities including those commonly known as jobber facilities. The prior definition of “third-party terminal” recognized terminals that accept custody but not ownership of motor fuels. (APMA)	The Department did not intend to broaden the definition of “terminal.” However, the definition of “third-party terminal” is specific to Arizona CBG and AZRBOB.	The Department changed the definition of “terminal” to track the definition of “third-party terminal” but made it applicable to motor fuels rather than specific to Arizona CBG and AZRBOB.
R20-2-701: The definition of “biofuel distributor” includes anyone transporting a biofuel product, even a common carrier. There are more specific definitions for terms relating to a biofuel distributor so this term appears not to be needed. (APMA)	The term “biofuel distributor” is not used in the rule text. The more specific terms relating to a biofuel distributor are used. As a result, the Department determined the term “biofuel distributor” could be deleted.	Deleted the term “biofuel distributor” from R20-2-701.
R20-2-718(A-C): The Department requires that a producer or supplier of biofuels submit a QA/QC manual to the Department for approval. If the manual has to be approved, why does the Department establish minimum sampling frequencies within the rule? (APMA)	The Department establishes minimum sampling standards so a producer or supplier knows the standard that must be present in a QA/QC manual if it is to be approved by the Department.	No change
R20-2-718(B)(5) and (C)(6): Sampling rates for E85 are less than those for biodiesel. This creates a market advantage for marketers of E85. (APMA)	The Department does not agree that the sampling frequency for E85 should be increased to make it equal to that of biodiesel. E85 and biodiesel are very different products produced with very different technology. Production of ethanol is technical, more difficult, and requires more complicated systems than production of biodiesel. Indeed, biodiesel can be produced by almost anyone using readily available equipment. As a result, to protect the public, sampling frequency for biodiesel needs to be greater. There is no market advantage regarding E85 because of the greater difficulty in producing it.	No change
R20-2-718(B)(2): Delete reference to Arizona CBG or AZRBOB and replace with “a pressurant.” Arizona CBG or AZRBOB should not be the only allowed hydrocarbon component in formulating E85 within the CBG-covered area. (Shuler; Caljet)	To avoid air-quality problems, in federally defined reformulated gasoline (RFG) areas, when E85 is produced, it is required that production start with a RFG. The Department’s requirement that production of E85 in the CBG-covered area begin with Arizona CBG or AZRBOB is consistent with that of EPA.	No change
R20-2-701: Delete the definition of “non-ester renewable diesel blend” because it is not a biofuel if it is not produced entirely from renewable resources. (Caljet)	The Department determined that the phrase “non-ester renewable diesel blend” is not used in the rule text so the definition could be deleted.	Deleted the definition of “non-ester renewable diesel blend.”
R20-2-718(C)(7): Clarify that a producer that is accredited under the BQ9000 program submits the BQ9000 quality manual instead of the QA/QC manual required under subsection (C)(6). (Caljet)	This was the Department’s intention.	Clarifying language was added.

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R20-2-718(D): Delete this subsection because petroleum-based fuels are not biofuels and petroleum-based diesel fuel is not renewable. Where are the QA/QC and testing standards for this fuel? (Cal-jet) Why the disparity between petroleum-based renewable diesel and other biofuels: Petroleum-based renewable diesel needs only to meet the standards in its definition. (WSPA)	The EPA currently is developing standards for petroleum-based renewable diesel but at the moment, the only standard is that provided by ASTM D975. The Department believes it is important to acknowledge petroleum-based renewable diesel exists and include this minimum standard. When additional standards become available, the Department will complete this subsection with QA/QC and testing requirements.	No change
R20-2-708(B)(4): Delete this subsection because it conflicts with subsection (B)(3). (BP)	The Department disagrees that the two subsections are in conflict. Subsection (B)(4) allows use of a sub-octane blendstock to which ethanol is added to meet the specifications in ASTM D4814.	No change

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

Under A.R.S. § 41-2083(C) and (H), the director of the Department is required to consult with the director of the Department of Environmental Quality regarding the rules. This consultation has occurred. Under the state's implementation plan, changes regarding Arizona CBG will have to be submitted to the EPA for approval.

13. Incorporations by reference and their location in the rule:

The following materials are incorporated by reference in R20-2-702:

ASTM D975-10, Standard Specification for Diesel Fuel Oils, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D4806-09, Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D4814- 09b, Standard Specification for Automotive Spark-Ignition Engine Fuel, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D5798- 09b, Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D6751- 09a, Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels, 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

ASTM D7467-09a, Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20), 2010, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section

R20-2-701. Definitions

R20-2-702. Material Incorporated by Reference

R20-2-704. Price and Grade Posting on External Signs

R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB

R20-2-708. ~~Oxygenated Fuel~~ Gasoline Ethanol Blends

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R20-2-709.	Retail Oxygenated Fuel Labeling
R20-2-713.	Motor Fuel Storage Tank Labeling
R20-2-714.	Requirements for Motor Fuels Outside the CBG-covered Area <u>Other than Arizona CBG</u>
R20-2-715.	Motor Fuel Quality Testing Methods and Requirements
R20-2-718.	Requirements for the Production, Transport, Distribution, and or Sale of E85 Biofuels
R20-2-719.	Requirements for the Sale of Biodiesel <u>Repealed</u>
<u>R20-2-749.</u>	<u>Definitions Applicable to Arizona CBG and AZRBOB</u>
R20-2-751.	Arizona CBG Requirements
R20-2-752.	General Requirements for Registered Suppliers
R20-2-754.	Downstream Blending Exceptions for Transmix
R20-2-755.	Additional Requirements for AZRBOB and Downstream Oxygenate Blending
R20-2-756.	Downstream Blending of Arizona CBG with Nonoxygenate Blendstocks
R20-2-757.	Product Transfer Documentation; Records Retention
R20-2-759.	Testing Methodologies
Table A.	Arizona Department of Weights and Measures Test Methods for Arizona CBG and AZRBOB
R20-2-760.	Compliance Surveys
Table 1.	Type 1 Arizona CBG Standards
Table 2.	Type 2 Arizona CBG Standards

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-701. Definitions

In addition to the definitions in R20-2-101, the following definitions apply to this Article unless the context otherwise requires:

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

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

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

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

“AST” means aboveground storage tank.

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

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

“Beginning of transport” means the point at which:

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

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

~~“Biodiesel” means a diesel fuel substitute that satisfies all of the following:~~

~~Is produced from nonpetroleum renewable resources if the qualifying volume of nonpetroleum renewable resources meets the standards for California diesel fuel as adopted by the California air resources board pursuant to 13 California code of regulations sections 2281 and 2282 in effect on January 1, 2000.~~

~~Meets the registration requirement for fuels and additives established by the environmental protection agency pursuant to section 211 of the clean air act as defined in section 49-401.01.~~

~~The use of the diesel fuel substitute complies with the requirements listed in 10 Code of Federal Regulations part 490, as printed in the federal register, volume 64, number 96, May 19, 1999.~~

Is sold, offered or exposed for sale as a neat product or blended with diesel fuel. A.R.S. § 41-2051(1) *is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to § 211 of the clean air act as defined in section 49-401.01.* A.R.S. § 41-2051

“Biodiesel blend” means a motor fuel that is comprised of biodiesel and diesel fuel and that is designated by the letter “B,” followed by the numeric value of the volume percentage of biodiesel in the blend. A.R.S. § 41-2051

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

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

Is a mono-alkyl ester.

Meets the standards in ASTM D6751.

Is intended for use in some engines designed to run on conventional diesel fuel, and

Is derived from nonpetroleum renewable resources.

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

“Biofuel” means a solid, liquid, or gaseous fuel that is derived from biomass or nonpetroleum renewable resources and can be used directly for heating or power or as a motor fuel.

“Biofuel blend” means a motor fuel composed of biofuel and petroleum-based motor fuel and identified by the letter “C” and a numeric value indicating the volume percentage of biofuel in the blend.

“Biomass” means biological material, such as animal or plant matter, that can be transformed into biofuel, excluding biological material that has been transformed by geological processes into a substance such as coal petroleum or a derivative of a substance resulting from geological processes.

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

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

“CARB” means the California Air Resources Board.

“CARBOB” means California Reformulated Gasoline Blendstock for Oxygenate Blending.

“CARBOB Model” means the procedures incorporated by reference in ~~R20-2-702(12)~~ R20-2-702(11).

“CARB Phase 2 gasoline” means gasoline that meets the specifications incorporated by reference in R20-2-702(8).

“CARB Phase 3 gasoline” means gasoline that meets the specifications incorporated by reference in ~~R20-2-702(9)~~.

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

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

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

“Diesel” or “diesel fuel” means a refined middle distillate ~~for use that is used as a motor fuel in a compression-ignition internal combustion~~ internal combustion engine and that meets the specifications of ASTM D975. A.R.S. § 41-2051

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

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

“E85” means a fuel ethanol gasoline blend that meets the specifications in ASTM ~~D-5798~~ D5798, which is incorporated by reference in R20-2-702.

“EPA” means the United States Environmental Protection Agency.

“EPA waiver” means a waiver granted by the Environmental Protection Agency as described in “Waiver Requests under Section 211(f) of the Clean Air Act,” which is incorporated by reference in R20-2-702.

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

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

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ignated by the registered supplier will be or have been blended directly into the cargo tank truck before delivery of the resulting motor fuel to a motor-fuel dispensing site.

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

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

“Fuel ethanol” means denatured ethanol that meets the specifications in ASTM ~~D 4806~~ D4806, which is incorporated by reference in R20-2-702.

“Gasoline” means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than .05 grams of lead for each United States gallon, is produced, refined, manufactured, blended, distilled, or compounded from petroleum, natural gas, oil, shale oils or coal, and other flammable liquids free from undissolved water, sediment, or suspended matter, with or without additives, and is commonly used as a fuel for spark-ignition internal-combustion engines. Gasoline does not include diesel fuel or E85.

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

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

“Manufacturer’s proving ground” means a facility used only to develop complete motor vehicles, ~~that~~ which are not currently available on the retail market, for an automotive manufacturer.

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

~~“Motor fuel” means a petroleum or a petroleum-based substance such as that is motor gasoline, any grade of oxygenated gasoline, aviation fuel gasoline, number one or number two diesel fuel including neat biodiesel or a or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blend blends, bio-fuel blends and the ethanol blend E85 typically used in the operation of a motor engine as defined in ASTM D5798.~~
A.R.S. § 41-2051

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

“Motor fuel property” means any characteristic listed in R20-2-751(A)(1) through (A)(7), R20-2-751(B)(1) through (B)(7), Table 1, Table 2, or any other motor fuel standard referenced in this Article.

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

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

A vehicle ~~that is~~ designed primarily for travel through air or water.

“Motor vehicle racing event” means a competition, including related practice and qualifying and demonstration laps that uses unlicensed motor vehicles designed and manufactured specifically for racing and is conducted on a public or private racecourse for the entertainment of the general public.

“MTBE” means methyl tertiary butyl ether.

“Neat” means ~~straight pure~~ or 100 percent; not blended with gasoline motor fuel.

“NOx” means oxides of nitrogen.

“Octane,” “octane number,” or “octane rating” mean the anti-knock characteristic of gasoline as determined by the resultant arithmetic test average of ASTM ~~D 2699~~ D2699 and ASTM ~~D 2700~~ D2700.

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

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

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

~~“Oxygenated Arizona CBG” means Arizona CBG with a minimum oxygen content of 3.7 wt. % or another minimum oxygen content approved by the Director under A.R.S. § 41-2124, that is produced and shipped to or within Arizona and sold or offered for sale for use in motor vehicles in the CBG covered area from November 1 through January 31 of each year.~~

“Oxygen content” means the percentage by weight of oxygen contained in a gasoline oxygenate blend as ~~calculated~~

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~~by determined under ASTM D 4815 D4815.~~

~~“Performance standard” means the VOC and NOx emission reduction percentages in R20-2-751(A)(8) and Table 1.~~

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

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

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

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

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

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

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

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

~~“PM” or “Predictive Model Procedures” means the California Predictive Model and CARB’s “California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model,” as adopted April 20, 1995, and “California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model,” as amended April 25, 2001, both of which are incorporated by reference in R20-2-702. This definition will not become effective until Arizona’s revised State Implementation Plan regarding CARB 3 is approved by EPA.~~

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

~~“PM alternative specifications” means the specifications for the following fuel properties, as determined using a testing methodology in R20-2-759:~~

~~Maximum RVP, expressed in the nearest 100th of a pound per square inch;~~

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

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

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

~~Maximum T50, expressed in the nearest degree Fahrenheit;~~

~~Maximum T90, expressed in the nearest degree Fahrenheit; and~~

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

~~“PM averaging compliance option” means, with reference to a specific fuel property, the compliance option for PM alternative gasoline formulations by which final blends of Arizona CBG and AZRBOB are assigned designated alternative limits under R20-2-751(G), (H), and (I).~~

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

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

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

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

~~“Produce” means:-~~

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

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

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

~~If an oxygenate blender blends oxygenates into AZRBOB supplied from a gasoline production or import facility, and does not alter the quality or quantity of the AZRBOB or the quality or quantity of the resulting Arizona CBG~~

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~~certified by a registered supplier in any other manner except for the addition of a deposit control or similar additive, the producer or importer of the AZRBOB, rather than the oxygenate blender, is considered the producer or importer of the full volume of the resulting Arizona CBG.~~

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

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

Is owned or leased by the producer;

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

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

“Product transfer document” means a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other paper that is provided by the transferor at the time motor fuel is delivered and evidences that custody or title of the motor fuel is transferred to the transferee. A product transfer document is not required when motor fuel is sold or dispensed at a motor fuel dispensing site or fleet vehicle fueling facility.

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

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

~~“Registered supplier” means a producer or importer that supplies Arizona CBG or AZRBOB and is registered with the Director under R20-2-750.~~

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

~~“RVP” means Reid vapor pressure equivalent of gasoline or blendstock as measured according to ASTM D-5191.~~

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

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

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

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

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

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

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

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

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

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

~~“Type 1 Arizona CBG” means a gasoline that meets the standards contained in R20-2-751(A) and Table 1.~~

~~“Type 2 Arizona CBG” means a gasoline that meets the standards contained in Table 2 or is certified using the PM according to the requirements of R20-2-751(G), (H), and (I), and:~~

~~Meets the requirements in R20-2-751(A) beginning February 1 through October 31 of each year; and~~

~~Meets the requirements in R20-2-751(B) beginning November 1 through January 31 of each year.~~

“UST” means underground storage tank.

“Vapor pressure” means dry vapor pressure equivalent of gasoline or blendstock as measured according to ASTM

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D5191.

“Vehicle emissions control area” has the same meaning as in A.R.S. § 49-541 except that a vehicle emissions control area does not include a manufacturer’s proving ground that is located in the vehicle emissions control area.

“VOC” means volatile organic compound.

“Winter” means November 1 through January 31.

R20-2-702. Material Incorporated by Reference

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

1. 16 CFR 306 - Automotive Fuel Ratings, Certification and Posting, January 1, 1998 Edition, ~~Superintendent of Documents, U.S. Government Printing Office, Mail Stop SSOP, Washington, D.C. 20402-9328 P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.~~
2. ASTM Standard D975, 2010 ~~D-975-04e~~ (ASTM D975-10), “Standard Specification for Diesel Fuel Oils,” ~~2004 published April 2010,~~ ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
3. ASTM Standard D4806, 2009, ~~D-4806-04a~~ (ASTM D4806-09), “Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel,” ~~2004 published July 2009,~~ ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
4. ASTM Standard D4814, 2009b ~~D-4814-04a~~ (ASTM D4814-09b), “Standard Specification for Automotive Spark-Ignition Engine Fuel,” ~~2004 published September 2009,~~ ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
5. Waiver Requests under Section 211(f) of the Clean Air Act, (August 22, 1995 edition), United States Environmental Protection Agency, Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code 6406-J, Washington, D.C. 20460.
6. ASTM Standard D5798, 2009b ~~D-5798-99~~ (ASTM D5798-09b), “Standard Specification for Fuel Ethanol (Ed75-Ed85) for Automotive Spark-Ignition Engines,” ~~re-approved 2004 published May 2009,~~ ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
7. ASTM Standard D6751, 2009a ~~D-6751-03a~~ (ASTM D6751-09a), “Standard Specification for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels,” ~~2003 published February 2010,~~ ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.
8. California Air Resources Board, “California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model,” adopted April 20, 1995. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
9. California Air Resources Board, “California Procedures for Evaluating Alternative Specifications for Phase 3 Reformulated Gasoline Using the California Predictive Model,” as amended April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812.
- ~~10-9.~~ The Federal Complex Model as contained in 40 CFR 80.45, January 1, 1999. A copy may be obtained at: U.S. Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328 P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov.~~
- ~~11-10.~~ California Air Resources Board, The California Reformulated Gasoline Regulations, Title 13, California Code of Regulations, Section 2266.5 (Requirements Pertaining to California Reformulated Gasoline Blendstock for Oxygen Blending (CARBOB) and Downstream Blending), as of April 9, 2005. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
- ~~12-11.~~ California Air Resources Board, Procedures for Using the California Model for California Reformulated Gasoline Blendstocks for Oxygenate Blending (CARBOB), adopted April 25, 2001. A copy may be obtained at: CARB, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
12. ASTM Standard D7467, 2009a (ASTM D7467-09a), “Standard Specification for Diesel Fuel Oil, Biodiesel Blend (B6 to B20),” published June 2009, ASTM International (formerly American Society for Testing and Materials), 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org.

B. ~~Subsections (A)(9), Subsection (A)(11), and (A)(12)~~ will not become effective until Arizona’s revised State Implementation Plan regarding CARB-3 is approved by EPA.

R20-2-704. Price and Grade Posting on External Signs

A. No change

1. No change
2. No change
3. No change

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4. No change
5. No change
6. Describes diesel fuel as No. 1 diesel, #1 diesel, No. 2 diesel, #2 diesel, or biodiesel blend; and
7. No change

B. ~~Effective June 5, 2004, if a sign uses~~ If the following terms are used in a sign to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index:

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

R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB

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

1. ~~The name and address of the person transferring custody or title;~~

2. ~~The name and address of the transferee;~~

3. ~~1.~~ No change

4. ~~2.~~ No change

5. ~~3.~~ No change

6. ~~4.~~ No change

7. ~~5.~~ No change

8. ~~6.~~ No change

9. ~~7.~~ For conventional gasoline transported in or through the ~~CBG-covered~~ CBG-covered area, the statement, "This gasoline is not intended for use inside the ~~CBG-covered~~ CBG-covered area"; ~~and~~

10. ~~8.~~ Whether a lead substitute is present in the gasoline and the type of lead substitute present;

9. ~~For a biofuel or biofuel blend, the percentage of biofuel in the finished product; and~~

10. The final destination:

a. When a terminal is the transferor, the owner or operator of the terminal shall include on the product transfer document the terminal name and address, the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;

b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and

c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.

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

~~B.C.~~ No change

~~C.D.~~ No change

~~D.E.~~ No change

~~E.F.~~ A service station An owner or operator of a motor fuel dispensing site or fleet owner shall maintain product transfer documentation for the three most recent deliveries of each grade of motor fuel on the service station owner's or operator's premises of the motor fuel dispensing site owner or operator or fleet owner's premises owner. This documentation shall be available for Department review.

~~F.G.~~ No change

~~G.H.~~ No change

R20-2-708. ~~Oxygenated Fuel~~ Gasoline Ethanol Blends

A. A person that has custody of gasoline blended with an oxygenate shall ensure that the amount of oxygenate does not exceed the amount allowed by EPA waivers, Section 211(f) of the Clean Air Act, and A.R.S. § 41-2122. The maximum oxygen content of gasoline oxygenate blends shall not exceed ~~3.7~~ 4.0 percent by weight for fuel ethanol oxygenate and as specified in A.R.S. § 41-2122 for other oxygenates.

B. Special provisions for gasoline ethanol blends.

1. A gasoline ethanol blend that meets the requirements in subsections (B)(1)(a) and (B)(1)(b) shall not exceed the vapor pressure specified in ASTM D4814 by more than one psi:

a. The gasoline ethanol blend shall contain fuel ethanol. The concentration of the fuel ethanol, excluding the

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required denaturing agent, shall be:

- i. From May 1 through September 15, at least nine percent and no more than 10 percent by volume of the gasoline ethanol blend; and
 - ii. From September 16 through April 30, at least 1.5 percent by weight and no more than 10 percent by volume of the gasoline ethanol blend; and
 - b. The fuel ethanol content of the gasoline ethanol blend shall:
 - i. Be determined using the appropriate test method listed in ASTM D4814, and
 - ii. Not exceed any applicable waiver condition under Section 211(f) of the Clean Air Act.
2. The provision in subsection (B)(1) is effective for gasoline ethanol blends sold:
 - a. Outside the CBG-covered area year around, and
 - b. Within the CBG-covered area during April and October.
3. Gasoline blended with no more than 10 percent by volume of fuel ethanol shall be blended using one of the following alternatives:
 - a. The base gasoline complies with the standards in ASTM D4814, the fuel ethanol complies with the standards in ASTM D4806, and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:
 - i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and
 - ii. The minimum test temperature at which the vapor/liquid ration is equal to 20 is waived;
 - b. The finished blend complies with the standards in ASTM D4814; or
 - c. The base gasoline complies with the standards in ASTM D4814 except distillation and the finished blend complies with the standards in ASTM D4814 with the following permissible exceptions:
 - i. The distillation minimum temperature at the 50 volume percent evaporated point is not less than 66°C (150°F), and
 - ii. The minimum test temperature at which the vapor/liquid ration is equal to 20 is waived.
4. A gasoline ethanol blend shall meet the standards specified in ASTM D4814.
- C. In addition to complying with the requirements in R20-2-707, the transferor of a gasoline ethanol blend shall ensure that the product transfer document contains a legible and conspicuous statement that the gasoline being transferred contains fuel ethanol and the percentage concentration of fuel ethanol.

R20-2-709. Retail Oxygenated Fuel Labeling

- A. No change
- B. The owner or operator of a motor fuel dispensing site shall ensure that labels required under subsection (A) are displayed on the upper 60 percent of each face of each motor fuel dispenser. The label indicating the maximum percent by volume of oxygenate contained in the oxygenated fuel shall state: "~~Contains~~ May contain up to _____ % fuel ethanol."
- C. In the CBG-covered area and area B, the owner or operator of a motor fuel dispensing site shall ensure that a label displayed on each face of each motor fuel dispenser contains the following statement: "This gasoline is oxygenated with fuel ethanol and will reduce carbon monoxide emissions from motor vehicles in the winter." The statement may be printed on the label required in subsection (B) or on a separate label. If the statement is printed on a separate label, the label shall be displayed next to the label required in subsection (B).
- D. No change
 1. No change
 2. No change
 3. No change

R20-2-713. Motor Fuel Storage Tank Labeling

- A. ~~A service station~~ An owner or operator of a motor fuel dispensing site shall ensure that all motor fuel storage tank fill pipes and gasoline vapor return lines located at ~~a service station~~ the motor fuel dispensing site are labeled to identify the contents accurately as:
 1. Unleaded gasoline,
 2. Unleaded midgrade gasoline,
 3. Unleaded premium gasoline,
 4. No. 1 or #1 diesel fuel,
 5. No. 2 or #2 diesel fuel, ~~or~~
 6. Gasoline vapor return,
 7. Biodiesel blend, or
 8. E85.
- B. ~~A service station~~ An owner or operator of a motor fuel dispensing site shall ensure that ~~labels are~~ the label required under subsection (A) is at least 1 1/2" x 5" with at least 1/4" black or white block lettering on a sharply contrasting background and that the label is clean, visible, and legible at all times.

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- C. ~~A service station~~ An owner or operator of a motor fuel dispensing site may display other information on the reverse side of a two-sided label.
- D. ~~A service station~~ An owner or operator of a motor fuel dispensing site shall not put motor fuel into storage tanks without attaching the proper label.

R20-2-714. Requirements for Motor Fuels ~~Outside the CBG-covered Area~~ Other than Arizona CBG

- A. A person that owns or operates a motor fuel dispensing site or transmix or production facility outside the CBG-covered area shall ensure that a motor fuel offered for sale at the motor fuel dispensing site or transmix or production facility meets all the appropriate specifications in R20-2-702 except:
 - 1. ~~From that from~~ May 1 through September 30, gasoline shall meet the specifications in ASTM ~~D-4814-04a~~ D4814 except maximum vapor pressure shall be 9.0 pounds per square inch;
 - 2. For gasoline blends, the vapor pressure may be no more than one pound per square inch greater than the vapor pressures established by ASTM ~~D-4814-04a~~ during:
 - a. ~~May 1 through September 15, if the gasoline-fuel ethanol blend meets the requirements of ASTM D-4814-04a, the volatility requirements of subsection (A)(1), and the final gasoline-fuel ethanol blend contains at least nine percent fuel ethanol by volume but does not exceed the volume specified in EPA waivers; and~~
 - b. ~~September 16 through April 30, if the gasoline-fuel ethanol blend meets the requirements of ASTM D-4814-04a and the final gasoline-fuel ethanol blend contains at least 1.5 percent fuel ethanol by weight but does not exceed the volume specified in EPA waivers.~~
- B. No change
- C. No change
 - 1. No change
 - 2. No change
 - 3. No change
- D. No change
 - 1. No change
 - 2. No change
 - 3. No change

R20-2-715. Motor Fuel Quality Testing Methods and Requirements

- A. No change
- B. Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the methodologies and meet the specifications of ASTM ~~D-975-04e~~ D975.
- C. No change

R20-2-718. Requirements for ~~the Production, Transport, Distribution, and~~ for Sale of E85 Biofuels

- ~~A.~~ Requirements applicable statewide:
 - 1. ~~A producer of E85 or the owner or operator of a motor fuel dispensing site that dispenses E85 shall ensure that the E85 sold or offered for sale in Arizona meets all the specifications in ASTM D-5798-99.~~
 - 2. ~~An owner or operator of a motor fuel dispensing site shall ensure that both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that indicate E85 is not gasoline and is intended for use only in a flexible-fuel vehicle, and stating, "Check your owner's manual to ensure that this fuel can be used in your vehicle."~~
 - 3. ~~An owner or operator of a motor fuel dispensing site shall ensure that any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements in R20-2-203.~~
 - 4. ~~A producer of E85 shall report to the Department, by the 15th of the month following the production of E85, the following information regarding the E85 production:~~
 - a. ~~The amount of fuel ethanol used during the previous month;~~
 - b. ~~The amount of gasoline used during the previous month;~~
 - c. ~~The total amount of E85 produced during the previous month;~~
 - d. ~~The total amount of E85 sold during the previous month;~~
 - e. ~~The fuel quality properties for the gasoline and fuel ethanol components making up each batch of E85, and~~
 - f. ~~The fuel quality properties of each batch of final E85 blend.~~
- ~~B.~~ Requirements applicable in the CBG-covered area:
 - 1. ~~A producer of E85 for sale in the CBG-covered area shall use Arizona CBG or AZRBOB as the gasoline portion of the E85 blend.~~
 - 2. ~~A producer of E85 for sale in the CBG-covered area shall ensure that the fuel ethanol used meets the standard in R20-2-751(C).~~
- A. General requirements for producers and suppliers of biofuel or biofuel blends in Arizona.
 - 1. Registration requirement.
 - a. A producer, supplier, or person required to register with the EPA under 40 CFR 80, Subpart K, shall register with the Director, using a form prescribed by the Director, before producing or supplying biofuel or biofuel blend in

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Arizona.

- b. A person required to register under subsection (A)(1)(a) shall notify the Director within 10 days after the effective date of a change in any of the information provided under subsection (A)(1)(a).
 - c. Consequences of failing to register under subsection (A)(1)(a).
 - i. If a producer fails to register, the Department shall presume that all biofuel or biofuel blend produced is non-compliant with the requirements of this Chapter from the date that registration should have occurred; and
 - ii. If a supplier or person required to register with the EPA fails to register, the Director shall take action as allowed under A.R.S. § 41-2115 and R20-2-762.
 - d. The Department shall maintain and make available to the public a list of all persons registered under this Section.
2. Reporting requirement.
- a. A person required to register under subsection (A)(1)(a) shall report to the Department by the 15th of the month after producing or supplying biofuel or biofuel blend. The person shall:
 - i. Report on a form prescribed by the Director;
 - ii. Provide the information specified in subsections R20-2-718(B) and (C), as applicable;
 - iii. Attest to the truthfulness and accuracy of the information submitted;
 - iv. Consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article; and
 - v. Ensure that the report form is signed by a corporate officer responsible for operations at the facility at or from which the biofuel or biofuel blend was produced or supplied.
 - b. The Department shall classify the information submitted under subsection (A)(2)(a) as confidential and protected under A.R.S. § 44-1374 if the person that submits the information expressly designates the information as confidential.
3. Quality Assurance and Quality Control (QA/QC) program requirement.
- a. A person required to register under subsection (A)(1)(a) shall develop a QA/QC program to ensure the quality of a biofuel or biofuel blend produced in or supplied in or into Arizona.
 - b. A person required to develop a QA/QC program under subsection (A)(3)(a) shall summarize the QA/QC program in a manual and submit the manual to the Director for approval at least three months before the person plans to produce or supply a biofuel or biofuel blend. The person shall ensure that the manual:
 - i. Documents the manner in which the QA/QC program ensures that a biofuel or biofuel blend produced or supplied conforms to applicable ASTM specifications, is appropriately blended, and meets all customer-specific requirements;
 - ii. Contains a policy and objectives that expressly commit the producer or supplier to ensure the quality of the biofuel or biofuel blend produced or supplied;
 - iii. Contains procedures that will be used to determine and document that operational quality requirements are met; and
 - iv. Contains a provision for making, maintaining, and controlling documents and records regarding the QA/QC program.
 - c. A person that submits a manual under subsection (A)(3)(b) shall not produce or supply a biofuel or biofuel blend until the manual is approved by the Director.
 - d. The Director shall approve a manual submitted under subsection (A)(3)(b) only if the Director determines that the QA/QC program sufficiently ensures the quality of a biofuel or biofuel blend produced or supplied.
- B. Specific requirements for producers or suppliers of E85.**
- 1. The owner or operator of a motor fuel dispensing site at which E85 is dispensed shall ensure that:
 - a. Both the motor fuel dispenser and nozzle from which E85 is dispensed have labels affixed that:
 - i. Indicate E85 is not gasoline,
 - ii. Indicate E85 is intended for use only in a flexible-fuel vehicle, and
 - iii. State "Check your owner's manual to ensure that this fuel can be used in your vehicle," and
 - b. Any motor fuel dispenser from which E85 is dispensed is compatible with E85 and meets the requirements of this Chapter and A.R.S. § 41-2083.
 - 2. Additional requirement for producing E85 for sale in the CBG-covered area. A producer of E85 for sale in the CBG-covered area shall:
 - a. Use Arizona CBG or AZRBOB and pressurant as needed to meet the hydrocarbon requirement of ASTM D5798; and
 - b. Ensure that the fuel ethanol used meets the standards in this Chapter.
 - 3. Reporting requirement for a producer of E85. A producer of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the E85 produced:
 - a. The amount of fuel ethanol used to produce E85 in the previous month.
 - b. The amount of gasoline used to produce E85 in the previous month.

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- c. The total amount of E85 produced during the previous month.
- d. The following fuel quality properties for the finished E85:
 - i. Appearance.
 - ii. American Petroleum Institute gravity.
 - iii. Organic chloride.
 - iv. Water content.
 - v. Vapor pressure, and
 - vi. Sulfur content.
- 4. Reporting requirement for a supplier of E85. A supplier of E85 intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
 - a. The amount of E85 sold during the previous month; and
 - b. A certification by the supplier of E85 that the E85 sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
- 5. Quality Assurance and Quality Control (QA/QC) program for a producer of E85. A producer of E85 shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which E85 is produced. The producer shall ensure that that sampling and testing protocol meets the following minimum standards:
 - a. All samples of E85 are collected after any applicable blend component is added;
 - b. All samples of E85 are collected using approved ASTM methods;
 - c. Sampling is done at one of the following rates:
 - i. If E85 is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
 - ii. If E85 is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 500 times E85 is blended or transferred or one sample per week, whichever is more frequent;
 - iii. If E85 is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 250 times E85 is blended or transferred or two samples per week, whichever is more frequent;
 - d. All testing of E85 is conducted using the appropriate ASTM test method outlined in ASTM D5798;
 - e. Test results are used to certify the quality of the E85 produced;
 - f. Sample handling and storage procedures are specified; and
 - g. Sample retention time-frames are specified.
- 6. Non-compliant E85. If test results for E85 shipped from a facility indicate that the E85 does not comply with the requirements of this Chapter, the producer of the E85 shall immediately:
 - a. Notify the Director of the test results.
 - b. Take all reasonable steps to stop the sale of the non-compliant E85, and
 - c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.
- C. Specific requirements for producers or suppliers of biodiesel and biodiesel blends.
 - 1. A person shall not sell or offer or expose for sale:
 - a. Neat biodiesel unless the neat biodiesel meets all specifications established by ASTM D6751.
 - b. Diesel fuel containing up to five percent by volume biodiesel unless the diesel fuel meets all specifications established by ASTM D975, and
 - c. A blend containing six percent through 20 percent biodiesel and diesel fuel unless the blend meets all specifications established by ASTM D7467.
 - 2. The owner or operator of a motor fuel dispensing site shall ensure that:
 - a. Any motor fuel dispenser from which a biodiesel or biodiesel blend is dispensed:
 - i. Meets the labeling requirements established by A.R.S. § 41-2083(L).
 - ii. Is compatible with biodiesel or biodiesel blend, and
 - iii. Meets all requirements in this Chapter and A.R.S. § 41-2083; and
 - b. Any biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
 - 3. Additional requirement for producing biodiesel or biodiesel blend for sale in the CBG-covered area. A producer of biodiesel or biodiesel blend for sale in the CBG-covered area shall ensure that the diesel fuel used contains no more than 15 ppm of sulfur.
 - 4. Reporting requirement for a producer of a biodiesel or biodiesel blend. A producer of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following information regarding the biodiesel or biodiesel blend produced:

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- a. The total amount of biodiesel or biodiesel blend produced in the previous month;
 - b. The amount of biodiesel used to produce a biodiesel blend in the previous month;
 - c. The following fuel quality properties, established by ASTM D6751, for the finished biodiesel:
 - i. Flash point;
 - ii. Water sediment;
 - iii. Sulfur content;
 - iv. Cold soak filterability;
 - v. Cloud point;
 - vi. Acid number;
 - vii. Free glycerin;
 - viii. Total glycerin; and
 - ix. Distillation, 90 percent; and
 - d. The following fuel quality properties, established by ASTM D7467, for the finished biodiesel blend that contains six percent through 20 percent biodiesel:
 - i. Sulfur content;
 - ii. Aromatic hydrocarbon content;
 - iii. Cetane index;
 - iv. Acid number;
 - v. Distillation; and
 - vi. American Petroleum Institute gravity.
5. Reporting requirement for a supplier of a biodiesel or biodiesel blend. A supplier of a biodiesel or biodiesel blend intended as a final product for the fueling of motor vehicles shall submit the report required under subsection (A)(2) and ensure that the report includes the following:
- a. The amount of biodiesel or biodiesel blend sold during the previous month; and
 - b. A certification by the supplier of biodiesel or biodiesel blend that the biodiesel or biodiesel blend sold, offered for sale, or dispensed was received from or traceable to a person registered with the Department under subsection (A)(1).
6. Quality Assurance and Quality Control (QA/QC) program for a producer of biodiesel or a biodiesel blend. Except as specified in subsection (C)(7), a producer of biodiesel or a biodiesel blend shall comply with the QA/QC requirements specified in subsection (A)(3). Additionally, the producer shall ensure that the manual submitted to the Director under subsection (A)(3)(b) contains a description of a QA/QC sampling and testing protocol to be implemented at each facility within the person's operation at which biodiesel or a biodiesel blend is produced. The producer shall ensure that that sampling and testing protocol meets the following minimum standards:
- a. All samples of biodiesel or biodiesel blend are collected after any applicable blend component is added;
 - b. All samples of biodiesel or biodiesel blend are collected using approved ASTM methods;
 - c. Sampling is done at one of the following rates:
 - i. If biodiesel or a biodiesel blend is produced in a single storage tank by batch, a rate of at least one sample per tank. For the purpose of this subsection, a storage tank is a stationary tank and does not include a transport trailer;
 - ii. If biodiesel or a biodiesel blend is blended or transferred into a delivery truck through the use of computer-controlled in-line blending equipment, a rate of at least one sample for every 20 times biodiesel or biodiesel blend is blended or transferred or one sample every two weeks, whichever is more frequent;
 - iii. If biodiesel or a biodiesel blend is blended or transferred into a delivery truck without the use of computer-controlled in-line blending equipment, a rate of at least one sample every 10 times biodiesel or biodiesel blend is blended or transferred or one sample per week, whichever is more frequent;
 - d. All testing of biodiesel or biodiesel blend is conducted using the appropriate ASTM test method outlined in ASTM D6751, D975, or D7467;
 - e. Test results are used to certify the quality of the biodiesel or biodiesel blend produced;
 - f. Sample handling and storage procedures are specified; and
 - g. Sample retention time-frames are specified.
7. A producer of biodiesel or a biodiesel blend that is accredited under the BQ9000 program shall, at least three months before planning to produce or supply a biodiesel or biodiesel blend, submit to the Director the quality manual developed and implemented under the BQ9000 program instead of the QA/QC manual required under subsection (C)(6). A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall not produce or supply a biodiesel or biodiesel blend until the quality manual developed under the BQ9000 program is approved by the Director. A producer of biodiesel or a biodiesel blend that is BQ9000 accredited shall, upon request, provide the Director with access to records relating to the accreditation and documentation relating to the precision and accuracy of any alternative test method used to meet the requirements of this Section. The Director has authority under A.R.S. §§ 41-2065(A)(4) and 41-2083(N) to audit the quality manual submitted under this subsection.

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8. Non-compliant biodiesel or biodiesel blend. If test results for biodiesel or a biodiesel blend shipped from a facility indicate that the biodiesel or biodiesel blend does not comply with the requirements of this Chapter, the producer of the biodiesel or biodiesel blend shall immediately:
 - a. Notify the Director of the test results.
 - b. Take all reasonable steps to stop the sale of the non-compliant biodiesel or biodiesel blend, and
 - c. Take steps reasonably calculated to determine the cause of the noncompliance and to prevent future occurrences of noncompliance.
- D. Specific requirements for producers or suppliers of petroleum-based renewable diesel. A producer or supplier of petroleum-based renewable diesel that is intended as a final product for the fueling of motor vehicles shall ensure that the petroleum-based renewable diesel:
 1. Meets the standards in ASTM D975, and
 2. Is identified as specified in R20-2-701.

R20-2-719. Requirements for the Sale of Biodiesel Repealed

- ~~A. A person shall not sell or offer or expose for sale:~~
- ~~1. Biodiesel that is not tested or does not meet the specifications established by ASTM D 6751;~~
 - ~~2. A blend of biodiesel and diesel fuel that is not tested or does not meet the specifications established by ASTM D 975-04e; or~~
 - ~~3. Biodiesel or a blend of biodiesel and diesel fuel for use in Area A that contains sulfur in excess of 15 ppm.~~
- ~~B. A person who blends biodiesel that is intended as a final product for the fueling of motor vehicles shall report to the director by the fifteenth day of each month the quantity and quality of biodiesel shipped to or produced in this state during the preceding month. A person who supplies biodiesel subject to this subsection shall report the following by batch:~~
- ~~1. The percentage of biodiesel in a final blend;~~
 - ~~2. The volume of the finished product;~~
 - ~~3. For neat biodiesel, the results of analysis for those parameters established by ASTM D6751.~~
 - ~~4. For biodiesel blended with any diesel fuel, the results of the analysis of the following motor fuel parameters as established by ASTM D975:~~
 - ~~a. Sulfur content;~~
 - ~~b. Aromatic hydrocarbon content;~~
 - ~~c. Cetane number;~~
 - ~~d. Specific gravity;~~
 - ~~e. American petroleum institute gravity;~~
 - ~~f. The temperatures at which ten per cent, fifty per cent and ninety per cent of the diesel fuel boiled off during distillation. A.R.S. § 41-2083(L).~~
- ~~C. A person required to submit a report under subsection (B) shall use a form prescribed by the Director, certify the truthfulness and accuracy of the data submitted, and consent to the Department or its authorized agent collecting samples and accessing records as provided in this Article. A corporate officer who is responsible for operations at the facility that produces or ships the final product shall sign the report.~~
- ~~D. A person shall label a dispenser at which biodiesel is dispensed in a manner that notifies other persons of the volume percentage of biodiesel in the finished product and with the statement: "This fuel contains biodiesel. Check the owner's manual or with your engine manufacturer before using."~~

R20-2-749. Definitions Applicable to Arizona CBG and AZRBOB

The following definitions apply only to R20-2-750 through R20-2-762, including Tables A, 1, and 2:

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

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

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

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

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

"Performance standard" means the VOC and NOx emission reduction percentages in R20-2-751(A)(8) and Table 1.

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“PM” or “Predictive Model Procedures” means the California Predictive Model and CARB’s “California Procedures for Evaluating Alternative Specifications for Phase 2 Reformulated Gasoline Using the California Predictive Model,” as adopted April 20, 1995, which is incorporated by reference in R20-2-702.

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

“PM alternative specifications” means the specifications for the following fuel properties, as determined using a testing methodology in R20-2-759:

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

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

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

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

Maximum T50, expressed in the nearest degree Fahrenheit;

Maximum T90, expressed in the nearest degree Fahrenheit; and

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

“PM averaging compliance option” means, with reference to a specific fuel property, the compliance option for PM alternative gasoline formulations by which final blends of Arizona CBG and AZRBOB are assigned designated alternative limits under R20-2-751(G), (H), and (I).

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

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

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

“Produce” means:

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

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

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

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

“Registered supplier” means a producer or importer that supplies Arizona CBG or AZRBOB and is registered with the Director under R20-2-750.

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

“Type 1 Arizona CBG” means a gasoline that meets the standards contained in R20-2-751(A) and Table 1.

“Type 2 Arizona CBG” means a gasoline that meets the standards contained in Table 2 or is certified using the PM according to the requirements of R20-2-751(G), (H), and (I), and meets the requirements in:

R20-2-751(A) beginning April 1 through October 31 of each year; and

R20-2-751(B) beginning November 1 through March 31 of each year.

“Winter” means November 1 through March 31.

R20-2-751. Arizona CBG Requirements

- A. General fuel property and performance requirements. In addition to the other requirements of this Article and except as provided in subsection (B), all Arizona CBG shall meet the following requirements and for any fuel property not specified, shall meet the requirements in ASTM ~~D 4814-04a~~ D4814. The dates in this subsection are compliance dates for the

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owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility.

1. Sulfur: ~~80~~ 500 ppm by weight (max);
 2. Aromatics: 50 percent by volume (max);
 3. Olefins: 25 percent by volume (max);
 4. E200: 70-30 percent volume;
 5. E300: 100-70 percent volume;
 6. Maximum ~~Vapor Pressure~~ vapor pressure.
 - a. ~~October 1 – January 31: 9.0 pounds per square inch (psi) psi;~~
 - b. ~~February: 13.5~~ November 1 - March 31: 9.0 psi;
 - c. ~~March: 11.5 psi~~
 - d. ~~c.~~ April: 10.0 psi;
 - e. ~~d.~~ May: 9.0 psi;
 - f. ~~e.~~ June 1 - September 30: 7.0 psi; for CARB Phase 2 gasoline and 7.2 psi for CARB Phase 3 gasoline
 - f. A gasoline ethanol blend in the CBG-covered area is subject to the one pound psi vapor pressure waiver, as described in R20-2-708(B), during April and October only.
 7. Oxygen and ~~Oxygenates~~ oxygenates.
 - a. Minimum ~~Content~~ content:
 - i. ~~November 1 - January~~ March 31: 10 percent fuel ethanol by volume. If A.R.S. § 41-2124(E) petition in effect: 2.7 percent oxygen by weight as approved by the Director.
 - ii. ~~February~~ April 1 - October 31: 0 percent by weight (any oxygenate).
 - b. The maximum oxygen content shall not exceed ~~3-7~~ 4.0 percent by weight for fuel ethanol and as specified in A.R.S. § 41-2122 for other oxygenates, and shall comply with the requirements of A.R.S. § 41-2123.
 - c. No change
 8. Type 1 Arizona CBG shall meet the Federal Complex Model VOC emissions reduction percentage May 1 through September 15: 27.5 percent (Federal Complex Model settings: Summer, Area Class B, Phase 2). Type 2 Arizona CBG shall meet CARB Phase 2 ~~or Phase 3 PM~~ requirements.
- B.** Wintertime requirements. In addition to the other requirements of this Article, the owner or operator of a motor fuel dispensing site or a fleet vehicle fueling facility shall ensure that beginning November 1 through ~~January~~ March 31 of each year, all Arizona CBG meets the following fuel property requirements.
1. No change
 2. No change
 3. No change
 4. No change
 5. No change
 6. No change
 7. No change
 - a. No change
 - b. Maximum oxygen content - ~~3-7~~ 4.0 percent oxygen by weight, and shall comply with the requirements of A.R.S. § 41-2123; and
 - c. No change
- C.** Fuel ethanol specifications. A person that uses fuel ethanol as a blending component with AZRBOB or Arizona CBG shall ensure that the fuel ethanol meets the requirements in ASTM ~~D-4806-04a~~ D4806 and the following:
1. No change
 2. No change
 3. No change
- D.** No change
1. Whether the registered supplier (at each point where the Arizona CBG or AZRBOB is certified) will supply Arizona CBG or AZRBOB that complies with Type 1 Arizona CBG, Type 2 Arizona CBG, or the PM alternative gasoline formulation requirements and, if the registered supplier will supply Arizona CBG or AZRBOB that complies with the PM alternative gasoline formulation requirements, whether the registered supplier will certify using the CARB Phase 2 ~~or Phase 3~~ model; and
 2. No change
- E.** Winter elections. Beginning November 1 through ~~January~~ March 31 of each year, a registered supplier shall ensure that all Arizona CBG or AZRBOB complies with Type 2 Arizona CBG requirements or the PM alternative gasoline formulation requirements under Table 2. A registered supplier shall make an initial election, and a subsequent election each time a change occurs, before beginning to transport Arizona CBG or AZRBOB. A registered supplier shall make the election with the Director on a form or in a format prescribed by the Director. The election shall state:
1. No change
 2. No change

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

F.G. Certification as Type 1 Arizona CBG or Type 2 Arizona CBG. A registered supplier shall certify Arizona CBG or AZRBOB under R20-2-752 as meeting all requirements of the election made in subsection (D) or (E). For each fuel property, Type 1 Arizona CBG shall comply with the requirements in either column A or columns B through D of Table 1, and shall be certified using the Federal Complex Model, which is incorporated by reference in R20-2-702. For each fuel property, Type 2 Arizona CBG shall comply with the requirements of columns A and B (averaging option), or column C in Table 2. The PM alternative gasoline formulation shall meet the requirements of subsections ~~(G)~~, (H), ~~and (I), and (J)~~, and column A of Table 2. A registered supplier may certify Arizona CBG or AZRBOB using an equivalent test method that the Department approves using the criteria stated in R20-2-759.

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

1. Except as provided in subsections ~~(G)(4)~~ (H)(4) and ~~(H)~~ (J), a registered supplier shall use the PM as provided in the Predictive Model Procedures.
2. No change
 - a. Submitting to the Director a complete copy of the documentation provided to the executive officer of CARB according to 13 California Code of Regulations, Section 2264 and subsection ~~(H)~~ (J); or
 - b. No change
 - i. No change
 - ii. No change
3. A registered supplier shall deliver the certification required under subsection ~~(G)(2)~~ (H)(2) to the Director before transporting the PM alternative gasoline formulation.
4. No change
 - a. A registered supplier shall not make a new election to sell or supply from its production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation if the registered supplier has an outstanding requirement under subsection ~~(H)~~ (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 ~~(H)~~ (K). This subsection does not preclude a registered supplier from electing another PM alternative gasoline formulation if:
 - i. No change
 - ii. No change
 - iii. No change
 - c. If a registered supplier elects to sell or supply from the registered supplier's production or import facility a final blend of Arizona CBG as a PM alternative gasoline formulation, the registered supplier shall not use a previously assigned designated alternative limit for a fuel property to provide offsets under subsection ~~(H)~~ (K).
 - d. No change
 - i. No change
 - ii. No change

H.I. No change

1. No change
2. The registered supplier is prohibited by subsection ~~(G)(4)(a)~~ (H)(4)(a) from electing to sell or supply the gasoline as a PM alternative gasoline formulation,
3. No change
4. No change
 - a. The gasoline exceeds the applicable PM average limit in Table 2, column B, and no designated alternative limit for the fuel property is established for the gasoline in accordance with subsection ~~(G)(2)~~ (H)(2); or
 - b. A designated alternative limit for the fuel property is established for the gasoline in accordance with subsection ~~(G)(2)~~ (H)(2), and either the gasoline exceeds the designated alternative limit for the fuel property or the designated alternative limit for the fuel property exceeds the PM averaging limit and the exceedance is not fully offset in accordance with subsection ~~(H)~~ (K).

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

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~~J-K~~ No change

1. No change
2. No change
3. No change

~~K-L~~ No change

1. In addition to a penalty under R20-2-762, if any, a registered supplier that fails to comply with a requirement of subsection ~~(J)~~ **(K)** shall meet the applicable per-gallon standards contained in Table 1, Table 2, or an alternative PM gasoline formulation, for a probationary period as follows:
 - a. For a registered supplier that elects to comply with the standards contained in Table 1, the probationary period begins on the first day of the next averaging season and ends on the last day of that averaging season if the conditions of subsection ~~(K)(2)~~ **(L)(2)** are met;
 - b. For a registered supplier that elects to comply with the standards contained in Table 2 or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives a notice from the Director, that the registered supplier did not comply with the requirements of subsection ~~(J)~~ **(K)**. Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period. The probationary period ends 90 days after its beginning date.
2. No change
 - a. No change
 - i. No change
 - ii. No change
 - b. No change
 - c. No change
 - d. No change
3. If a registered supplier fails to comply with the requirements of subsection ~~(J)~~ **(K)** within one year of the end of a probationary period under subsection ~~(K)(1)~~ **(L)(1)**, the registered supplier shall comply with applicable per-gallon standards for a subsequent probationary period of two years, or until the conditions in subsection ~~(K)(2)~~ **(L)(2)** are satisfied, whichever is later.
 - a. No change
 - b. If a registered supplier elects to comply with the Table 2 standards or the PM, the probationary period begins no later than 90 days after the registered supplier determines, or receives notice from the Director, that the registered supplier did not comply with the requirements of subsection ~~(J)~~ **(K)**. Before the probationary period begins, the registered supplier shall notify the Director in writing of the beginning date of the probationary period.
4. If a registered supplier fails to comply with the requirements of subsection ~~(J)~~ **(K)** within one year after the end of a probationary period provided under subsection ~~(K)(3)~~ **(L)(3)**, the registered supplier shall permanently comply with applicable per-gallon standards.

~~L-M~~ No change

~~M-N~~ No change

~~N-O~~ Subsequent survey compliance. If the minimum VOC or average NOx emissions reduction percentage has been made more stringent according to subsection ~~(L)~~ **(M)** or ~~(M)~~ **(N)** and all emissions reduction surveys for VOC or NOx for two consecutive years show emissions within the applicable adjusted reduction percentage in the CBG-covered area, the applicable VOC or NOx emissions adjusted reduction percentage shall be reduced by an absolute 1.0 percent beginning in the year following the year in which the second compliant survey is conducted. Each emissions reduction percentage adjusted under this subsection shall not be decreased below the following:

1. No change
2. No change

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

1. No change
2. No change
3. If the VOC or NOx emission reduction percentage is increased under subsection ~~(O)(1)~~ **(P)(1)** or ~~(O)(2)~~ **(P)(2)**, the VOC or NOx emission reduction percentage shall not be made less stringent regardless of the result of subsequent surveys for VOC or NOx emissions.

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

~~Q~~ Subsections ~~(A)(6)(a), (b), (c), and (f), (A)(7)(a)(i) and (ii), (A)(8), (B), (D)(2), (E), and (I) will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.~~

R20-2-752. General Requirements for Registered Suppliers

A. No change

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- B.** No change
- C.** No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. The test results for sulfur, aromatic hydrocarbon, olefin, oxygen, ~~RVP~~ vapor pressure, and as applicable, T50, T90, E200, and E300 as determined under R20-2-759.
 - 2. If Arizona CBG or AZRBOB produced or imported by a registered supplier is not tested and documented as required by this Section, the Director shall deem the Arizona CBG or AZRBOB to have a ~~RVP~~ vapor pressure, sulfur, aromatic hydrocarbon, olefin, oxygen, T50, and T90 that exceeds the standards specified in R20-2-751 or the comparable PM averaging limits, unless the registered supplier demonstrates to the Director that the Arizona CBG or AZRBOB meets all applicable fuel property limits and performance standards.
 - 3. No change
- D.** No change
- E.** No change
- F.** No change
 - 1. No change
 - a. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - 2. No change
 - 3. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - d. No change
 - e. No change
 - 4. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - v. No change
 - vi. No change
 - vii. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - d. No change
- G.** No change
- H.** No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. ~~RVP~~ Vapor pressure: 0.3 psi;
 - f. No change
 - g. No change
 - h. No change

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- i. No change
- j. No change
- 2. No change
 - a. No change
 - b. No change

R20-2-754. Downstream Blending Exceptions for Transmix

- A. ~~Pipelines~~ A pipeline or third-party terminal may blend transmix into Arizona CBG or AZRBOB at a rate not to exceed 1/4 of 1 percent by volume. Each pipeline or third-party terminal shall document the transmix blending (recording each batch and volume of transmix blended) and maintain the records at the third-party terminal for two years from the date of blending.
- B. No change
 - 1. No change
 - 2. Tank gauge as per API Manual of Petroleum Measurement Standards, Chapters 3.1A (1st edition, December 1994) and 3.1B (1st edition, April 1992), incorporated by reference and on file with the Department ~~and the Office of the Secretary of State~~. A copy may also be obtained at American Petroleum Institute, 1220 L St., N.W., Washington, D.C. ~~20045-4070~~ 20005-4070. This incorporation by reference contains no future editions or amendments.

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

- A. No change
 - 1. No change
 - a. If a registered supplier designates a final blend as AZRBOB and complies with the provisions of this Section, the fuel properties and performance standards of the AZRBOB, for purposes of compliance with Table 2, are determined by adding the specified amount of fuel ethanol to a representative sample of the AZRBOB and testing the resulting gasoline using the test methods in R20-2-759 or certifying the ARZBOB using the CARBOB model. If the registered supplier designates a range of amounts of fuel ethanol to be added to the AZRBOB, the minimum designated amount of fuel ethanol shall be added to the AZRBOB to determine the fuel properties and performance standards of the resulting Arizona CBG. If a registered supplier does not comply with this subsection, the Department shall determine whether the AZRBOB complies with applicable fuel properties and performance standards, excluding requirements for ~~RVP~~ vapor pressure, without adding fuel ethanol to the AZRBOB.
 - b. No change
 - 2. No change
- B. No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
- C. No change
 - 1. No change
 - 2. No change
- D. Quality assurance sampling and testing requirements for a registered supplier supplying AZRBOB from a production or import facility. A registered supplier supplying AZRBOB from a production or import facility shall use an independent third-party quality assurance sampling and testing program as described in subsection (E) or conduct a quality assurance sampling and testing program that meets the requirements of 40 CFR 80.69(a)(7), as it existed on July 1, 1996, except for the changes listed in subsections (D)(1) through (D)(3). 40 CFR 80.69(a)(7), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the ~~U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
 - 1. No change
 - 2. No change
 - 3. No change
- E. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - 2. Is conducted from November 1 through ~~January~~ March 31 on all samples collected under the program design previously approved by the Director under subsection (G);
 - 3. No change
 - 4. No change

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5. No change
6. No change
7. No change
8. No change
9. No change
10. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. Results of the analysis of the samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and ~~RVP~~ vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable;
 - h. No change
 - i. No change
 - j. No change
 - k. No change
- F. No change
- G. No change
 1. Submit the plan to the Director no later than January 1 to cover the sampling and testing period from November 1 through ~~January~~ March 31 of each year, and
 2. No change
- H. No later than September 1 of each year, a registered supplier that intends to meet the requirements in subsection (D) by contracting with an independent third party to conduct quality assurance sampling and testing from November 1 through ~~January~~ March 31 shall enter into the contract and pay all of the money necessary to conduct the sampling and testing program. The registered supplier may pay the money necessary to conduct the sampling and testing program to the third party or to an escrow account with instructions to the escrow agent to release the money to the third party as the testing program is implemented. No later than September 15, the registered supplier shall submit to the Director a copy of the contract with the third party, proof that the money necessary to conduct the sampling and testing program has been paid, and, if applicable, a copy of the escrow agreement.
- I. No change
 1. No change
 2. No change
 3. Additional requirements for oxygenate blending in trucks. An oxygenate blender that blends AZRBOB in a motor fuel delivery truck shall conduct quality assurance sampling and testing that meets the requirements in 40 CFR 80.69(e)(2), as it existed on July 1, 1996, except for the changes listed in subsections (I)(3)(a) through ~~(I)(3)(e)~~ (c). 40 CFR 80.69(e)(2), July 1, 1996, is incorporated by reference and on file with the Department. A copy may be obtained at the U.S. Government Printing Office, ~~Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov. The material incorporated includes no future editions or amendments.
 - a. No change
 - b. No change
 - c. No change
 4. No change
 - a. No change
 - i. No change
 - ii. No change
 - iii. No change
 - b. No change
 - i. No change
 - ii. No change
 - iii. No change
 - iv. No change
 - c. No change
 5. No change
 - a. No change
 - i. No change

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- ii. No change
- iii. No change
- iv. No change
- v. No change
- vi. No change
- b. No change
- c. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change

J. Subsection (A)(1)(a) will not become effective until Arizona's revised State Implementation Plan regarding CARB-3 is approved by EPA.

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

A. No change

- 1. The blendstock added to the Arizona CBG meets all of the Arizona CBG standards regardless of the fuel properties and performance standards of the Arizona CBG to which the blendstock is added; ~~and~~
- 2. The person meets the requirements in this Article applicable to producers of Arizona CBG; and
- 3. The resulting fuel blend is not used within the CBG-covered area.

B. No change

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

A. No change

- ~~1. Name and address of the transferor;~~
- ~~2. Name and address of the transferee;~~
- ~~3.~~ 1. Volume of Arizona CBG or AZRBOB being transferred;
- ~~4.~~ 2. Location of the Arizona CBG or AZRBOB at the time of transfer;
- ~~5.~~ 3. Date of the transfer;
- ~~6.~~ 4. Product transfer document number;
- ~~7.~~ 5. Identification of the gasoline as Arizona CBG or AZRBOB;
- ~~8.~~ 6. Minimum octane rating of the Arizona CBG or AZRBOB;
- ~~9.~~ 7. For oxygenated Arizona CBG designated for sale for use in motor vehicles from November 1 through ~~January~~ March 31, the minimum quantity of fuel ethanol contained in the Arizona CBG; ~~and~~
- ~~10.~~ 8. If the product transferred is AZRBOB for which fuel ethanol blending is intended:
 - a. Identification of the fuel as AZRBOB and a statement that the "AZRBOB does not comply with the standards for Arizona CBG without the addition of fuel ethanol;"
 - b. Designation of the AZRBOB as suitable for blending with fuel ethanol;
 - c. Fuel ethanol amount or range of amounts that the AZRBOB requires to meet the fuel properties or performance standards claimed by the registered supplier of the AZRBOB, and the applicable specifications for volume percent fuel ethanol and weight percent oxygen content; and
 - d. Instructions to the transferee that the AZRBOB may not be combined with any other AZRBOB unless the other AZRBOB has the same requirements for fuel ethanol amount or range of amounts; and
- 9. The final destination:
 - a. When a terminal is the transferor, the owner or operator of the terminal shall include on the product transfer document the terminal name and address, the transporter name and address, and the final destination, which may be a final distribution facility, jobber, marketer, or motor fuel dispensing site;
 - b. When a transporter is the transferor, the transporter shall include on the product transfer document the name and address of the transporter and the final destination, which is the location at which the motor fuel will be delivered and off loaded from the truck; and
 - c. When a jobber or marketer is the transferor, the jobber or marketer shall include on the product transfer document the name and address of the jobber or marketer and the final destination, which may be a final distribution facility or a motor fuel dispensing site.

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

~~B.~~ C. No change

~~C.~~ D. No change

~~D.~~ E. No change

~~E.~~ F. No change

~~F.~~ G. No change

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~~G.H.~~ No change

R20-2-759. Testing Methodologies

- A. Except as provided in subsection (C), a registered supplier or importer certifying Arizona CBG or AZRBOB as meeting the requirements of this Article shall use one of the methods listed in Table A. A copy of the EPA- or CARB-approved ASTM methods may be obtained at: ASTM International (formerly American Society for Testing and Materials), 100 Bar Harbor Drive, West Conshohocken, PA 19428-2959 or www.astm.org. A copy of the CARB methods may be obtained at: California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812 or www.arb.ca.gov.
- B. No change
- C. No change
- D. A test method that the Department determines is equivalent to those listed in Table A may be used to certify Arizona CBG or AZRBOB. The Department has determined that test methods approved by either the EPA or CARB are equivalent test methods. To determine whether a proposed test method is equivalent to those listed in Table A, the Department shall thoroughly review data from both the proposed and designated test methods and assess whether the accuracy and precision of the proposed method is equal to or better than the accuracy and precision of the designated method and whether there is significant bias between the two methods. The Department shall approve a proposed test method only if the Department determines that the accuracy and precision of the proposed test method is equal to or better than the accuracy and precision of the designated method and receives the concurrence of the EPA Regional Administrator. A correlation equation may be required to align the two methods. If a correlation equation is required to align the two methods, the correlation equation becomes part of the equivalent method.
- E. Subsections (C) and (D) will not become effective until Arizona's revised State Implementation Plan ~~regarding CARB-3~~ is approved by EPA.

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

Fuel Parameter	Units	EPA-approved Test Method	EPA-approved Reproducibility	CARB-approved Test Method	CARB-approved Reproducibility
Aromatics	V%	D 5769-98 <u>D5769-04</u>			
	V%	D 1319-02a <u>A D1319-02a (2003)</u> A	1.65	D 5580-00	1.4
Benzene	V%	D 3606-99 <u>D3606-99 (2007)</u>	0.21	D 5580-00	0.1409 (X) ^{1.133}
Olefins	V%	D 1319-02a <u>D1319-02a (2003)</u>	0.32 (x) ^{0.5}	D 6550-00 <u>D6550-00 (2005) if correlated to D1319</u>	0.32 (X) ^{0.5} ; Footnote 1
Oxygenates	W%	D 5599-00	See test method	D 4815-99 <u>D4815-99 (2004)</u>	See test method
	W%	D 4815-99B <u>D4815-99(2004)B</u>	See test method		
Vapor Pressure (Correlation Equation) Footnote 2	psi	D 5191-01 <u>D5191-01 (2007)</u>	0.3	13 CCR Section 2297	0.21
Sulfur	wppm	D 2622-98 <u>D2622-98 (2005)</u>		D 5453-93 <u>D5453-93</u>	0.2217 (x) ^{0.92} wppm
				D 2622-94 <u>D2622-94 (modified)</u>	10-30 wppm R=0.405 (x) > 30 wppm R=0.192 (x)
Distillation T50	deg F	D 86-01 <u>D86-01 (2007b)</u>	See test method	D 86-99ae1 <u>D86-99ae1</u>	See test method
Distillation T90	deg F	D 86-01 <u>D86-01 (2007b)</u>	See test method	D 86-99ae1 <u>D86-99ae1</u>	See test method

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^A A refinery or importer may determine aromatics content using ASTM ~~D-1319-02a~~ D1319-02a (2003) if the result is correlated to ASTM ~~D-5769-98~~ D5769-98 (2004).

^B A refinery or importer may determine oxygenate content using ASTM ~~D-4815-99~~ D4815-99 (20 04) if the result is correlated to ASTM ~~D-5599-00~~ D5599-00 (2005).

Footnotes:

1. Replace the last sentence in ASTM ~~D-6550-00~~ D6550-00 (2005) Section 1.1 with the following: "The application range is from 0.3 to 25 mass percent total olefin, as defined in Section 2263(b), Title 13, California Code of Regulations. If olefin concentrations are not detected, substitute one-half of the detection limit."

2. When determining RVP vapor pressure, the only correlation equation to be used is the CARB (RVP vapor pressure= (0.972 X Ptot) - 0.715).

R20-2-760. Compliance Surveys

A. No change

1. No change
2. No change

B. No change

C. No change

1. No change
2. No change
3. Analyzes each sample included in the compliance survey for oxygenate type and content, olefins, sulfur, aromatic hydrocarbons, E200, E300, and RVP vapor pressure according to the test methods in R20-2-759. RVP Vapor pressure is required to be analyzed only from May 1 through September 15;
4. No change
5. No change

D. No change

E. No change

1. No change
2. No change
3. No change

F. No change

1. No change
2. No change

G. No change

1. No change
 - a. No change
 - b. No change
 - c. No change
2. Includes enough samples to ensure that the average levels of oxygen, RVP vapor pressure, aromatic hydrocarbons, olefins, T50, T90, and sulfur are determined with a 95% percent confidence level, with error of less than 0.1 psi for RVP vapor pressure, 0.1% percent for oxygen (by weight), 0.5% percent for aromatic hydrocarbons (by volume), 0.5% percent for olefins (by volume), 5°F. for T50 and T90, and 10 wppm for sulfur;
3. No change
4. No change
5. No change
6. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
 - f. No change
 - g. Results of the analysis of samples for oxygenate type and oxygen weight percent, aromatic hydrocarbon, and olefin content, E200, E300, and RVP vapor pressure, and the calculated VOC or NOx emissions reduction percentage, as applicable, for each survey conducted during the period identified in subsection (A)(1);
 - h. No change
 - i. No change
 - j. No change
 - k. No change
 - l. No change

H. No change

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- I.** No change
 1. No change
 2. No change
J. No change

Table 1. Type 1 Arizona CBG Standards

Table 1 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

	Non-averaging Option	Averaging Option		
	A	B	C	D
Performance Standard/Fuel Property**	Per-Gallon (minimum)	Average	Minimum (per-gallon)	Maximum (per-gallon)
VOC Emission Reduction (%) May 1 - Sept. 15	≥27.5	≥29.0	≥25.0	N/A
NOx Emission Reduction (%) May 1 - 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) Nov. 1 - January <u>March</u> 31*** February <u>April</u> 1 - October 31	N/A 0.0*	N/A N/A	N/A 0.0	N/A 3.7 <u>4.0</u>
Oxygen content: other than fuel ethanol, (% by weight) Nov. 1 - January <u>March</u> 31*** February <u>April</u> 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. ** Dates represent compliance dates for the owner of a motor fuel dispensing site or a fleet vehicle fueling facility. *** A registered supplier shall certify all Arizona CBG as Type 2 Arizona CBG meeting the standards in Table 2 beginning November 1 through January <u>March</u> 31. **** As specified in A.R.S. § 41-2122.				

Table 2. Type 2 Arizona CBG Standards

Table 2 will not become effective until Arizona's revised State Implementation Plan regarding CARB 3 and shortening the winter season is approved by EPA.

	Averaging Option		Non-averaging Option	
	A	B	C	
Fuel Property	Maximum Standard (per gallon)	Averaging Standard*	Flat Standard * (per gallon maximum)	Units of Standard
Sulfur Content	80/ 30	30/ 15	40/ 20	Parts per million by weight
Olefin Content	10.0	4.0	6.0	% by volume
90% Distillation Temperature (T90)	330	290/ 295	300/ 305	Degrees Fahrenheit
50% Distillation Temperature (T50)	220	200/ 203	210/ 213	Degrees Fahrenheit
Aromatic Hydrocarbon Content	30.0/ 35	22.0	25.0	% by volume
Oxygen content: fuel ethanol** Nov. 1 - January <u>March</u> 31 February <u>April</u> 1 - October 31 The maximum oxygen content EtOH year around	10% fuel ethanol** — —	— —	10% fuel ethanol** 3.7 <u>4.0</u>	% by vol. % by weight

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* Instead of the standards in columns B and C, a registered supplier may comply with the standards contained in column A, and R20-2-751(F), (G), ~~and (H), and (I)~~ for the use of the PM.

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

A registered supplier shall certify all Arizona CBG using fuel ethanol as the oxygenate beginning November 1 through ~~January~~ March 31. Alternative fuel ethanol contents not less than 2.7% total oxygen may be used if approved by the Director under A.R.S. § 41-2124(D).

NOTES NOTE: Dates represent compliance dates for the owner of a motor fuel dispensing site or fleet vehicle fuel facility. Standards shown in the form of x/y denote standards for CARB Phase 2/Phase 3 gasolines.