**WMSD Legislative Proposal #1**

**Motor Fuels**

**\*\*\*\*\*DRAFT - FOR DISCUSSION PURPOSES ONLY\*\*\*\*\***

**10/18/2022**

This proposal does the following:

1. Removes outdated requirements mandating that ADEQ develop motor fuel rules;

2. Removes outdated requirements regarding approval of alternative fuel formulations and replaces with a new section that outlines the current EPA waiver process;

3. Reorganizes all gasoline requirements into one article, removing outdated requirements and rewording for clarity to improve readability and ease of understanding for agency staff and the regulated community; and

4. Includes revisions as outlined in the summary table below.

There are some outstanding questions and comments in yellow-highlights. Also in yellow highlights are references, which may change during the review process.

The table below provides a cross-reference between the existing citation and the proposed new citation.

|  |  |  |
| --- | --- | --- |
| **Existing Citation** | **Proposed New Citation** | **Notes** |
| 3-3414(D) | N/A | Adds diesel exhaust fluid as a motor vehicle fluid that may be tested for quality. |
| 3-3414(G) | Deleted | Removed this outdated requirement. Defined in rule. |
| 3-3431(J) | 3-3536(B) | Reworded to only allow gasoline sales by gallons or liters. |
| 3-3431(K) | 3-3536(C) | Removes requirement for the Department of Transportation to provide the stickers, which has not been the practice. |
| 3-3432 | 3-3531(K) | Updates citation for calculating adjustments to current standards. |
| 3-3433(A) | 3-3531(A) | Reworded with same intent. Adds diesel exhaust fluid. |
| 3-3433(B) | 3-3531(B) |  |
| 3-3433(C) | Deleted | This language to establish motor fuel rules in consultation with ADEQ is contained in 3-3414. |
| 3-3433(D) | 3-3532(A)(3)(a) | Reworded with same intent. |
| 3-3433(E) | 3-3531(C) |  |
| 3-3433(F) | 3-3532(A)(2) | Reworded with same intent. |
| 3-3433(G) | 3-3533(D) |  |
| 3-3433(H) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3433(I) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3433(J) | Deleted | In rule, statute no longer needed. |
| 3-3433(K) | Deleted | In rule, statute no longer needed. |
| 3-3433(L) | Deleted | In rule, statute no longer needed. |
| 3-3433(M) | Deleted | Falls under authority to regulate motor fuels, maintaining consistency with federal requirements. |
| 3-3433(N) | Deleted | With the removal of 3-3433(M), this is no longer needed. |
| 3-3433(O) | 3-3531(N) | Reworded to apply to all motor fuels. Updated federal reference to the current standard. |
| 3-3433(P) | Deleted | In rule, statute no longer needed. |
| 3-3434(A) | 3-3531(A) | Combined with section for all motor fuels. Does not require special language specific to area C. Adds diesel exhaust fluid. |
| 3-3434(B) | 3-3531(B) | Combined with section for all motor fuels. Does not require special language specific to area C. |
| 3-3434(C) | Deleted | This language to establish motor fuel rules in consultation with ADEQ is contained in 3-3414. |
| 3-3434(D) | 3-3532(B) | Reworded with same intent. |
| 3-3434(E) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3434(F) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3435 | 3-3531(J) |  |
| 3-3436(A) | 3-3536(A)(1) | Reworded. Removes the word “all” to clarify it is not an all or none situation for a retail location to have hold open latches. |
| 3-3436(B) | 3-3536(A)(2) | Reworded with same intent. |
| 3-3436(C) | 3-3536(A)(1) | Combined with paragraph (A)(1), reworded with the same intent. |
| 3-3437 | 3-3537 |  |
| 3-3491(A) | 3-3532(A)(2), 3-3533(B), and 3-3531(D) | Removed the paragraph that granted an additional 1 pound RVP for gasoline with an ethanol content between 6 and 10 volume percent during the winter. This is an outdated, unnecessary allowance. |
| 3-3491(B) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3491(C) | Deleted | Section provided winter requirements for alcohol blends other than ethanol. This is covered by 3-3532(A)(3)(a) and ability to make rules for motor fuels. |
| 3-3491(D) | 3-3533(E) |  |
| 3-3491(E) | 3-3531(L) |  |
| 3-3491(F) | 3-3531(M) |  |
| 3-3492(A) | 3-3532(A)(3)(b) and (c) | Reworded with same intent. |
| 3-3492(B) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3492(C) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3493(A) | 3-3532(A)(1) and (2) | Reworded with same intent. |
| 3-3493(B) | 3-3532(A)(3) | Reworded with same intent. |
| 3-3493(C) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3493(D) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3493(D) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3493(F) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3493(G) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3493(H) | Deleted | Authority to adopt motor fuel rules in consultation with ADEQ is contained in 3-3414. |
| 3-3493(I) | 3-3532(C) |  |
| 3-3494(A) | 3-3532(B) | Reworded with same intent. |
| 3-3494(B) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3494(C) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3494(D) | Deleted | Falls under the waiver process outlined in new section 3-3535.. |
| 3-3494(E) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3494(F) | Deleted | Falls under the waiver process outlined in new section 3-3535. |
| 3-3494(G) | Deleted | Authority to adopt motor fuel rules in consultation with ADEQ is contained in 3-3414. |
| 3-3494(H) | 3-3532(C) |  |
| 3-3495(A) | 3-3533(A) |  |
| 3-3495(B) | 3-3533(C) |  |
| 3-3496 | 3-3534 | Reworded with same intent. |
| 3-3497 | 3-3532(C) and 3-3533(F) | Reworded with same intent. |
| 3-3498(A) | 3531(N) | Reworded with same intent. |
| 3-3498(B) | 3-3536(D) |  |

Proposed language is provided below. Note that strike-through text is proposed for deletion, and underlined text is proposed to be added.

3-3414. Powers and duties; definition

A. The division shall:

1. Maintain custody of the state reference standards of weights and measures that are traceable to the United States prototype standards and that are supplied to the states by the federal government or that are otherwise approved as being satisfactory by the national institute of standards and technology.

2. Keep the state reference standards in a safe and suitable place in the metrology laboratory of the division and ensure that they are not removed from the laboratory except for repairs or for calibration as may be prescribed by the national institute of standards and technology.

3. Keep accurate records of all standards and equipment.

4. Adopt any rules necessary to carry out this chapter and adopt reasonable rules for the enforcement of this chapter. These rules have the force and effect of law and shall be adopted pursuant to title 41, chapter 6. In adopting these rules, the associate director shall consider, as far as is practicable, the requirements established by other states and by authority of the United States, except that rules shall not be made in conflict with this chapter.

5. Publish rules adopted pursuant to this chapter and issue appropriate copies at no cost to all new applicants for licensure and certification. Updated copies of the rules shall be distributed, on request, at no cost to the public.

6. Investigate complaints made to the division concerning violations of this chapter and, on its own initiative, conduct investigations it deems appropriate to develop information relating to prevailing procedures in commercial quantity determination and relating to possible violations of this chapter, in order to educate the public and regulated persons to encourage and promote the general objective of accuracy in the determination and representation of quantity in commercial transactions.

7. Establish labeling standards, establish standards of weight, measure or count and establish reasonable standards of fill for any packaged commodity, and may establish standards for open dating information.

8. Grant, pursuant to this chapter, exemptions from the licensing provisions of this chapter for weighing and measuring instruments, standards or devices when the ownership or use of the instrument or device is limited to federal, state or local government agencies in the performance of official functions. On request, the division may conduct inspections of instruments, standards or devices and shall charge a fee pursuant to section 3-3452.

9. Delegate to appropriate personnel any of the responsibilities of the associate director for the proper administration of this chapter.

10. Inspect and test weights and measures that are kept, offered or exposed for sale.

11. Inspect and test, to ascertain if they are correct, weights and measures that are commercially used either:

(a) In determining the weight, measure or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure or count.

(b) In computing the basic charge or payment for services rendered on the basis of weight, measure or count.

12. Test, at random, commodities, weights and measures that are used in public institutions for which monies are appropriated by the legislature. The testing of commodities, weights and measures in public institutions includes items:

(a) That have historically been of short weight, measure or count.

(b) That have been found to be of short weight, measure or count by other jurisdictions.

(c) That are to be tested as part of a regional or national survey.

13. Test, approve for use and affix a seal of approval for use on all weights, measures and commercial devices that are manufactured in or brought into this state as it finds to be correct and shall reject and mark as rejected weights, measures and devices that it finds to be incorrect. Weights, measures and devices that have been rejected may be seized by the division if not corrected within the time specified or if used or disposed of in a manner not specifically authorized. The division shall condemn and may seize weights, measures and devices that are found to be incorrect and that are not capable of being made correct. The division may affix a nontampering seal to commercial devices that are tested and found to be within applicable tolerance.

[[Should powers and duties in 3-3414 which are related to motor fuels be combined into one section? They are highlighted in orange below.]]

14. Sample and test motor fuel that is stored, sold or exposed or offered for sale or that is stored for use by a fleet owner to determine whether the motor fuel meets the standards for motor fuel set forth in section ~~3-3433 and article 6~~ Article 8 of this chapter and in any rule adopted by the associate director pursuant to this chapter.

15. Randomly witness tests on all mandated vapor recovery systems that are installed or operated in this state and, if the systems are determined to be in compliance with the law, approve those systems for use and reject, mark as rejected and stop the use of those systems that are determined not to be in compliance with the law.

16. Inspect facilities at which motor fuel is stored, sold or exposed or offered for sale to determine whether dispensing devices are properly labeled.

17. Publish and distribute to consumers and regulated persons weighing and measuring information.

18. Weigh, measure or inspect commodities that are kept, offered or exposed for sale, sold or in the process of delivery to determine whether they contain the amounts represented and whether they are kept, offered or exposed for sale in accordance with this chapter or rules adopted pursuant to this chapter. In carrying out this section, the associate director shall employ recognized sampling procedures, such as are designated in appropriate national institute of standards and technology handbooks and supplements to those handbooks, except as modified or rejected by rule.

19. Allow reasonable variations from the stated quantity of contents only after a commodity has entered intrastate commerce. These variations shall include those caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice.

20. Prescribe the standards of weight and measure and additional equipment methods of test and inspection to be employed in the enforcement of this chapter. The associate director may prescribe or provide the official test and inspection forms to be used in the enforcement of this chapter.

21. Apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating this chapter.

22. Subject to title 41, chapter 4, article 4, employ such personnel as needed to assist in administering this chapter.

23. Ensure that any information that is required to be filed with the division, that relates to the contents of motor fuels that are sold in this state and that is a trade secret as defined in section 49-201 is not disclosed.

24. Establish by rule labeling standards for tanks and containers of motor fuels.

B. The associate director may provide for the periodic examination and inspection of metering devices, including devices used to measure usage of electricity, natural gas or water by a consumer. Examination and inspection authority shall not apply to metering devices owned by federal, state or local government agencies unless requested by the government agency that owns the metering devices.

C. The associate director may establish standards for the presentation of cost-per-unit information. This subsection does not mandate the use of cost-per-unit information in connection with the sale of any standard packed commodity.

D. The associate director, when necessary to carry out this chapter, may adopt and enforce rules relating to quality standards for motor fuel, kerosene, oil, except used oil fuel, and hazardous waste fuel, lubricating oils, lubricants, antifreeze, diesel exhaust fluid, and other liquid or gaseous fuels. The associate director shall adopt rules to ensure that oxygenated fuels, as described in ~~article 6~~ article 8 of this chapter, that are stored, used, sold or exposed or offered for use or sale are blended and stored, sold, exposed or offered in such a manner as to ensure that the oxygenated fuels are properly blended, that they meet the standards set forth in ~~section 3-3433 and article 6~~ article 8 of this chapter, and in rules adopted pursuant to this chapter, and that dispensers at which the oxygenated fuels are dispensed are labeled as defined by rule of the division in such a manner as to notify persons of the type of oxygenated fuel being dispensed and the maximum percentage of oxygenate by volume contained in the oxygenated fuel. The associate director of the division shall consult with the director of the department of environmental quality in adopting rules pursuant to this subsection.

E. Testing and inspection conducted pursuant to this chapter shall be done, to the extent practicable, without prior notice, by a random systematic method determined by the associate director or in response to a complaint by the public. The testing and inspection may be done by private persons and firms pursuant to contracts entered into by the associate director in accordance with title 41, chapter 23 or by a registered service agency or registered service representative licensed pursuant to section 3-3454. The associate director shall establish qualifications of persons and firms for selection for purposes of this subsection. The persons or firms conducting the testing and inspection shall immediately report to the division any violations of this chapter and incorrect weights, measures, devices, vapor recovery systems or vapor recovery components for investigation and enforcement by the division. A person or firm that tests or inspects a weight, measure, device, vapor recovery system or vapor recovery component that is rejected shall not correct the defect causing the rejection without the permission of the division.

F. During the course of an investigation or an enforcement action by the division, information regarding the complainant is confidential and is exempt from title 39, chapter 1, unless the complainant authorizes the information to be public.

~~G. For the purposes of the labeling requirements prescribed in this section, "oxygenated fuel" means a motor fuel blend containing 1.5 percent or more by weight of oxygen.~~

3-3431. Sale of commodities

A. A person shall not sell or offer or expose for sale less than the quantity the person represents.

B. As a buyer, a person shall not take any more than the quantity the person represents when the person furnishes the weight or measure by means of which the quantity is determined.

C. A person shall not misrepresent the price of any commodity or service sold or offered, exposed or advertised for sale by weight, measure or count or represent the price in any manner calculated or tending to mislead or in any way deceive a person.

D. Except as otherwise provided by the associate director, commodities in liquid form shall be sold by liquid measure or by weight, and commodities not in liquid form shall be sold only by weight, by measure or by count, as long as the method of sale provides accurate quantity information.

E. If the quantity is determined by the seller, bulk sales shall be accompanied by a delivery ticket containing the following information unless exempted by rule:

1. The name and address of the vendor and purchaser.

2. The date delivered.

3. The quantity delivered and the quantity on which the price is based, if this differs from the delivered quantity.

4. The identity in the most descriptive terms commercially practicable, including any quality representation made in connection with the sale.

5. The count of individually wrapped packages, if more than one.

F. Except as otherwise provided in this chapter or by rules adopted pursuant to this chapter, any package kept for the purpose of sale or offered or exposed for sale shall bear on the outside of the package a definite, plain and conspicuous declaration of:

1. The identity of the commodity in the package, unless the commodity can easily be identified through the wrapper or container.

2. The quantity of contents in terms of weight, measure or count.

3. The name and place of business of the manufacturer, packer or distributor, in the case of any package kept, offered or exposed for sale or sold in any place other than on the premises where packed.

4. The price, except as provided in subsections ~~L, M and N~~ J, K, and L of this section.

G. In addition to the declarations required by subsection F of this section, any package being one of a lot containing random weights of the same commodity and bearing the total selling price of the package shall bear on the outside of the package a plain and conspicuous declaration of the price per single unit of weight.

H. If a packaged commodity is advertised in any manner with the retail price stated, there shall be closely and conspicuously associated with the retail price a declaration of quantity as is required by law or rule to appear on the package. If a dual declaration is required, only the declaration that sets forth the quantity in terms of the smaller unit of weight or measure need appear in the advertisement.

I. The packager of a short weighted item offered for sale is liable under this chapter.

~~J. If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon, except that if the fuel is dispensed by a measure other than whole gallons the seller shall represent the selling price for each unit of such other measure on the individual pump or other dispensing device. If a retail seller engaging in the sale of motor fuel advertises the price of the fuel off the premises, the retail seller shall advertise the price only by the price per gallon.~~

~~K. The owner or operator of a motor fuel dispensing site shall ensure that a sticker provided by the department of transportation that is three inches by five inches and that depicts the amount of federal and state taxes imposed on one gallon of gasoline is displayed on one side of each motor fuel dispenser. The sticker required by this subsection shall contain white lettering on a black background or black lettering on a white background to ensure a contrasting color to the motor fuel dispenser and shall be placed on the upper sixty percent of the dispenser. The division shall use stickers provided by the department of transportation. A template of the sticker shall be placed on the division's website for use by retailers.~~

J. ~~L.~~ Instead of each package bearing the price as required under subsection F, paragraph 4 of this section, the seller may post the price of the package on the shelf or may display the price at or near the point of display of the product.

K. ~~M.~~ Instead of each package bearing the price as required under subsection F, paragraph 4 of this section, if the package is available for sale only with the assistance of a salesperson, the seller may display the package at a service counter staffed by the salesperson.

L. ~~N.~~ Instead of each package bearing the price as required under subsection F, paragraph 4 of this section, if the package is offered for sale at a price reduced by a percentage or a fixed amount from a previously offered price or at a reduced price for the purchase of multiple items, the reduction shall be displayed at the point of display of the package or near the point of display of the package in the manner required by this section.

M. ~~O.~~ On the request of a consumer, a retail seller shall provide:

1. A means of recording prices such as grease pencils, felt markers, scanners or other similar instruments for recording the price.

2. A written statement of the retail seller's policies regarding errors in pricing.

~~3-3432. Sale, delivery or consignment of motor fuel; temperature presumption~~

~~For the purpose of any sale, offer to sell, delivery or consignment of motor fuel in a quantity of five thousand gallons or more, the volume of the motor fuel for the purposes of calculating the price of the motor fuel is considered to be the volume that the quantity of the motor fuel would equal at the time of loading for sale, delivery or consignment if the temperature of the motor fuel was sixty degrees Fahrenheit. Any correction or adjustment required by this section shall be calculated on the basis of American society for testing and materials D1250-80, table 6B.~~

~~3-3433. Standards for motor fuel; exceptions~~

~~A. Except as provided in section 3-3434 and subsections C, D, E, F, G and K of this section, a retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the associate director.~~

~~B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.~~

~~C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the associate director of the division by rule.~~

~~D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A shall be 9.0 pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.~~

~~E. From and after September 30 through March 31 of each year, a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume percent evaporated distillation temperature.~~

~~F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a county with a population of one million two hundred thousand persons or more and any portion of a county contained in area A shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.~~

~~G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B shall be ten pounds per square inch from and after September 30 through March 31 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.~~

~~H. Notwithstanding subsections D, F and G of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and the associate director determine will result in either of the following:~~

~~1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section 3-3492. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section 3-3492.~~

~~2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.~~

~~I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any gasoline provider unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Gasoline providers that use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.~~

~~J. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975, biodiesel, biodiesel blends or biomass-based diesel or biomass-based diesel blends that contain sulfur in excess of fifteen parts per million. Locomotive and marine diesel fuel is exempt from this requirement if the fuel meets the requirements of 40 Code of Federal Regulations section 80.513(g) and (h).~~

~~K. A person shall label dispensers at which biodiesel, biodiesel blends, biomass-based diesel or biomass-based diesel blends are dispensed in conformance with 16 Code of Federal Regulations part 306. This section does not preclude a person from labeling a dispenser that dispenses diesel fuel that contains up to five percent biodiesel or biomass-based diesel with a label that states "may contain up to five percent biodiesel" or "may contain up to five percent biomass-based diesel".~~

~~L. For biodiesel blends that contain more than five percent by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies the transferee of the percent by volume of biodiesel in the product.~~

~~M. The associate director shall adopt rules regarding the establishment and enforcement of all of the following:~~

~~1. National or federal standards for individual biofuels and biofuel blends.~~

~~2. United States environmental protection agency and ASTM test methods for individual biofuels and biofuel blends.~~

~~3. Registration and reporting requirements for producers, blenders and suppliers of biofuels and biofuel blends.~~

~~4. Labeling requirements for biofuels and biofuel blends other than biodiesel or biodiesel blends.~~

~~5. Quality assurance and quality control programs for producers, blenders and suppliers of biofuels and biofuel blends addressing rack, batch or other blending.~~

~~6. Requirements that the dispensing equipment meet appropriate UL ratings where available and applicable, that the equipment comply with rules adopted by the division relating to approval, installation and sale of devices and that the equipment be compatible with the products being dispensed.~~

~~N. A biofuels or biofuel blends producer, blender, distributor, supplier or retail seller that is in compliance with this section and the rules adopted pursuant to this section is not liable to a consumer for any injuries or property damage related to a consumer who misfuels.~~

~~O. If any person transfers custody or title of a diesel fuel or distillate, biodiesel, a biodiesel blend, biomass-based diesel or a biomass-based diesel blend, except if the fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590 part 1090, subpart L.~~

~~P. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection O of this section. In addition, the fuel transporter shall ensure that the name and address of the final destination for the shipment, as prescribed by division rule, are included and that the product transfer documents accompany the shipment to its final destination.~~

~~3-3434. Area C; standards for motor fuel; exceptions~~

~~A. Except as provided in subsections C and D of this section, after May 31, 2008, a retail seller or fleet owner shall not store, sell or expose or offer for sale in area C any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the associate director.~~

~~B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive.~~

~~C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the associate director of the division by rule.~~

~~D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area C shall be 7.0 pounds per square inch from and after May 31 through September 30 of each year. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.~~

~~E. The associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and associate director determine will result in motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection D of this section. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection D of this section.~~

~~F. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection E of this section and this subsection may be used by any gasoline provider unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Gasoline providers that use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.~~

~~3-3435. Heating of motor fuel prohibited~~

~~A person shall not sell or offer or expose for sale any motor fuel if the temperature of the motor fuel has been changed by any type of a heating device.~~

~~3-3436. Dispensing motor fuel; hold-open latches; grip guards; definition~~

~~A. A retail seller may equip all nozzles from which motor fuel is dispensed with an operating hold-open latch.~~

~~B. From and after September 30, 2018, all retail diesel fuel dispensers shall be equipped with nozzles that have green grip guards and all retail ethanol flex fuels shall be equipped with yellow grip guards. Other product nozzles may not have green or yellow grip guards.~~

~~C. For the purposes of this section, "hold-open latch" means a device that is an integral part of the automatic nozzle and that is specifically manufactured to dispense motor fuel without requiring the consumer's physical contact with the automatic nozzle.~~

~~3-3437. Aversive or bittering agent in engine coolant and antifreeze; liability limitation; exceptions; violation; classification~~

~~A. Engine coolant or antifreeze that is sold in this state on or after January 1, 2008, that is manufactured on or after September 1, 2007 and that contains more than ten percent ethylene glycol shall include denatonium benzoate at a minimum of thirty parts per million and a maximum of fifty parts per million as an aversive or bittering agent in the product to render it unpalatable. A manufacturer or packager of engine coolant or antifreeze that is subject to this section shall maintain a record of the trade name, scientific name and active ingredients of the aversive or bittering agent used pursuant to this section. A manufacturer or packager of engine coolant or antifreeze shall furnish information and documentation maintained pursuant to this section to a member of the public on request.~~

~~B. This section applies only to manufacturers, packagers, distributors, recyclers or sellers of engine coolant or antifreeze. For the purposes of this section, selling does not include the installation of engine coolant or antifreeze for compensation.~~

~~C. A manufacturer, packager, distributor, recycler or seller of engine coolant or antifreeze that is required to contain an aversive or bittering agent pursuant to this section is not liable to any person for personal injury, death, property damage, damage to the environment or natural resources or economic loss that results from the inclusion of denatonium benzoate in engine coolant or antifreeze.~~

~~D. The limitation on liability provided in subsection C of this section applies only if denatonium benzoate is included in engine coolant or antifreeze in the concentrations required by this section. The limitation on liability provided in subsection C of this section does not apply to a particular liability to the extent that the cause of that liability is unrelated to the inclusion of denatonium benzoate in engine coolant or antifreeze.~~

~~E. A political subdivision of this state shall not establish or continue in effect a prohibition, limitation, standard or other requirement relating to the inclusion of an aversive or bittering agent in engine coolant or antifreeze, with respect to retail containers containing less than fifty-five gallons of engine coolant or antifreeze, that is different from, or in addition to, this section.~~

~~F. This section does not apply to either:~~

~~1. The sale of a motor vehicle that contains engine coolant or antifreeze.~~

~~2. Wholesale containers of engine coolant or antifreeze containing fifty-five gallons or more of engine coolant or antifreeze.~~

~~G. The division may inspect, investigate, analyze and take appropriate actions to administer and enforce this section.~~

~~H. A person who violates this section is guilty of a class 3 misdemeanor.~~

~~3-3491. Standards for oxygenated fuel; volatility; exceptions~~

A. ~~From and after September 30 through March 31 of each year, in a county with a population of one million two hundred thousand or more persons and in any portion of a county contained in area A, blends of gasoline with ethanol shall not exceed the volatility requirements prescribed by section 3-3433 and rules adopted by the associate director under that section~~. ~~From and after September 30 through March 31 of each year, in area B, blends of gasoline with ethanol may exceed the volatility requirements prescribed by section 3-3433 and rules adopted by the associate director under that section by up to one pound per square inch if the base fuel meets the requirements of ASTM D4814 and the final gasoline-ethanol blend contains at least six nine percent ethanol by volume but does not exceed United States environmental protection agency waivers. For any other locations and period of time, blends of gasoline with ethanol shall meet the volatility requirements as determined by division rule.~~

~~B. Notwithstanding subsection D of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and the associate director determine will result in motor vehicle carbon monoxide emission reductions that will equal or exceed the reductions that result under subsection D of this section. In making those determinations, the director of the department of environmental quality and the associate director shall compare the alternative measure against the emission reduction that would be obtained from a fuel with the maximum vapor pressure standard prescribed by subsection D of this section and the minimum oxygen standard prescribed by section 3-3492 or 3-3495. Alternative fuel control measures approved by the associate director of the division in consultation with the director of the department of environmental quality may be used by any gasoline provider unless the approval is rescinded by the associate director of the division at least one hundred eighty days before the beginning of any oxygenate period in the future. Gasoline providers that choose to use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director not later than sixty days before the start of the oxygenate period.~~

~~C. From and after September 30 through March 31 of each year, all blends of gasoline with alcohol other than ethanol shall satisfy all of the requirements prescribed by section 3-3433 and rules adopted by the associate director under that section and the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).~~

~~D. Notwithstanding subsection A of this section, if the director of the department of environmental quality has previously raised the minimum oxygen content to the maximum percentage of oxygen allowed for each oxygenate as provided by section 3-3495, the designated air quality planning agency for area B has considered, analyzed and reviewed the costs and benefits of all other reasonable and available control measures in lieu of reducing volatility requirements to nine pounds per square inch and the director of the department of environmental quality finds that area B has failed to maintain the carbon monoxide national ambient air quality standards by violating the standard, beginning with the oxygenate period beginning on the following September 30 and for each oxygenate period thereafter in area B, the volatility requirements described by section 3-3433, subsection G may be reduced to nine pounds per square inch. If a violation of the carbon monoxide national ambient air quality standards is recorded after the volatility requirements have been reduced to nine pounds per square inch, the director of the department of environmental quality shall remove the one pound per square inch waiver for gasoline-ethanol blends.~~

~~E. Gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within this state shall not contain the following:~~

~~1. Methyl tertiary butyl ether that exceeds 0.3 percent by volume.~~

~~2. A total of more than 0.10 percent oxygen by weight collectively from all of the following oxygenates:~~

~~(a) Diisopropylether (DIPE).~~

~~(b) Ethyl tert-butylether (ETBE).~~

~~(c) Isopropanol.~~

~~(d) Methanol.~~

~~(e) N-butanol.~~

~~(f) N-propanol.~~

~~(g) Sec-butanol.~~

~~(h) Tert-amylmethylether (TAME).~~

~~(i) Tert-butanol.~~

~~(j) Tert-pentanol (tert-amylalcohol).~~

~~F. Subsection E of this section does not prohibit the transshipment through this state, including storage incident to that transshipment, of gasoline that contains the oxygenates prescribed by subsection E of this section if both of the following apply:~~

~~1. The gasoline is used or disposed outside this state.~~

~~2. The gasoline is segregated from gasoline that is intended for use inside this state.~~

~~3-3492. Area A; sale of gasoline; oxygen content~~

~~A. From and after November 1 through March 31 of each year:~~

~~1. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a gasoline-ethanol blend, contain not less than ten percent by volume of ethanol nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.~~

~~2. All gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A or that is consumed in a motor vehicle within a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A by a fleet owner shall, for a blend other than a gasoline-ethanol blend, contain not less than 2.7 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency.~~

~~B. Notwithstanding subsection A of this section, the associate director of the division in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by gasoline providers and that the director and the associate director determine will result in motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection A of this section and section 3-3433. In making this determination, the associate director of the division and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by section 3-3433 and with the minimum oxygen content or percentage by volume of ethanol as prescribed by this section.~~

~~C. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection B of this section and this subsection may be used by any gasoline provider unless the approval is rescinded more than one hundred eighty days before the first day of a gasoline control period. Gasoline providers that use an approved alternate fuel control measure shall annually submit a compliance plan to the associate director no later than sixty days before the first day of a gasoline control period.~~

~~3-3493. Area A; fuel reformulation; rules~~

(L16, Ch. 232, sec. 27)

~~A. All gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel reformulation options:~~

~~1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.~~

~~2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.~~

~~B. For the period beginning November 1 through March 31 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with standards for California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in section 3-3433, subsections D and F. The fuel described in this subsection shall meet the requirements of section 3-3492, subsection A, paragraph 1.~~

~~C. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to comply with standards other than the standards prescribed by section 3-3492, subsection A if the petitioner can demonstrate that ethanol supply shortages are imminent.~~

~~D. The petition shall:~~

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

~~2. Identify which oxygenate or oxygenates and the concentration that will be blended into gasoline for sale or use in area A.~~

~~3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half percent by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten percent by volume of ethanol.~~

~~4. Specify a time period for compliance with any provision of section 3-3492, subsection A, not to exceed sixty days.~~

~~E. The associate director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.~~

~~F. The associate director may reauthorize a petition if the petitioner can demonstrate that the conditions have continued. The reauthorization of a petition shall not exceed thirty days.~~

~~G. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any such petition.~~

~~H. The director of environmental quality in consultation with the associate director of the division shall adopt by rule:~~

~~1. Requirements to implement subsections A, B, C and D of this section.~~

~~2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A, B, C and D of this section.~~

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

~~3-3493. Area A; fuel reformulation; rules~~

~~(L17, Ch. 295, sec. 2. Conditionally Eff.)~~

~~A. All gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with either of the following fuel reformulation options:~~

~~1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.~~

~~2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3433, subsections D and F.~~

~~B. For the period beginning November 1 through March 31 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall comply with standards for California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997 and shall meet the maximum vapor pressure requirements in section 3-3433, subsections D and F. The fuel described in this subsection shall meet the requirements of section 3-3492, subsection A, paragraph 1 or 2.~~

~~C. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to comply with standards other than the standards prescribed by section 3-3492, subsection A if the petitioner can demonstrate that ethanol supply shortages are imminent.~~

~~D. The petition shall:~~

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

~~2. Identify which oxygenate or oxygenates and the concentration that will be blended into gasoline for sale or use in area A.~~

~~3. Demonstrate that the alternative oxygenate blend comes closest to meeting a three and one-half percent by weight oxygen content at reasonable cost, unless the registered supplier or oxygenate blender is petitioning to use a gasoline-ethanol blend containing less than ten percent by volume of ethanol.~~

~~4. Specify a time period for compliance with any provision of section 3-3492, subsection A, not to exceed sixty days.~~

~~E. The associate director shall either grant or deny the petition in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.~~

~~F. The associate director may reauthorize a petition if the petitioner can demonstrate that the conditions have continued. The reauthorization of a petition shall not exceed thirty days.~~

~~G. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any such petition.~~

~~H. The director of environmental quality in consultation with the associate director of the division shall adopt by rule:~~

~~1. Requirements to implement subsections A, B, C and D of this section.~~

~~2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsections A, B, C and D of this section.~~

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

~~3-3494. Area C; fuel reformulation; rules~~

~~A. From and after May 31 through September 30 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with either of the following fuel reformulation options:~~

~~1. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3434, subsection D.~~

~~2. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply. The gasoline shall also meet the maximum vapor pressure requirements in section 3-3434, subsection D.~~

~~B. Any registered supplier or oxygenate blender, as defined in division rules, may petition the associate director to request that all registered suppliers or oxygenate blenders be allowed to supply gasoline in area C that does not meet the standards in subsection A of this section if the petitioner demonstrates that a shortage in the supply of gasoline meeting the standards in subsection A of this section is imminent.~~

~~C. A petition under subsection B of this section shall:~~

~~1. Identify specific supply conditions that will result in a shortage of gasoline meeting the standards in subsection A of this section.~~

~~2. Identify the formulation of gasoline that will be sold in area C in lieu of gasoline meeting the standards in subsection A of this section.~~

~~3. Specify a time period for compliance with the standards of subsection A of this section not to exceed sixty days.~~

~~D. The associate director shall either grant or deny a petition under subsection B of this section in writing within seven days of its receipt. Any decision by the associate director to grant the petition shall be equally applicable to all registered suppliers or oxygenate blenders and shall not be selectively applied to any single registered supplier or oxygenate blender. The petition may be granted only if the associate director verifies that the basis for requesting the petition is factual.~~

~~E. The associate director may reauthorize a petition granted under subsection B of this section if the petitioner demonstrates that the conditions identified in the petition have continued. The reauthorization of a petition shall not exceed thirty days.~~

~~F. The associate director of the division shall consult with the director of the department of environmental quality before granting, reauthorizing or denying any petition under subsection B of this section.~~

~~G. The associate director, in consultation with the director of the department of environmental quality, shall adopt by rule:~~

~~1. Requirements to implement subsections A, B and C of this section.~~

~~2. Requirements for recordkeeping, reporting and analytical methods for fuel providers to demonstrate compliance with subsection A of this section.~~

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

~~3-3495. Area B; sale of gasoline; oxygen content~~

~~A. From and after September 30 through March 31 of each year, all gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within area B or that is consumed in a motor vehicle within area B by a fleet owner shall contain not less than 1.8 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by the provisions of a waiver issued by the United States environmental protection agency.~~

~~B. Notwithstanding subsection A of this section, at any time earlier than sixty days before September 30 of each year, the designated air quality planning agency for area B with the concurrence of the director of the department of environmental quality may give notice, pursuant to the applicable plan required under section 49-406 for the Tucson air planning area, to the associate director of the division that the minimum oxygen content for the ensuing oxygenate seasons will be increased not less than .3 percent by weight of oxygen and not more than the maximum percentage of oxygen allowed for oxygenates by provisions of a waiver issued or other limits established by the United States environmental protection agency. Before making a determination to increase the minimum oxygen content pursuant to this subsection, the designated air quality planning agency for area B shall consider and conduct a cost-benefit analysis on all reasonable carbon monoxide emission reduction measures that could be implemented in lieu of increasing the minimum oxygen content.~~

**Article 8 Motor Fuels and Petroleum Products**

**3-3531 Requirements for motor fuels**

A. ~~Except as provided in section 3-3434 and subsections C, D, E, F, G and K of this section, a~~ A retail seller or fleet owner shall not store, sell or expose or offer for sale any motor fuel, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants, diesel exhaust fluid or other similar products if the product fails to meet the standards specified in this ~~section~~  article and in the rules adopted by the associate director.

B. A person shall not misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section or represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive. This subsection does not prohibit product origination disclaimer labeling on the retail dispenser.

~~C. After consultation with the director of the department of environmental quality, the standards and test methods for motor fuels shall be established by the associate director of the division by rule.~~ [[this can be deleted, it is already in 3-3414(D)]]

C. For the period beginning October 1 through March 31 of each year, a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume percent evaporated distillation temperature. [[Is this needed?]]

D. Except as provided in sections 3-3532 and 3-3533, ~~For any other locations and period of time,~~ blends of gasoline with ethanol shall meet the volatility requirements as determined by division rule.

~~E. A person shall not sell or offer or expose for sale diesel fuel grade 1, 2 or 4 as defined in ASTM D975, biodiesel, biodiesel blends or biomass-based diesel or biomass-based diesel blends that contain sulfur in excess of fifteen parts per million. Locomotive and marine diesel fuel is exempt from this requirement if the fuel meets the requirements of 40 Code of Federal Regulations section 80.513(g) and (h) 1090.300(a).~~ [[Do not need. These requirements are in the ASTM standards- see R3-7-715 in Notice of Propose Rulemaking]]

~~F. A person shall label dispensers at which biodiesel, biodiesel blends, biomass-based diesel or biomass-based diesel blends are dispensed in conformance with 16 Code of Federal Regulations part 306. This section does not preclude a person from labeling a dispenser that dispenses diesel fuel that contains up to five percent biodiesel or biomass-based diesel with a label that states "may contain up to five percent biodiesel" or "may contain up to five percent biomass-based diesel".~~ [[This is in rule R3-7-705(C) and is no longer necessary.]]

~~G. For biodiesel blends that contain more than five percent by volume of biodiesel, a person shall prepare product transfer documents in a manner that notifies the transferee of the percent by volume of biodiesel in the product.~~ [[This is in rule R3-7-707(A)(9)(b).]]

~~H. If any person transfers custody or title of a diesel fuel or distillate, biodiesel, a biodiesel blend, biomass-based diesel or a biomass-based diesel blend, except if the fuel is dispensed into a motor vehicle or nonroad, locomotive or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 80.590 part 1090, subpart L.~~  [[This is in rule R3-7-707.]]

~~I. If the transfer of a motor fuel is from a terminal, storage facility, or transmix facility, the product transfer documents shall contain the information prescribed in subsection H of this section. In addition, the fuel transporter shall ensure that the name and address of the final destination for the shipment, as prescribed by division rule, are included and that the product transfer documents accompany the shipment to its final destination.~~  [[This is in rule R3-7-707(A)(8).]]

J. A person shall not sell or offer or expose for sale any motor fuel if the temperature of the motor fuel has been changed by any type of a heating device.

K. For the purpose of any sale, offer to sell, delivery or consignment of motor fuel in a quantity of five thousand gallons or more, the volume of the motor fuel for the purposes of calculating the price of the motor fuel is considered to be the volume that the quantity of the motor fuel would equal at the time of loading for sale, delivery or consignment if the temperature of the motor fuel was sixty degrees Fahrenheit. Any correction or adjustment required by this section shall be calculated on the basis of ~~American society for testing and materials D1250-80, table 6B~~ American Petroleum Institute, Manual of Petroleum Measurement Standards, Chapter 11-Physical Properties Data, May 2004, Addendum 2, May 2019. [[WMSD will need to purchase this document, please review to ensure this is the correct reference.]]

L. Gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within this state shall not contain the following:

1. Methyl tertiary butyl ether that exceeds 0.3 percent by volume.

2. A total of more than 0.10 percent oxygen by weight collectively from all of the following oxygenates:

(a) Diisopropylether (DIPE).

(b) Ethyl tert-butylether (ETBE).

(c) Isopropanol.

(d) Methanol.

(e) N-butanol.

(f) N-propanol.

(g) Sec-butanol.

(h) Tert-amylmethylether (TAME).

(i) Tert-butanol.

(j) Tert-pentanol (tert-amylalcohol).

M. Subsection L of this section does not prohibit the transshipment through this state, including storage incident to that transshipment, of gasoline that contains the oxygenates prescribed by subsection L of this section if both of the following apply:

1. The gasoline is used or disposed outside this state.

2. The gasoline is segregated from gasoline that is intended for use inside this state.

N. If any person transfers custody or title of a motor fuel, except if the fuel is dispensed into a motor vehicle or nonroad, locomotive, or marine equipment, the transferor shall provide to the transferee product transfer documents that conform with 40 Code of Federal Regulations section 1090, subpart L and division rule. The product transfer documents shall be provided to the division upon request and may be stored offsite per division rule.

**3-3532 Area A and area C; cleaner burning gasoline requirements**

A. All gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in a county with a population of one million two hundred thousand or more persons and any portion of a county contained in area A, subject to an appropriate waiver granted by the administrator of the United States environmental protection agency pursuant to section 211(c)(4) of the clean air act as defined in section 49-401.01, shall:.

1. For the period beginning April 1 through September 30 of each year comply with the following fuel reformulation options:

a. A gasoline that meets standards for federal phase II reformulated gasoline, as provided in 40 Code of Federal Regulations section 80.41, paragraphs (e) through (h), in effect on January 1, 1999, except that the minimum oxygen content standard does not apply.

b. California phase 2 reformulated gasoline, including alternative formulations allowed by the predictive model, as adopted by the California air resources board pursuant to California Code of Regulations title 13, sections 2261 through 2262.7 and 2265, in effect on January 1, 1997, except that the minimum oxygen content standard does not apply.

[[discussion: A 7.0 lb vapor pressure flat limit was evaluated by ADEQ/MAG and could be a potential alternative fuel formulation to replace the current summer formulation that uses the complex model]]

1. For the period beginning June 1 through September 30 of each year, the gasoline in subsection (A)(1) shall have a maximum vapor pressure of 7.0 pounds per square inch.
2. For the period beginning November 1 though March 31 of each year, comply with the standards in subsection (A)(1)(b), and shall meet the following additional requirements:
   1. A maximum vapor pressure of 9.0 pounds per square inch;
   2. For a gasoline-ethanol blend, contain not less than ten percent by volume of ethanol nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limits established by the United States environmental protection agency; or
   3. For a blend other than a gasoline-ethanol blend, contain not less than 2.7 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by provisions of a waiver issued or other limites established by the United States environmental protection agency.

B. For the period beginning June 1 through September 30 of each year, all gasoline produced and shipped to or within this state and sold or offered for sale for use in motor vehicles in area C shall comply with the requirements in subsections (A)(1) and (A)(2).

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

**3-3533 Area B; oxygenate and volatility requirements**

A. From and after September 30 through March 31 of each year, all gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles within area B or that is consumed in a motor vehicle within area B by a fleet owner shall contain not less than 1.8 percent by weight of oxygen nor more than the maximum percentage of oxygen allowed by the provisions of a waiver issued by the United States environmental protection agency.

B. Except as provided under subsections D and E, gasoline shall meet the volatility requirements prescribed in ASTM D4814.

~~C. From and after September 30 through March 31 of each year, blends of gasoline with ethanol may exceed the volatility requirements prescribed by subsection B section 3-3433 and rules adopted by the associate director under that section by up to one pound per square inch if the base fuel meets the requirements of ASTM D4814 and the final gasoline-ethanol blend contains at least six nine percent ethanol by volume but does not exceed United States environmental protection agency waivers. For any other locations and period of time, blends of gasoline with ethanol shall meet the volatility requirements as determined by division rule.~~  [[Why is this for winter? The Clean Air Act 211(h)(1) provides the 1.0 pound waiver for ethanol-containing gasoline for summer only. This can be deleted as it is outdated and unnecessary.]]

C. Notwithstanding subsection A of this section, at any time earlier than sixty days before September 30 of each year, the designated air quality planning agency for area B with the concurrence of the director of the department of environmental quality may give notice, pursuant to the applicable plan required under section 49-406 for the Tucson air planning area, to the associate director of the division that the minimum oxygen content for the ensuing oxygenate seasons will be increased not less than .3 percent by weight of oxygen and not more than the maximum percentage of oxygen allowed for oxygenates by provisions of a waiver issued or other limits established by the United States environmental protection agency. Before making a determination to increase the minimum oxygen content pursuant to this subsection, the designated air quality planning agency for area B shall consider and conduct a cost-benefit analysis on all reasonable carbon monoxide emission reduction measures that could be implemented in lieu of increasing the minimum oxygen content.

D. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B shall be ten pounds per square inch from and after September 30 through March 31 of each year. ~~Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event is exempt from this subsection.~~

E. Notwithstanding subsection A of this section, if the director of the department of environmental quality has previously raised the minimum oxygen content to the maximum percentage of oxygen allowed for each oxygenate as provided by subsection C ~~section 3-3495~~, the designated air quality planning agency for area B has considered, analyzed and reviewed the costs and benefits of all other reasonable and available control measures in lieu of reducing volatility requirements to nine pounds per square inch and the director of the department of environmental quality finds that area B has failed to maintain the carbon monoxide national ambient air quality standards by violating the standard, beginning with the oxygenate period beginning on the following September 30 and for each oxygenate period thereafter in area B, the volatility requirements described by subsection D ~~section 3-3433, subsection G~~ may be reduced to nine pounds per square inch. ~~If a violation of the carbon monoxide national ambient air quality standards is recorded after the volatility requirements have been reduced to nine pounds per square inch, the director of the department of environmental quality shall remove the one pound per square inch waiver for gasoline-ethanol blends provided in subsection C.~~

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

**3-3534 Use of gasoline purchased outside of area A, area B, or area C**

This article does not prohibit the use of gasoline within area A, area B, area C, or a county with a population of one million two hundred thousand or more persons purchased outside of these areas which does not meet the requirements in 3-3532 and 3-3533 if the use is incidental and not for the purpose of evading the requirements of this article.

**3-3535 Motor fuel waiver requests**

A. Any producer, oxygenate blender, pipeline, or terminal as defined in division rules, may petition the associate director to request a waiver from the standards in sections limit to 3-3532, 3-3533, or other standard regulated by the environmental protection agency, if the petitioner demonstrates that a shortage in the supply of motor fuel meeting the standards is imminent. In order for a fuel waiver request to be considered, it must meet the criteria in the Clean Air Act Section 211(c)(4)(C) (42 U.S.C. 7545 (c)(4)(C)). If granted, a motor fuel waiver issued by the environmental protection agency will waive the applicable federal standards and a motor fuel waiver issued by the associate director will waive the applicable state standards.

B. A petition for a motor fuel waiver request under subsection A of this section shall:

1. Identify specific supply conditions that will result in a shortage of motor fuel meeting the applicable standards.

2. Identify the geographic area and the specific motor fuel standard for which the potential shortage exists.

3. Identify the alternative formulation of motor fuel that will be sold in lieu of the motor fuel that meets the applicable standards.

4. Specify a time period for which the motor fuel waiver is requested, not to exceed 20 days.

C. The associate director, in consultation with the director of the department of environmental quality and the environmental protection agency, shall evaluate a petition under subsection B of this section as soon as practicable. ~~The associate director shall verify that the basis for requesting the petition is factual and the petition request meets the criteria in the Clean Air Act Section 211(c)(4)(C).~~

D. If the associate director determines the criteria in subsection (B) ~~and (C) are~~ is met, the director of the department of environmental quality, on behalf of the Governor, may submit a fuel waiver request to the environmental protection agency. Any decision by the environmental protection agency to waive the federal requirements and the associate director to waive the applicable state requirements resulting from the motor fuel waiver request shall be equally applicable to all regulated persons for which the standards apply, and shall not be selectively applied to any single regulated person.

E. The director of environmental quality, in consultation with the associate director, may submit a request to the environmental protection agency to extend the motor fuel waiver granted under subsection D of this section if the petitioner demonstrates, and the associate director verifies, that the conditions identified in the petition have continued. The reauthorization of a motor fuel waiver shall not exceed 20 days.

**3-3536 Motor Fuel Dispensing Site Requirements**

A. Retail motor fuel dispensers:

1. May have nozzles ~~equip all nozzles~~ from which motor fuel is dispensed equipped with an operating hold-open latch that is an integral part of the automatic nozzle and that is specifically manufactured to dispense motor fuel without requiring the consumer's physical contact with the automatic nozzle.
2. Shall have diesel nozzles equipped with green grip guards and ethanol flex fuel nozzles equipped with yellow grip guards.  ~~Shall be equipped with nozzles that have green grip guards and all retail ethanol flex fuels shall be equipped with yellow grip guards.~~ Other product nozzles may not have green or yellow grip guards.

B. If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon or price per liter. The retail seller shall list the unit of measure adjacent to the selling price of the motor fuel when the selling price is displayed at the individual pump or other dispensing device. ~~If a retail seller engaging in the sale of motor fuel posts the selling price of the fuel on the premises, the seller shall post the selling price only by the price per gallon, except that if the fuel is dispensed by a measure other than whole gallons the seller shall represent the selling price for each unit of such other measure on the individual pump or other dispensing device. If a retail seller engaging in the sale of motor fuel advertises the price of the fuel off the premises, the retail seller shall advertise the price only by the price per gallon.~~

C. The owner or operator of a motor fuel dispensing site shall ensure that a sticker ~~provided by the department of transportation~~ that is three inches by five inches and that depicts the amount of federal and state taxes imposed on one gallon of gasoline is displayed on one side of each motor fuel dispenser. The sticker required by this subsection shall contain white lettering on a black background or black lettering on a white background to ensure a contrasting color to the motor fuel dispenser and shall be placed on the upper sixty percent of the dispenser.  ~~The division shall use stickers provided by the department of transportation.~~ A template of the sticker shall be placed on the division's website for use by retailers.

D. On request, a motor fuel storage or dispensing site shall provide access to motor fuel dispnsing cabinets to the division for inspection of fuel dispensing meters and blending valves.

**3-3537 Aversive or bittering agent in engine coolant and antifreeze; liability limitation; exceptions; violation; classification**

A. Engine coolant or antifreeze that is sold in this state on or after January 1, 2008, that is manufactured on or after September 1, 2007 and that contains more than ten percent ethylene glycol shall include denatonium benzoate at a minimum of thirty parts per million and a maximum of fifty parts per million as an aversive or bittering agent in the product to render it unpalatable. A manufacturer or packager of engine coolant or antifreeze that is subject to this section shall maintain a record of the trade name, scientific name and active ingredients of the aversive or bittering agent used pursuant to this section. A manufacturer or packager of engine coolant or antifreeze shall furnish information and documentation maintained pursuant to this section to a member of the public on request.

B. This section applies only to manufacturers, packagers, distributors, recyclers or sellers of engine coolant or antifreeze. For the purposes of this section, selling does not include the installation of engine coolant or antifreeze for compensation.

C. A manufacturer, packager, distributor, recycler or seller of engine coolant or antifreeze that is required to contain an aversive or bittering agent pursuant to this section is not liable to any person for personal injury, death, property damage, damage to the environment or natural resources or economic loss that results from the inclusion of denatonium benzoate in engine coolant or antifreeze.

D. The limitation on liability provided in subsection C of this section applies only if denatonium benzoate is included in engine coolant or antifreeze in the concentrations required by this section. The limitation on liability provided in subsection C of this section does not apply to a particular liability to the extent that the cause of that liability is unrelated to the inclusion of denatonium benzoate in engine coolant or antifreeze.

E. A political subdivision of this state shall not establish or continue in effect a prohibition, limitation, standard or other requirement relating to the inclusion of an aversive or bittering agent in engine coolant or antifreeze, with respect to retail containers containing less than fifty-five gallons of engine coolant or antifreeze, that is different from, or in addition to, this section.

F. This section does not apply to either:

1. The sale of a motor vehicle that contains engine coolant or antifreeze.

2. Wholesale containers of engine coolant or antifreeze containing fifty-five gallons or more of engine coolant or antifreeze.

G. The division may inspect, investigate, analyze and take appropriate actions to administer and enforce this section.

H. A person who violates this section is guilty of a class 3 misdemeanor.