



Jim Verburg
Director, Fuels

August 24, 2022

Sent via e-mail: kallen@azda.gov

Mr. Kevin Allen
Arizona Department of Agriculture
Weights and Measures Services Division
1802 W. Jackson St., #78
Phoenix, Arizona 85007

Re: WSPA Comments on Proposed Changes to Arizona Administrative Code Title 3, Chapter 7

Dear Mr. Allen,

Western States Petroleum Association (WSPA) appreciates the opportunity to comment pursuant to the Arizona Department of Agriculture, Weights, and Measures Services Division (WMSD) proposed changes to Arizona Administrative Code, Title 3, Chapter 7 (second draft distributed by WMSD on May 12, 2022). Our comments also include feedback from the WMSD stakeholder workshops held on April 12, 2022, April 14, 2022, and May 31, 2022. WSPA is a trade association that represents companies which provide diverse sources of transportation energy throughout the west, including Arizona. This includes the transporting and marketing of petroleum, petroleum products, natural gas, and other energy supplies.

WSPA acknowledges the WMSD efforts to update Title 3, Article 7 (Motor Fuels and Petroleum Products) including the consideration of proposed changes to allow the potential sale of E15 in the Arizona Cleaner Burning Gasoline (AZCBG) areas. Further, we support proposals to simplify the regulations. These proposals include removing the compliance averaging option, removing the carbon monoxide label, and removing the rules related to stage II vapor recovery.

In reviewing the draft regulatory language (as well as information provided by WMSD during the workshops), WSPA does have several general and specific concerns that we request WMSD take under consideration prior to finalizing regulatory language. These general and specific comments are discussed in detail below.

General Comments

Updating of Statutory Language. We recognize that certain elements of the regulation are dictated by statute (i.e., certification standard and AZCBG applicability) which limits WMSD's ability to make regulatory language changes. Thus, some changes that we may suggest would not be achievable without some legislative action. In addition, it does appear that some of the regulatory language changes proposed by WMSD also require updates to the existing statutory language (i.e., reconsideration of the statutory certification process). Specifically, WSPA is concerned that WMSD is moving forward with rulemaking without the foundational statutory changes to Arizona Revised Statute 3-3493.A.2 and Arizona Revised Statute 3-3493.B.¹

Fuel certification is a clear example. For Type 2 Standards (AZCBG Certification with the CARB Predictive Model), the CARB Predictive Model Phase 2 and even the CARB Predictive Model Phase

¹ <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/3/03493.01.htm>

3 fuel emission models are no longer representative of the current fleet of vehicles circulating on the road today. Furthermore, the emissions cannot even be calculated with the CARB Predictive Model Phase 2 for 15% ethanol blends and with the CARB Predictive Model Phase 3 for 15% ethanol blends. WSPA suggests that WMSD reconsider the current certification process of AZCBG (including the associated statutory language), in particular for wintertime blends, and develop a new process consistent with current data on fuel/vehicle emissions.

Appropriateness of Introducing E15 into AZCBG Covered Areas. The introduction of gasoline containing 15% volume ethanol (E15) into the AZCBG covered area was identified as one of the primary drivers for undertaking this rulemaking. As noted above, WSPA has concerns whether E15 could be permitted within Arizona Revised Statutes 3-3493 for California Phase 2 Reformulated Gasoline. The USEPA has permitted the use of E15 with the Federal Phase II Reformulated Gasoline and has procedures to for utilizing the Federal Complex Model to certify Type 1 Arizona CBG under that emissions model. An equivalent mechanism has not been established by the California Air Resources Board (CARB) for Phase 2 Reformulated Gasoline. While CARB has been petitioned to permit E15 into the Phase 3 Reformulated Gasoline Model that permission has not been granted nor is it clear how those procedures could be extended to the Phase 2 Predictive Model.

Since E15 is outside of the scope of the CARB Phase 2 and the associated predictive model, it could not be offered as a fuel within the AZCBG covered area without a statutory change. If E15 was permitted without a statutory change, WSPA suggests that WMSD assess whether USEPA would accept CARB Phase 2 gasoline with E15 as representing a new boutique fuel.

Further Review of Proposed Blending Standards for AZCBG Covered Areas. The statutory requirement that AZCBG meets the Federal Complex Model in the summer or CARB Phase 2 limits/CARB Phase 2 Predictive Model throughout the year, also needs to be reviewed for parties downstream that introduce components other than what was designated by the fuel supplier. This would apply to oxygenate blenders that add additional oxygenate or blenders that introduce fuel components that were not previously certified to meet AZCBG or AZRBOB requirements.

USEPA's approach relative to oxygenate blenders in 40 CFR 1090 may not be able to be applied in the same way for Arizona CBG since USEPA RFG certification no longer requires the use of model to determine compliance. Furthermore, the use of Ethanol Flex Fuel that has been blended using gasoline that was not certified to meet AZCBG should not be permitted to be classified as an oxygenate blend and should be required to adhere to the requirements of a registered supplier. This mirrors USEPA approach relative to natural gas liquids or other components that were not previously certified for sulfur, benzene, and vapor pressure requirements.

Specific Comments

R3-7-708.D.2 – Gasoline Oxygenate Blends. Pursuant to *Special Provisions for gasoline Ethanol Blends*, the language surrounding the 1 psi waiver in R3-7-708.D.2 needs to be updated to reflect when the 1 psi vapor pressure waiver is permitted by the USEPA in the summer outside of the Arizona CBG area. The current language could be interpreted to mean that the 1 psi waiver would be permitted for all gasoline ethanol blends permitted by the USEPA rather than only those gasoline ethanol blends that the USEPA has granted the 1 psi waiver. Alternative wording is provided below that makes this clarification and maintains alignment with federal requirements as they evolve:

“R3-7-708 D.2.a Outside of the CBG-covered area if the concentration of ethanol, excluding

the required denaturing agent, is at least nine percent by volume and no more than the maximum concentration of ethanol that is granted the 1.0 psi waiver as allowed by federal law”.

R3-7-751.G - Arizona CBG Requirements. Regarding the **Oxygen Content Requirements**, the 2.0% minimum by weight is irrelevant if the gasoline is blended with 10% ethanol as the weight% oxygen will be around 3.5% (and around 5.2% if the gasoline is blended with 15% ethanol). Furthermore, the certification process with the CARB Predictive Model calculates the same emissions if the fuel blend has +/- 0.2 oxygen weight% centered around the 2.0 oxygen weight%.

R3-7-755.A.1 - Additional Requirements for AZRBOB and Oxygenate Blending. For the **Application of Arizona CBG Standards to AZRBOB**, a maximum amount of oxygenate (in addition to a minimum of oxygenate) should be specified to ensure that the finished fuel meet gasoline specifications.

WSPA appreciates the opportunity to provided comments on this important proposed regulation. If you have any questions regarding this submittal, please contact me at (360) 296-0692 or via email at jverburg@wspa.org.

Sincerely,



James Verburg
Director, Fuels



Cc: Michelle Wilson - WMSD