

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* 1st as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Arizona Administrative Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 19. BOARD OF NURSING

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| Article 5 | Amend |
| R4-19-505 | Amend |
| R4-19-507 | Amend |
| R4-19-508 | Amend |
| R4-19-509 | Repeal |
- 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. § 32-1606(A)
Implementing Statutes: A.R.S. § 32-1601(11) (e), A.R.S. § 32-1606(B) (11)
- 3. The effective date of the rules:**
October 18, 1999
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Docket Opening: 5 A.A.R. 2012, June 18, 1999.
Notice of Proposed Rulemaking: 5 A.A.R.1948, June 18, 1999, Notice of Proposed Rulemaking.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Janet M. Walsh
Associate Director |
| Address: | Arizona State Board of Nursing
1651 E. Morten, Suite 150
Phoenix, AZ 85020 |
| Telephone: | (602) 331-8111, Ext. 145 |
| Fax: | (602) 906-9365 |
- 6. An explanation of the rule, including the agency's reason for initiating the rule:**

The Board initiated rulemaking on Article 5 for several reasons. First, this rulemaking package incorporates the amendments recommended for Article 5 rules in the 5 year rule review. Second, the Board voted to make the following additional changes in Article 5: delete the requirement of annual renewal of prescribing and dispensing authority, including the requirement of annual continuing education in pharmacology; delete the requirement of providing the name of a collaborating physician to the Board; delete the scope of practice statements for nurse practitioners; delete the requirement of 1 year of active practice before issuance of prescribing and dispensing privileges to nurse practitioners; and delete the provision for inactive prescribing and dispensing authority. Additionally, this rulemaking incorporates editorial changes to the sections affected for the purpose of increasing clarity of the affected rules.

Included in the rulemaking package were some clerical changes and abbreviations intended to improve clarity and delete the needless repetition of certain terminology. For example, the Board chose to utilize abbreviation of

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RNP, P & D, for the terms “registered nurse practitioner” and “prescribing and dispensing authority.” On June 18, 1999, the Board opened a docket on Article 1, Definitions, to add abbreviations of this type.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the proposed rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

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:

The most significant economic impact of this rulemaking package is a result of the change to R4-19-507(A)(2), deleting the requirement that a graduate nurse practitioner have 1 year of active practice (1000 hours) before being eligible to receive prescribing and dispensing authority. Because nurse practitioner graduates are having difficulty entering the work force without these privileges, the deletion of this requirement is expected to result in a significant economic benefit to them by increasing their marketability and employment opportunities.

The amendment to R4-19-507 deleting the annual requirement to renew prescribing and dispensing authority will have a minimal impact on nurse practitioners with prescribing and dispensing authority because they will save the renewal fee of \$20 a year. The Board anticipates a loss of income in the amount of \$21,700 for renewal of prescribing and dispensing authority for approximately 1,085 nurse practitioners (as of 7/28/99). The Board, however, will save costs associated with mailing renewal forms and processing renewals of prescribing and dispensing authority. The additional amendments to Article 5 will not have any adverse economic impact on the individuals regulated under Article 5, the Board, the public, small businesses, or consumers.

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

R4-19-508(F): strike: “physician,” “pharmacist,” and “registered nurse practitioner with prescribing and dispensing authority,” insert: “pharmacy.”

11. A summary of the principal comments and the agency response to them:

The Board received 26 comments regarding this proposed rulemaking before the close of record on July 20, 1999. Twenty-one comments supported the proposed rulemaking, and 4 comments expressed concern regarding some of the amendments in the proposed rulemaking. The following organizations expressed support for the proposed rulemaking: American Academy of Nurse Practitioners, Arizona Association of Nurse Anesthetist, Arizona Chapter of the National Association of Pediatric Associates and Practitioners, Arizona Nurses’ Association, and the Southern Arizona Nurse Practitioners. The Arizona Medical Association, the Arizona State Board of Pharmacy, and the Arizona Pharmacy Association expressed concern regarding some of the amendments in the proposed rulemaking. As a result of comments from the Arizona State Board of Pharmacy, the Board changed R4-19-508(F) to conform to current law and Board of Pharmacy rules which prohibit health care professionals from dispensing medications obtained from other health care professionals. The principal comments are summarized below with the agency response to them under the specific sections addressed:

R4-19-505(C). Deletion of the Scope of Practice Standards.

- Eight comments specifically addressed the amendment to this section. While 7 comments expressed support for the amendment, the Arizona Medical Association voiced concern, stating the reason for the amendment was not understood, and expressing belief that the standards provide significant guidelines to practitioners and are a source of information to the public. The commentators expressing support for the amendment to this rule argue:
- Statements of standards from national advanced practice nursing organizations change every few years.
- The scope of practice standards are outdated.
- To leave the most current edition of scope of practice standards in the rule would result in a cumbersome rule change every time 1 of these standards is updated.

The Board proposed the deletion of the scope of practice standards because of the frequency with which they are updated, and the impracticality of engaging in rulemaking every time 1 of these 13 standards was updated. Absent a mechanism that would allow the Board to refer to the most current edition of the scope of practice standards, the Board believes that nurse practitioners or the public could be misled into believing that the standards in this rule reflect the most current standards related to scope of practice. Additionally, the Board does not list the specific scope

of practice standards which apply to specialty areas of professional nurses, but expects that nurses will refer to the national scope of practice standards applicable to their area of practice.

R4-19-505(B) and 507(H). Deleting the Collaborating Physician Notification Requirement.

Ten comments specifically addressed the amendment to this section. While 9 comments expressed support, the Arizona Medical Association strongly opposes the deletion of this requirement for the following reasons:

- It is the Board of Nursing's responsibility to confirm the license status of the physician with the Board of Medical Examiners.
- The Board of Nursing should notify the Board of Medical Examiners (BOMEX) and the Osteopathic Board of Examiners (OBEX) of physicians who have a collaborating relationship with a nurse practitioner.

The commentors expressing support for the amendment argue that:

- Inordinate paperwork is unjustified considering identification of a collaborating physician has never been an issue.
- Given the turbulent health care delivery system, changes in collaborating physicians occur very frequently, requiring notification to the Board on a yearly basis or more frequently.
- Overseeing the licenses of physicians is the responsibility of BOMEX, OBEX or the various health care institutions in which physicians practice, not the Board of Nursing. This requirement creates a bureaucratic administrative burden.

The Board agrees that collaborating health professionals should be licensed providers, but believes that it is the responsibility of the respective licensing boards and the health care institutions in which they practice to ensure that health care professionals have a current license. Requiring the Board to perform this function is duplicative and a significant administrative problem because of the frequency with which collaborating physicians and nurse practitioners change jobs.

R4-19-507(A)(2). Deleting the Requirement of One Year of Active Practice (1,000 hours) Before Issuing Prescribing and Dispensing Privileges.

Fourteen comments specifically addressed the amendments to this rule. Thirteen comments expressed support, and the 1 comment by the Arizona Medical Association expressed concern in the absence of a study or other empirical data to support the amendment. Those in support of the amendment argue that:

- Nurse practitioners have considerable medical education and experience upon graduation and are capable of managing prescriptive privileges at that point.
- This requirement impedes the ability of nurse practitioners to obtain employment and without employment, it is impossible for nurse practitioners to obtain 1,000 hours of experience, creating an extreme financial hardship and preventing valuable professionals from entering the workforce.
- To make nurse practitioners wait 1 year before obtaining prescribing and dispensing authority means they must stop doing what they have been doing in school, resulting in a hiatus that is less safe than allowing them to continue to develop their prescribing skills.

The Board proposed the deletion of the requirement of 1 year of active practice (1,000 hours) in this amendment because it believes that the pharmacology component of nurse practitioner programs, both theory and clinical practice, adequately prepares graduates to prescribe and dispense upon graduation. The Board believes that continuing this requirement presents a significant financial hardship to graduate nurse practitioners creating a situation where they are unable to obtain a job because they do not have prescribing and dispensing authority and have difficulty in fulfilling the requirement because they cannot obtain a job.

Additionally, the Board points out that over the last 4 years, the only complaints received by the Board regarding prescribing and dispensing issues involve nurse practitioners prescribing outside of their scope of practice: No complaints have been received regarding the inappropriateness of medications prescribed or dispensed.

R4-19-507(I). Continuing Education in Pharmacology.

Fourteen comments specifically addressed the deletion of this annual requirement. Ten comments supported the amendment for the following reasons:

- All national nurse practitioner organizations require annual continuing education for recertification. Physician continuing education requirements do not contain a specific requirement for pharmacology hours.

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- The marketplace should regulate continuing education instead of the Board.
- Of the vast majority of states where nurse practitioners have prescribing and dispensing authority, only 7 states require continuing education. If this requirement is necessary to demonstrate current knowledge, then it should apply to all health professionals who prescribe and dispense.
- To receive federal reimbursement in the near future, nurse practitioners will need national certification.

The Arizona Medical Association, the Arizona State Board of Pharmacy, and the Arizona Association of Pharmacy oppose amendment of this rule. They argue that:

- No studies were done to support deletion of this requirement.
- National certification should be part of this rule package.
- Eliminating the continuing education requirement will add to the a 76 billion dollar drug problem in this country.
- All 50 state boards of pharmacy require mandatory continuing education.
- In Arizona, pharmacists are required to obtain 30 hours of continuing education every 2 years.

The Board understands that continuing education is a controversial issue. As a result of the controversy surrounding this issue and the lack of empirical data supporting the need for a continuing education requirement, the Board does not and has not ever imposed a mandatory education requirement for renewal of the licenses of professional and practical nurses.

The Board believes that if a mandatory continuing education requirement in pharmacology is necessary for those individuals who prescribe and dispense, every Arizona board that licenses professionals with prescribing and dispensing authority should require it. Neither BOMEX, OBEX, or the Dental Board have a mandatory continuing education requirement in pharmacology.

The Board believes that obtaining continuing education is a health provider's professional responsibility; nurse practitioners with national certification are required to obtain it in order to maintain certification. Although many nurse practitioners currently have national certification, the Board intends to mandate national certification for certification as a nurse practitioner in the future (most likely as part of the next rulemaking package on Article 5). Additionally, the Board points out that a mandatory continuing education requirement in pharmacology is not necessary because the Board has not received any complaints over the past 4 years regarding prescribing and dispensing of inappropriate medications or medications in the incorrect amount or incorrect dose.

R4-19-508(A). Deletion of the Requirement that Nurse Practitioners Dispense Medications Only to Their Own Patients.

The Board received only 2 comments specifically addressing this issue. Both the Pharmacy Association and the Board of Pharmacy opposed deletion of this requirement. The Board of Pharmacy expressed concern that without this language, a nurse practitioner could prescribe to patients for whom they have not done a medical assessment.

The Board proposed this amendment in conjunction with the amendment to R4-19-507(A), which controls both prescribing and dispensing, whereas R4-19-508(A) is limited to dispensing. The Board added a requirement to R4-19-507(A), which would require nurse practitioners to prescribe and dispense within their scope of practice. The Board was concerned that the language in R4-19-508(A) was confusing because nurse practitioners frequently cover for physicians, and the question arises whether the patient is the patient of the nurse practitioner or the patient of the physician.

The Board believes that requiring nurse practitioners to prescribe and dispense within their scope of practice will ensure that nurse practitioners exercise this authority within the limits of the knowledge, skills and ability for which they have been educated and for which they have been certified. In other words, pediatric nurse practitioners acting within the scope of their practice would be unable to prescribe and dispense to geriatric patients because treating these patients would be outside of their scope of practice and beyond the limits of their educational preparation and area of certification.

On July 20, 1999, at the public hearing on this rulemaking package, there was discussion between members of the Board of Nursing and staff and representatives of the Pharmacy Association. Following the discussion, the Pharmacy Association representatives appeared to understand the rationale for the amendment. On July 22, 1999, representatives from the Board of Pharmacy met with representatives from the Board of Nursing to discuss the Board of Pharmacy's concerns with this rulemaking package. At the conclusion of the meeting, the Pharmacy Board representatives stated that they understood the rationale for this amendment and did not oppose it.

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R4-19-508(F) Source of Medication for Dispensing

In a meeting with representatives of the Board of Pharmacy on July 22, 1999, a concern was expressed regarding the current language of the rule, which provides that nurse practitioners can obtain medications from physicians, pharmacists, and other nurse practitioners. According to the Board of Pharmacy, this language is inconsistent with the language in Pharmacy rules because health care providers may only obtain medications to dispense to patients from pharmacies, manufacturers, wholesalers, and distributors, not from other health care providers. To accommodate this concern, the Board amended the language in this section by striking physicians, pharmacists, and registered nurse practitioners and adding pharmacies. The Board believes that this amendment is consistent with current practice because all health care providers who prescribe and dispense must comply with Pharmacy statutes and regulations and to the extent R4-19-508(F) was inconsistent, it should be amended.

R4-19-509. Repeal of Inactive and prescribing and Dispensing Authority.

The Board received only 2 comments opposing deletion of this rule. Representatives of the Pharmacy Association stated that the Board needs to track inactive nurse practitioners. The Arizona Medical Association stated that it believes R4-19-509 is an effective regulatory tool to assist in closing investigations or facilitating Board actions.

The Board proposed this amendment in conjunction with the deletion of the annual requirement for renewal of prescribing and dispensing authority. Unfortunately, inactive status is not a tool to close investigations or to facilitate Board actions because the Board would not allow a nurse practitioner with prescribing and dispensing privileges to change to an inactive status to avoid disciplinary action. The Board does not believe that maintaining an inactive status for this privilege protects the public and, it is aware of no other health professional that has an option of making prescribing and dispensing privileges inactive. Because there is no mechanism for renewal of nurse practitioner certification, market forces control the employability of a nurse practitioner who has not worked as a nurse practitioner for a period of time. To obtain employment, a nurse practitioner will be required to obtain additional training and education before being able to obtain employment. The Board believes that the same market forces will apply to nurse practitioners who have not utilized their prescribing and dispensing privileges for a period of time. To obtain employment in a setting where prescribing and dispensing is a requirement, a nurse practitioner will need to obtain additional training and education in pharmacology. As a result, the Board does not believe that this should be an area of regulatory concern.

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 locations in the rules:

Not applicable.

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

Not applicable.

15. The full text of the rule follows:

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ARTICLE 5. ~~EXTENDED AND~~ ADVANCED NURSING PRACTICE

Sections

- R4-19-505. Scope of Practice of ~~the~~ a Registered Nurse Practitioner
- R4-19-507. Prescribing and Dispensing Authority
- R4-19-508. Dispensing of ~~Prepackaged Labeled~~ Medications
- R4-19-509. ~~Inactive Prescribing and Dispensing Authority~~ Repealed

ARTICLE 5. ~~EXTENDED AND~~ ADVANCED NURSING PRACTICE

R4-19-505. Scope of Practice of ~~the~~ a Registered Nurse Practitioner

~~A.~~ In addition to the scope of practice permitted a professional nurse, a RNP registered nurse practitioner may perform the following acts in collaboration with a physician:

1. Examine a patients and establish a medical diagnoses diagnosis by client history, physical examination, and other criteria;

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2. Admit ~~a~~ patients into ~~a~~ health care ~~facilities~~ facility;
 3. Order, perform, and interpret laboratory, radiographic, and other diagnostic tests;
 4. Identify, develop, implement, and evaluate a plan of care for a patient to promote, maintain, and restore health;
 5. ~~If authorized under R4-19-507. Prescribe~~ prescribe and dispense medication ~~when granted authority in accordance with R4-19-507; and~~
 6. Refer to and consult with appropriate health care professionals.
- B.** ~~Within 30 days of beginning new employment as a registered nurse practitioner or of a change in the identity of a collaborating physician, a registered nurse practitioner shall provide the name and address of the collaborating physician to the Board. The Board shall confirm the license status of the physician with the physician's licensing board.~~
- C.** Registered nurse practitioners shall practice in accordance with the standards of nursing specified in the following scope of practice statements, and no other editions, for the practitioner's specialty area. Each of these scope of practice statements is incorporated by reference and on file with the Board and the Office of the Secretary of State:
1. ~~The Scope of Practice of the Primary Health Care Nurse Practitioner, 1985, pages 3, 4, and 6 through 9, American Nurses' Association, 2420 Pershing Road, Kansas City, MO 64108;~~
 2. ~~Standards of Practice for the Primary Health Care Nurse Practitioner, 1987, pages 4 through 9, American Nurses' Association, 2420 Pershing Road, Kansas City, MO 64108;~~
 3. ~~Standards of Practice for PNP/As, 1987, National Association of Pediatric Nurse Associates and Practitioners, 1101 Kings Highway North, Suite 206, Cherry Hill, N.J. 08034;~~
 4. ~~Standards of Practice of Nurse-Midwifery, 1993, pages 2 through 6, American College of Nurse-Midwives, 818 Connecticut Ave., N.W., Suite 900, Washington, D.C. 20006;~~
 5. ~~Nurse Providers of Neonatal Care, Guidelines for Educational Development and Practice, 1990, pages 4 and 5, NAA-COG, 409 12th St., S.W., Washington, D.C. 20024-2191;~~
 6. ~~The Obstetric-Gynecologic/Women's Health Nurse Practitioner, Role Definition, Competencies, and Educational Guidelines, Third Edition, 1990, page 2, NAACOG, 409 12th St., S.W., Washington, D.C. 20024-2191;~~
 7. ~~Standards for the Nursing Care of Women and Newborns, Fourth Edition, pages 5 through 13, 15 through 25, 27 through 61, and 63 through 77, NAACOG, 409 12th St., S.W., Washington, D.C. 20024-2191;~~
 8. ~~Neonatal Nurse Practitioners, Standards of Education and Practice, 1992, page 2, National Association of Neonatal Nurses, 1304 Southpoint Blvd., Suite 280, Petaluma, CA 94954-6859;~~
 9. ~~Statement on Psychiatric Mental Health Clinical Nursing Practice and Standards of Psychiatric Mental Health Clinical Nursing Practice, 1994, pages 25 through 34, American Nurses Association, 600 Maryland Avenue, S.W., Suite 100 West, Washington, D.C. 20024-2571;~~
 10. ~~Standards of School Nursing Practice, 1983, pages 5 through 11, American Nurses' Association, 2420 Pershing Road, Kansas City, Missouri 64108;~~
 11. ~~Standards of Practice, 1993, American Academy of Nurse Practitioners, Capitol Station, LBJ Building, P.O. Box 12846, Austin, TX 78711;~~
 12. ~~Scope of Practice for Nurse Practitioners, 1993, American Academy of Nurse Practitioners, Capitol Station, LBJ Building, P.O. Box 12846, Austin, TX 78711; and~~
 13. ~~Core Competencies for Basic Nurse-Midwifery Practice, 1992, American College of Nurse-Midwives, 818 Connecticut Ave., N.W., Suite 900, Washington, D.C. 20006.~~

R4-19-507. Prescribing and Dispensing Authority

- A.** The Board shall authorize a RNP ~~registered nurse practitioner~~ to prescribe and dispense medication within the RNP's scope of practice only if the RNP ~~registered nurse practitioner~~ satisfies the following requirements:
1. Is a professional nurse currently licensed in Arizona in good standing and authorized by the Board to practice within a specialty area identified in R4-19-501;
 2. ~~Has 1 year of documented active practice as a registered nurse practitioner immediately before applying for prescribing and dispensing authority;~~
 - 3-2. Submits a completed, notarized application on a form provided by the Board containing ~~The applicant shall provide the following information:~~
 - a. Name, address, and home phone number;
 - b. Professional nurse license number;
 - c. Nurse practitioner specialty;
 - d. Certification number;
 - e. Business address and phone number;
 - f. Length of time that applicant has practiced as a RNP ~~registered nurse practitioner~~ and whether full or part time;
 - g. If a faculty member, the number of hours of direct patient contact during the year preceding the date of application;
 - h. ~~Name and address of a collaborating physician who prescribes and dispenses and whose license status has been confirmed by the Board with the physician's licensing board;~~

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- ~~i.h.~~ Chronological listing of continuing education obtained by the applicant in pharmacology or clinical management of drug therapy or both in the last 2 years;
 - ~~k.i.~~ Authority for which the applicant is applying; and;
 - ~~l.j.~~ Applicant's Sworn ~~sworn~~ statement by the applicant verifying the truthfulness of the information provided by the applicant;
 - 3. Submits evidence of completion of a minimum of 45 contact hours of education in pharmacology or clinical management of drug therapy or both; ~~within 2 years immediately before the date of the application.~~
 - a. An applicant shall complete:
 - i. At least 6 of the 45 hours in the 12-month period immediately prior to the application date; and
 - ii. All 45 hours within the 2-year period before the application date.
 - ~~a.b.~~ Six of the 45 contact hours shall have been obtained within 1 year immediately before the date of application. One-half (22 hours) of the required contact hours submitted for application for prescribing authority may be from mediated instruction and self study.
 - ~~c.~~ If documented, contact hours may consist of hours of the initial presentations of ~~b. A a RNP registered nurse practitioner who leads, instructs, or lectures to groups of health professionals on pharmacy-related topics in continuing education activities, sponsored by a national professional accrediting organization shall be granted contact hours for the time expended during the initial presentation, upon documentation to the Board.~~
 - ~~e.d.~~ A RNP registered nurse practitioner whose primary responsibility is the education of health professionals shall not be granted does not earn contact hours for time expended on normal teaching duties within the a learning institution.
 - B. ~~Upon receipt of an application, the Board shall review the application and the related material and shall approve the application if the applicant meets the requirements of this Section. The authority to prescribe and dispense medication shall be valid through December 31 of the year in which the authority is granted. An applicant who is denied medication P & D prescribing and dispensing authority may request a hearing by filing a written request with the Board within 30 days of service of the Board's order denying the application for P & D prescribing and dispensing authority. Board Hearings hearings shall comply with be conducted in accordance with 41 A.R.S. Title 41, Chapter 6, Article 6 10, and 4 A.A.C. 19, Article 6.~~
 - C. ~~A RNP registered nurse practitioner who has been granted with P & D prescribing and dispensing authority may:~~
 - 1. ~~Prescribe medications, and medical devices, and appliances;~~
 - 2. ~~Provide for refill of prescription-only medications for 1 year from the date of the prescription.~~
 - D. ~~A RNP registered nurse practitioner to whom the Board has granted with P & D prescribing and dispensing authority and who wishes to prescribe a controlled substance shall make application apply to the DEA and to obtain a DEA registration number before prescribing a controlled substance. The RNP registered nurse practitioner shall file the DEA registration number with the Board.~~
 - E. ~~A RNP registered nurse practitioner with a DEA registration number may prescribe a Class II controlled substance scheduled as Class II, as defined in the Federal Controlled Substance Act, 21 U.S.C. § 801 et seq., or Arizona's Uniform Controlled Substance Act, 36 A.R.S. Title 36, Chapter 27, but shall not permit prescribe refills of the prescription.~~
 - F. ~~A RNP registered nurse practitioner with a DEA registration number may prescribe a Class III or IV controlled substance scheduled as Class III or IV, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substances Act, and may provide for prescribe a maximum of 5 refills in 6 months.~~
 - G. ~~A RNP registered nurse practitioner with a DEA registration number may prescribe a Class V controlled substance scheduled as Class V, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substance Act, and may provide for prescribe refills for a maximum of 1 year.~~
 - H. ~~A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall ensure that all prescription orders contain the following:~~
 - 1. ~~The RNP's name, address, phone number, and specialty area of the registered nurse practitioner;~~
 - 2. ~~The prescription date the prescription is written;~~
 - 3. ~~The name and address of the patient;~~
 - 4. ~~The full name, and strength, dosage form, (of a controlled substance when applicable,) and directions for use;~~
 - 5. ~~Two signature lines for the prescriber with "dispense as written" under the left signature line and "substitution permissible" under the right. The right side of the prescription shall contain under the signature line the phrase "substitution permissible". The left side shall contain under the signature line, the phrase "dispense as written"; and~~
 - 6. ~~The DEA registration number, if applicable.~~
 - I. ~~A registered nurse practitioner with prescribing and dispensing authority shall, each calendar year, obtain 10 contact hours of continuing education in pharmacology or pharmacology management or a combination of both:~~
 - 1. ~~A maximum of 5 of the required contact hours for renewal of prescribing and dispensing authority may be from mediated instruction and self study.~~
 - 2. ~~Registered nurse practitioners shall submit to the Board, before December 31 of each year, a notarized affidavit stating that they have obtained the required number of contact hours of continuing education and the annual renewal fee.~~

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~~Registered nurse practitioners who are granted prescribing and dispensing authority after October 31 shall not be required to obtain the 10 contact hours of continuing education for that year.~~

3. ~~A registered nurse practitioner with prescribing and dispensing authority shall submit to the Board, at its request, documentation of the contact hours of continuing education taken by the registered nurse practitioner.~~
- a. ~~A registered nurse practitioner who leads, instructs, or lectures to groups of health professionals on pharmacy-related topics in continuing education activities sponsored by a national professional accrediting organization shall be granted contact hours for the time expended during the initial presentation, upon documentation to the Board.~~
 - b. ~~A registered nurse practitioner whose primary responsibility is the education of health professionals shall not be granted contact hours for time expended on normal teaching duties within the learning institution.~~

~~J.~~ Whenever there is a change in the identity of a collaborating physician who prescribes and dispenses, a registered nurse practitioner shall provide the Board with the name and address of the new collaborating physician who prescribes and dispenses within 30 days. The Board shall confirm the license status of the physician with the physician's licensing board.

~~K.~~ A registered nurse practitioner with prescribing and dispensing authority shall apply for renewal of the authority on or before December 31 of each year. A registered nurse practitioner who fails to apply for renewal before expiration shall be considered delinquent but shall be permitted to renew the prescribing and dispensing authority by paying the expiration renewal fee and submitting the notarized affidavit required by subsection (I)(2). A registered nurse practitioner who fails to apply for renewal within 90 days of the expiration date shall apply for prescribing and dispensing authority in accordance with subsection (A).

~~L.I.~~ The Board of Nursing shall annually send a list of registered nurse practitioners with P & D prescribing and dispensing authority to the Board of Pharmacy, the Board of Medical Examiners, and the Board of Osteopathic Examiners in Medicine and Surgery.

J. A RNP shall not prescribe or dispense medications without prior Board authority. The Board may impose a civil penalty for each violation, suspend the RNP's P & D authority, and impose other sanctions under A.R.S. § 32-1606(C). In determining the appropriate sanction, the Board shall consider factors such as the number of violations, the severity of the violation, and the potential or existence of patient harm.

R4-19-508. Dispensing of ~~Prepackaged Labeled~~ Medications

~~A.~~ A registered nurse practitioner with prescribing and dispensing authority shall dispense only to the registered nurse practitioner's patients and only for conditions being treated by the registered nurse practitioner.

~~B.~~ A. Before dispensing a medication, a RNP registered nurse practitioner with P & D prescribing and dispensing authority shall ~~provide to the~~ give a patient a written prescription ~~on which appears~~ with the following statement in bold type: "THIS PRESCRIPTION MAY BE FILLED BY THE RNP REGISTERED NURSE PRACTITIONER OR BY A PHARMACY OF YOUR CHOICE."

~~C.B.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority may dispense ~~prepackaged labeled medications, controlled substances, and medical devices, and appliances. A RNP with P & D authority may dispense~~ Samples samples of medications packaged for individual use by licensed manufacturers or repackagers of medication ~~may be dispensed~~ without a prescription order.

~~D.C.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall dispense all medication ~~prepackaged in a unit-of-use package labeled~~ with the following information:

1. The dispensing ~~RNP registered nurse practitioner's name, and address, phone number, and specialty area;~~
2. The date the medication is dispensed;
3. The patient's name and address;
4. The name and strength of the medication, manufacturer's name, quantity in the container, directions for its use, ~~and~~ any cautionary statements; and
5. The prescription order number.

~~E.D.~~ In all outpatient settings and at the time of hospital discharge, a RNP registered nurse practitioner with P & D prescribing and dispensing authority shall personally provide to the patient or the patient's representative, directions for use, name of prescribed medication, and any special instructions, precautions, or storage requirements when any of the following occurs:

1. A new prescribed medication is dispensed to ~~the~~ a patient or a new prescription number is assigned to a previously-dispensed medication;
2. ~~The~~ A prescription medication has not been previously dispensed to the patient in the same strength or dosage form, or directions for a prescription medication have been changed;
3. In the RNP's professional judgment ~~of the registered nurse practitioner~~, these instructions are ~~deemed~~ warranted; or
4. The patient or patient's representative requests instruction.

~~F.E.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall enter into the patient's medical record;

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1. ~~the~~ The name and strength of the medication dispensed; ;
 2. ~~the~~ The date the medication is dispensed; ; and
 3. ~~the~~ The therapeutic reason for the medication.
- ~~G.F.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall obtain medication only from a physician, a pharmacist ~~pharmacy~~, a manufacturer, a wholesaler, or a distributor, ~~or a registered nurse practitioner with prescribing and dispensing authority.~~
- ~~H.G.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall:
1. ~~keep~~ Keep all medication in a locked cabinet or room; ;
 2. ~~control~~ Control access to the cabinet or room by a written procedure; ; and
 3. ~~maintain~~ Maintain a current inventory of the contents of the cabinet or room.
- ~~I.~~ H. A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall preserve all original prescription orders dispensed for a minimum of 3 years. The ~~RNP registered nurse practitioner~~ shall make the original prescription orders available at all times for inspection by the Board of Nursing, the Board of Pharmacy, and law enforcement officers in performance of their duties.
- ~~J.I.~~ A RNP registered nurse practitioner shall, if dispensing a controlled ~~substances~~ substance, maintain ~~an inventories~~ inventory and ~~records a record~~ of the controlled ~~substances~~ substance as follows:
1. ~~Inventories and records of all controlled substances listed in A Schedule II controlled substance~~, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substances Act, ~~shall be maintained~~ separately from all other records, and ~~a prescriptions prescription~~ for these ~~a Schedule II controlled substances~~ substance shall be ~~maintained~~ in a separate prescription file; and
 2. ~~Inventories and records of controlled substances listed in Schedules A Schedule III, IV, and V controlled substance~~, as defined in the Federal Controlled Substance Act or Arizona's Uniform Controlled Substances Act, ~~shall be maintained~~ either separately from all other records or in a form that the information required is readily retrievable from ordinary business records. ~~A Prescriptions prescription~~ for these substances shall be maintained either in a prescription file for ~~Schedule III, IV and V controlled substances listed in Schedules III, IV, and V~~ only or in a form that ~~they are~~ is readily retrievable from other prescription records. ~~A Prescriptions prescription shall be deemed~~ is readily retrievable if, at the time ~~they are~~ it is initially filed, the face of the prescription is stamped in red ink in the lower-right corner with the letter "C" no less than 1 inch high and filed either in the prescription file for ~~a Schedule II controlled substances~~ substance listed in ~~Schedule H~~ or in the usual consecutively-numbered prescription file for ~~a non-controlled substances~~ substance.
- ~~K.J.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall record the following information on the back of each prescription order when the prescription order is refilled:
1. Date refilled,
 2. Quantity dispensed, and
 3. ~~RNPRegistered nurse practitioner's name or identifiable initials. By initialing and dating~~ If the registered nurse practitioner merely initials and dates the back of the prescription order, the ~~RNP registered nurse practitioner shall be deemed to have dispensed~~ dispenses a refill for the full amount of the original prescription order.
- ~~L.K.~~ A RNP registered nurse practitioner with P & D prescribing and dispensing authority shall comply with all applicable laws and rules in prescribing, administering, and dispensing ~~a medications~~ medication or controlled ~~substances~~ substance, including compliance with labeling requirements of ~~32 A.R.S. Title 32, Chapter 18.~~
- ~~M.L.~~ Under the supervision of a ~~RNP registered nurse practitioner with P & D prescribing and dispensing authority~~, licensed or unlicensed personnel may assist the ~~RNP registered nurse practitioner~~ in the following:
1. Receiving a request for refilling a prescription medication by prescription order number;
 2. Accepting ~~a verbal refill authorization from the RNP registered nurse practitioner; and~~
 3. ~~recording~~ Recording a verbal refill authorization on the back of the original prescription form and in the patient's medical record with:
 - a. ~~the~~ The RNP registered nurse practitioner's name,
 - b. ~~date~~ Date of the refill, and
 - c. ~~name~~ Name and quantity of medication; and
34. Typing and affixing labels for prescription medications.
- ~~N.~~ A registered nurse practitioner shall not prescribe or dispense medications without being granted the authority to prescribe and dispense medications by the Board. A registered nurse practitioner who fails to timely renew the authority to prescribe or dispense medications shall not prescribe or dispense medications until renewal is approved by the Board. A registered nurse practitioner who violates this subsection shall be subject to a civil penalty which the Board may impose for each transaction. In addition, the Board may suspend the registered nurse practitioner's prescribing and dispensing authority and impose other sanctions under A.R.S. § 32-1606(C).

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~~R4-19-509. Inactive Prescribing and Dispensing Authority~~

- ~~**A.** A registered nurse practitioner may request that the Board put the registered nurse practitioner's prescribing and dispensing authority on inactive status by notifying the Board in writing. A registered nurse practitioner shall not prescribe or dispense medications while the authority to do so is on inactive status.~~
- ~~**B.** To reactivate prescribing and dispensing authority, a registered nurse practitioner shall submit to the Board the renewal fee and documentation of 6 contact hours of continuing education in pharmacology or clinical management of drug therapy, or both, for each year on inactive status before 1997. For each year on inactive status from and after 1997, the registered nurse practitioner shall submit documentation of 10 contact hours of continuing education in pharmacology or clinical management of drug therapy, or both. The maximum number of contact hours required to reactivate prescribing and dispensing authority shall not exceed 45.~~

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-48-104 | New Section |
| Table A | New Table |
| Table B | New Table |
| R4-48-128 | New Section |
- 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. § 41-619
Implementing statute: A.R.S. § 41-619
- 3. The effective date of the rules:**
October 18, 1999
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 5 A.A.R. 1124, April 16, 1999.
Notice of Proposed Rulemaking: 5 A.A.R. 1144, April 23, 1999.
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- Name: A. Hal Key, P.E., Chairperson
- Address: Arizona Uniform Plumbing Code Commission
c/o Arizona Registrar of Contractors
800 West Washington, 6th Floor
Phoenix, Arizona 85007
- Telephone: (602) 542-1525, Ext. 7445
- Fax: (602) 542-1536
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
- A. Cross-linked Polyethylene (PEX) Piping. The addition of PEX to the materials section for potable water will allow the use of a flexible non-metallic piping material that has higher corrosion resistance than the currently allowed metallic piping materials. Because PEX is a flexible piping material, joints under slab are not necessary. The inclusion of PEX will provide the users of the code with a satisfactory method for dealing with "hot soils." PEX is a corrosion resistant material that provides the user of the code with a satisfactory method for dealing with "aggressive water" both above and below slab.
- B. Appendix J of the 1994 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (I.A.P.M.O.), Reclaimed Water Systems. Changes to Appendix J clarify that the reclaimed water must originate from a treatment facility operating in accordance with the Arizona Department of Environmental Quality requirements. The changes also expand the type of treatment facilities the plumbing code currently allows under Appendix J from facilities operated only by public agencies, to all treatment facilities, as long as they meet

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ADEQ treatment, operating, and water quality requirements. Changes also reference standards ADEQ already has in rule for direct reuse. (A.A.C. R18-9-701, et seq.). In addition, changes in language strike plumbing code standards to defer to Arizona's reuse water quality standards. ADEQ uses reuse water quality standards found at A.A.C. R18-9-703, Table 1, Column H, as the basis for public health protection for plumbing fixtures within buildings as allowed by Appendix J.

7. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the final rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

None.

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:

A. Cross-linked Polyethylene (PEX) Piping. The problems presented by what are referred to as "hot soils" and "aggressive water" have left the state of Arizona with performance deficiencies for potable water piping installations that have been difficult to mitigate until now. Metallic piping can be sleeved or wrapped when installed underground and under the slab, which can help in some installations, but metallic piping is susceptible to tearing and breaking when the back fill or slab are installed. The addition of PEX will allow the use of a flexible non-metallic piping material with higher corrosion resistance than the currently allowed metallic piping materials. The resolution of both "hot soils" and "aggressive water" problems will resolve these performance deficiencies in the Arizona Uniform Plumbing Code.

B. Appendix J, Reclaimed Water Systems. Before February 1999, when Rule Title 4, Chapter 48 became final Arizona was 1 of 5 states that did not have a statewide uniform set of product and installation standards for plumbing systems. At that time the Governors Regulatory Review Council removed Appendix J and PEX from the original rule and sent it back to the Arizona Uniform Plumbing Code Commission for further review. The Arizona Uniform Plumbing Code Commission and the Arizona Department of Environmental Quality reviewed the items in this rule package together. This rule package continues the work of the Arizona Plumbing Code Commission to develop 1 statewide set of uniform plumbing standards as mandated by the Arizona Legislature. These standards will significantly reduce the number of hours required for training and education about the standards, reduce the number of re-inspections by the administrative authorities (cities, counties, and others), and reduce the quantity of rework performed by the industry (engineers, contractors, and others). One set of uniform product and installation standards will reduce training time and costs, enhance public safety and health as a result of elimination of the existing convoluted and myriad regulation imposed by the political subdivisions of the state.

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

A. Cross-linked Polyethylene (PEX) Piping. Presumably consumers and businesses act in their own best interests and choose an available alternative, such as cross-linked polyethylene (PEX) piping, that best suits their individual purposes. Thus, as the range of alternatives available to consumers or businesses expands, they would presumably only choose 1 of the new alternatives because they deem it best suits their needs. Consequently, if the range of alternatives available to consumers and business increases, it cannot have a negative economic impact.

B. Appendix J, Reclaimed Water Systems. Since the changes made to this appendix coincide with current ADEQ requirements, there will not be an economic impact.

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

Change	Reason
Minor grammatical and stylistic changes were made at the request of the Governor's Regulatory Review Council Staff.	Revise the rules to make them more clear and concise.
Added to Table B. Plumbing Material Standards under the column "Materials and Products:" Cold Expansion Fitting with PEX reinforcing ring for use with SDR-9 Cross-Linked Polyethylene (PEX Tubing)	New standard became available after the rule was 1st proposed.
Added to Table B. Plumbing Material Standards under the column "ASTM:" F1960-99	New standard became available after the rule was 1st proposed.

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11. A summary of the principal comments and the agency response to them:

Twenty oral comments were in support of this rule. The comment is duly noted.

Three oral comments were similar in that they compared PEX to PB. The Commission responds that "PEX" is not similar/identical to "PB". It is a different material than PB and constructed differently. There are no pending lawsuits, and PEX does not have a record of failure. As a listed material PEX may be used wherever the consumer may wish to install it. The burden put on the consumer and the jurisdiction to approve this as an alternate material would be too great.

Judy Skousen from the city of Chandler is opposed to PEX and says that most of the people in favor of PEX are simply manufacturers of PEX and contractors wanting to use PEX. The Commission responds that there have been comments and support by building officials of other jurisdictions. These people have the same expertise and concerns as the City of Chandler, and have chosen to support the rule.

Tom Hedges from the city of Mesa is opposed to PEX and says that the code does not have any installation standards. The Commission responds by pointing out that the plumbing code already recognizes the requirement of manufacturers' installation standards in section 60411. The installation of PEX shall be in accordance with the manufacturers' installation standards.

Dick Moseke a Professional Engineer is opposed to the proposed rule on Appendix J. He is concerned about including all waste water treatment plants because there are a number of smaller non-public plants that are not well qualified and consistently under citation by ADEQ. The Commission responds that operators of these plants must operate under an ADEQ permit.

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

None.

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

Appendix J of the I.A.P.M.O. 1994 Uniform Plumbing Code	R4-48-128(A)
ASTM F1807-97, "Metal insert fittings utilizing a copper crimp right for SDR9 Cross-Linked Polyethylene (PEX) tubing."	R4-48-104(5)
ASTM F1960-99, "Cold Expansion Fitting with PEX reinforcing ring for use with SDR-9 Cross-Linked Polyethylene (PEX Tubing)."	R4-48-104(5)

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

No.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 48. ARIZONA UNIFORM PLUMBING CODE COMMISSION

ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

Sections

- R4-48-104. Cross-linked Polyethylene (PEX) Piping
 - Table A. Materials and Types of Joints (Horizontal and Vertical)
 - Table B. Plumbing Material Standards
- R4-48-128. Appendix J. Reclaimed Water Systems

ARTICLE 1. ARIZONA UNIFORM PLUMBING CODE

R4-48-104. Cross-linked Polyethylene (PEX) Piping.

The Uniform Plumbing Code incorporated in R4-48-102 (A) is modified as follows:

1. Sec.202.0. Add a definition for "PEX" which reads: "PEX means Crosslinked Polyethylene."
2. Add a new row to Table 3-1. Refer to Table A – Materials and Types of Joints (Horizontal and Vertical).
3. Sec. 604.1 is modified to read: "Water pipe and fittings shall be of brass, copper, cast iron, galvanized malleable iron, galvanized wrought iron, galvanized steel, or other approved materials. Asbestos-cement, CPVC, PE, PEX, or PVC water pipe manufactured to recognized standards may be used for cold water distribution systems outside a building. CPVC or PEX water pipe and tubing may be used for hot and cold water distribution systems within a building. All

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materials used in the water supply system, except valves and similar devices shall be of a like material, except where otherwise approved by the Administrative Authority.”

4. Sec. 604.11 is added to read: “Cross-linked polyethylene (PEX) tubing shall be marked with appropriate designation or designations consistent with the fitting system or systems for which the tubing has been listed or approved. PEX tubing shall be installed with mechanical joints in compliance with the appropriate standards and the manufacturer’s instructions.”
5. Table 14-1. Add standards in alphabetical order listed under appropriate sections. Refer to Table B – Plumbing Material Standards. These standards are incorporated by reference. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available from American Society for Testing and Materials and are on file with the Arizona Uniform Plumbing Code Commission and the office of the Secretary of State.

Table A. Materials and Types of Joints (Horizontal and Vertical)

<u>PEX</u>	<u>Mechanical</u>	<u>One (1) inch (25.4mm) and smaller, three (3) feet (0.9 m), one-and-one-fourth (1-1/4) inch (31.8mm) and larger (4) feet (1.2 m).</u>	<u>Base and each floor. Provide mid-story guides.</u>
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Table B. Plumbing Material Standards

<u>Materials and Products</u>	<u>ANSI</u>	<u>ASTM</u>	<u>FS</u>	<u>IAPMO</u>	<u>Other Standards</u>	<u>Footnote Remarks</u>
<u>NONMETALLIC PIPE:</u>						
<u>Metal insert fittings utilizing a copper crimp ring for SDR9 Cross-Linked Polyethylene (PEX) tubing.</u>		<u>F1807-97</u>				
<u>Cold Expansion Fitting with PEX reinforcing ring for use with SDR-9 Cross-Linked Polyethylene (PEX Tubing)</u>		<u>F1960-99</u>				

R4-48-128. Appendix J, Reclaimed Water Systems.

- A.** Appendix J of the International Association of Plumbing and Mechanical Officials’ (I.A.P.M.O.) Uniform Plumbing Code (1994 Edition) is incorporated by reference. This incorporation by reference does not include any later amendments or editions. Copies of the incorporated material are available from I.A.P.M.O. at 20001 Walnut Drive South, Walnut, CA, 91789-2825 and are on file with Arizona Uniform Plumbing Code Commission and the Office of the Secretary of State.
- B.** Appendix J, incorporated by subsection (A) is modified as follows:
 1. Appendix J2, paragraph 1, is modified to read: “Reclaimed water is water approved for specific uses after the water has been treated or processed by a wastewater treatment plant operated pursuant to statutes and rules of the Arizona Department of Environmental Quality. The level of treatment and quality of the reclaimed water for the uses specified in this appendix are established by the Arizona Department of Environmental Quality pursuant to Arizona Administrative Code R18-9-703.”
 2. Appendix J2, paragraph 2, is deleted.

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TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

PREAMBLE

1. Sections Affected

R20-2-101
R20-2-702

Rulemaking Action

Amend
Amend

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R20-2-703	Amend
R20-2-704	Repeal
R20-2-704	Renumber
R20-2-704	Amend
R20-2-705	Renumber
R20-2-705	Amend
R20-2-706	Renumber
R20-2-706	Amend
R20-2-707	Renumber
R20-2-707	Amend
R20-2-708	Repeal
R20-2-708	Renumber
R20-2-708	Amend
R20-2-709	Renumber
R20-2-709	Amend
R20-2-710	Renumber
R20-2-710	Amend
R20-2-711	Renumber
R20-2-711	Amend
R20-2-712	Repeal
R20-2-712	Renumber
R20-2-712	Amend
R20-2-713	Renumber
R20-2-713	Amend
R20-2-714	Repeal
R20-2-714	Renumber
R20-2-714	Amend
R20-2-715	Renumber
R20-2-715	Amend
R20-2-716	Renumber
R20-2-716	Amend
R20-2-717	Renumber
R20-2-717	Amend
R20-2-718	Renumber
R20-2-718	Amend
R20-2-719	Repeal
R20-2-720	Renumber
R20-2-720	Amend
R20-2-721	Renumber
R20-2-721	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. § 41-2065(A)(4).

Implementing statutes: A.R.S. §§ 41-2051, 41-2065(A)(4), (14), (16), (25), (D), 41-2083(C), 41-2122(A), (B), (D) and A.R.S. § 41-2124.

3. The effective date of the rules:

October 18, 1999

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

Notice of Rulemaking Docket Opening: 5 A.A.R. 1126, April 16, 1999.

Notice of Proposed Rulemaking: 5 A.A.R. 1417, May 14, 1999.

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

Name: Sandy Williams

Address: 9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

Telephone: (602) 255-5211

Fax: (602) 255-1950

6. An explanation of the rule, including the agency's reasons for initiating the rule.

This rule package updates the materials incorporated by reference. Also, some of the Sections in Article 7 were repealed, amended, and renumbered to conform to changes in the law and in the industry. These changes will benefit the industry, the public, and the Department by being shorter and easier to understand. This package is related to ADEQ's rule package (submitted for GRRC's September 14, 1999, meeting) that includes R20-2-701 definitions and R20-2-750 through R20-2-762 governing cleaner burning gasoline.

7. A reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying the study, any analysis of the study and other supporting material:

None.

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

These are minor amendments that will have minimal, or no, impact because the rules are being clarified, are incorporating procedures that are already in place, or are being repealed.

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

Several grammatical changes were made to make the rules clearer. Also, the Department repealed R20-2-708 (B) and (C), which were the reporting requirements for oxygenated fuel blends. In re-reviewing these subsections, the Department believes that the requirements in subsection (A) of that rule sufficiently regulate oxygenated fuel blends.

11. A summary of the principal comments and the agency response to them:

None.

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

None.

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

R20-2-101:

Definition of "Handbook 44" incorporates the United States Department of Commerce Technology Administration National Institute of Standards and Technology Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, 1999 Edition, Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.

Definition of "Handbook 130" incorporates the United States Department of Commerce Technology Administration National Institute of Standards and Technology Handbook 130, *Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality*, 1999 Edition, Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-9328.

These 2 handbooks are the 1999 editions, as opposed to the previously incorporated 1998 editions.

R20-2-702 incorporates the following documents:

16 CFR 306, *Automotive Fuel Ratings, Certification and Posting*, January 1, 1998, edition, Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

ASTM D 975-97, *Specification for Diesel Fuel Oils*, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, Petroleum Products and Lubricants (I): D56 - D2596, 1998 edition, American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103-1187.

ASTM D 4814-97b, *Specification for Automotive Spark-Ignition Engine Fuel*, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.03, Petroleum Products and Lubricants (III): D 4636 - latest; Catalysts, 1998 edition, American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 18103-1187.

Waiver Requests under Section 211(f) of the Clean Air Act, 40 CFR 211, *Regulation of Fuels*, January 28, 1992, edition, U.S. Environmental Protection Agency Fuels Section (EN-397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M. St. SW, Washington, D.C. 20460.

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Merck Index, 12th edition, 1996, Merck & Co., Inc., One Merck Drive, P.O. Box 100, Whitehouse Station, N.J. 08889-0100.

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

No.

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 1. ADMINISTRATION AND PROCEDURES

Sections

R20-2-101. Definitions

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Sections

R20-2-702. Material Incorporated by Reference

R20-2-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers

~~R20-2-704. Diversion of Measured Liquid Repealed~~

~~R20-2-705-R20-2-704. Price and Grade Posting on External Signs~~

~~R20-2-706-R20-2-705. Price, and Octane, and Lead Substitute Notification on Dispensers~~

~~R20-2-707-R20-2-706. Unattended Retail Dispensers~~

~~R20-2-708. Money Value Computations Repealed~~

~~R20-2-709-R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB Requirements for Service Stations and Fleet Owners~~

~~R20-2-710-R20-2-708. Oxygenated Fuel Blends~~

~~R20-2-711-R20-2-709. Retail Oxygenated Fuel Labeling~~

~~R20-2-712. Distribution of Oxygenated Fuel Repealed~~

~~R20-2-713-R20-2-710. Blending Requirements~~

~~R20-2-714. Retail Oxygenated Fuel Marketing Repealed~~

~~R20-2-715-R20-2-711. Alcohol-oxygenated Fuel Gasoline Storage Tank Requirements~~

~~R20-2-716-R20-2-712. Water in Retail Gasoline Service Station Motor Fuel Storage Tanks~~

~~R20-2-717-R20-2-713. Motor Fuel Storage Tank Labeling~~

~~R20-2-718-R20-2-714. Requirements for Gasoline Products Outside the CBG Covered Area~~

~~R20-2-719. Requirements for Diesel Fuel Repealed~~

~~R20-2-720-R20-2-715. Motor Fuel Quality Testing Methods~~

~~R20-2-721-R20-2-716. Sampling and Access to Records~~

ARTICLE 1. ADMINISTRATION AND PROCEDURES

R20-2-101. Definitions

The following definitions, and definitions in A.R.S. §§ 41-2051, 41-2121, and 41-2131 and the following definitions apply to this Chapter:

1. No change.
2. No change.
3. No change.
4. No change.
5. No change.
6. No change.
7. No change.
8. No change.
9. No change.
10. No change.
11. No change.
12. No change.
13. "Handbook 44" means the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 44, ~~entitled~~ *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, published by the United States Government Printing Office, Superintendent

dent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (~~1998 1999 edition and no later editions or amendments~~), incorporated by reference ~~herein~~ and on file with the Department and the Secretary of State. This incorporation by reference contains no future editions or amendments.

14. "Handbook 130" means the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 130, ~~entitled Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, published by the~~ Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (~~1998 1999 edition and no later editions or amendments~~), incorporated by reference ~~herein~~ and on file with the Department and the Secretary of State. This incorporation by reference contains no future editions or amendments.
15. No change.
16. No change.
17. No change.
18. No change.
19. No change.
20. No change.
21. No change.
22. No change.
23. No change.
24. No change.
25. No change.
26. No change.
27. No change.
28. No change.
29. No change.
30. No change.
31. No change.
32. No change.
33. No change.
34. No change.
35. No change.
36. No change.
37. No change.
38. No change.
39. No change.

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-702. Material Incorporated by Reference

The following documents are incorporated ~~herein~~ by reference and on file with the ~~Office of the~~ Department and the Secretary of State. These documents do not include any later amendments or incorporations by reference contain no future editions or amendments. Copies of each are available from the Department.

1. 16 CFR 306 - ~~Octane Posting and Certification~~ Automotive Fuel Ratings, Certification and Posting, published in the Code of Federal Regulations, revised as of January 1, 1991. 1998 edition Copies are available from the, Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
2. ASTM D ~~975-90 975-97~~, ~~Standard Specifications~~ Specification for Diesel Fuel Oils, published in the 1991 edition of Annual Book of ASTM Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, Petroleum Products and Lubricants (I): D56 - D2596, 1998 edition - Copies are available from the, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.
3. ASTM D ~~4814-90 4814-97b~~, ~~Standard Specification of~~ for Automotive Spark-Ignition Engine Fuel, published in the 1991 edition of Annual Book of ASTM Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.03, Petroleum Products and Lubricants (III): D4636 - latest; Catalysts, 1998 edition. - Copies are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.
4. Waiver Requests under Section 211(f) of the Clean Air Act, 40 CFR 211, Regulation of Fuels, (revised January 28, 1992, edition), prepared by the United States Environmental Protection Agency and available from the Fuels Section (EN-397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460. Section 211(f) of the Clean Air Act allows a fuel or fuel additive manufacturer to apply to the Environmental Protection Agency's administrator to waive the prohibitions of certain paragraphs of Section 211(f). A list of the administrator's rulings on all waiver requests is available from the Environmental Protection Agency.
5. Merck Index, ~~1983 Edition. Copies of the Index are available from~~ 12th edition, 1996, Merck & Co., Inc., W.B.S. 435, P.O. Box 2000, Rahway, N.J. 07065 One Merck Drive, P.O. Box 100, Whitehouse Station, N.J. 08889-0100.

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R20-2-703. Volumetric Inspection of Motor Fuels and Motor Fuel Dispensers

- ~~A.~~ The inspector shall not work under conditions deemed to be unsafe.
- ~~B.~~ In no case shall the inspector climb a ladder to return the motor fuel to the storage tank.
- ~~C.A.~~ After completing an inspection, the Department shall return all motor fuel which is to be returned to the licensee shall be returned to the owner or operator of the service station at the testing site where the Department collected the motor fuel.
- ~~D.B.~~ In the event After completing an inspection, if a motor fuel cannot be returned to the storage tank owner or operator of the service station at the testing site where the Department collected the motor fuel, the Department shall transport the motor fuel may be transported to another site of the licensee's choosing owner or operator's choice and within a 20-mile radius of the inspection site.

R20-2-704. Diversion of Measured Liquid

No means shall be provided by which any measured liquid can be diverted from the measuring chamber of the meter or from the discharge lines leading from it. However, two delivery outlets may be installed on a motor fuel device used exclusively in the fueling of trucks, if safeguards are also installed, limiting access to only one vehicle being filled from the primary dispenser without the use of diversionary valves. In all cases, where safeguards are not installed, direct diversion valves shall be installed to allow delivery of motor fuel through only one outlet at any one time. This Section amends (S)(3)(1) of the section entitled "Liquid Measuring Devices" of Handbook 44.

~~R20-2-705.~~**R20-2-704. Price and Grade Posting on External Signs**

The following shall govern the use and means of advertising the price and grade of all motor fuels on external signs at retail motor fuel establishments when external signs are used to advertise:

- A.** An owner or operator of a service station that has a prominently displayed external sign shall ensure that the sign:
- ~~1. External signs shall identify~~ Identifies whether the type of sale is cash, ~~or credit, or debit if the price for payment types differs~~ cash, and whether self service or full service;
 - ~~2. Identifies the self service and full service prices, if different; and~~
 - ~~3. External signs shall identify~~ Identifies the grade of gasoline motor fuel ~~. If abbreviations are used, they shall be as follows as:~~
 - ~~a. REG for leaded gasoline. ;~~
 - ~~b. UNL Unleaded or UNL, regular or REG for unleaded gasoline with an octane of at least 87 - ;~~
 - ~~e.b. MID Midgrade or MID for midgrade, extra, or plus, or any other term used to identify for gasoline with an octane of at least 88 or 89. ;~~
 - ~~d.c. PREM Premium or PREM for super, high performance, or premium, or any other term used to identify for gasoline with an octane of at least 90 or above. ; and~~
 - ~~d. No. 1 diesel, #1 diesel, No. 2 diesel, or #2 diesel; and~~
 - ~~3. External signs shall identify diesel fuel as either #1 diesel or #2 diesel.~~
 - ~~4. External signs advertising the price of motor fuels shall disclose~~ Discloses the full motor fuel price including fractions of a cent and all federal and state taxes, if the sign displays the motor fuel price.
 - ~~5. External sign posting of grades, fractions of a cent, and conditions of sale shall be at least 20 percent Letter height is 1/5th of the posted price letter height of the motor fuel price displayed on the external sign size but not less than or 2 1/2" in height, whichever is larger, and shall be is visible and readable from the road ; except that such signs shall conform to the signage codes or ordinances of applicable county or municipality.~~
 - ~~6. If States the terms of any condition if the displayed price advertised is conditional upon the sale of another product or service, such condition shall be stated in compliance with paragraph (4) above. The terms of any condition shall comply with the letter height requirement in subsection (5).~~

~~R20-2-706.~~**R20-2-705. Price, and Octane, and Lead Substitute Notification on Dispensers**

- A.** The following shall govern the use and means of informative A service station owner or operator shall ensure that pricing and motor fuel grade information, octane rating, and any lead substitute addition posted or displayed on all a service station motor fuel dispensers, used in retail trade, available to the general public at attended or unattended business locations. dispenser:
- ~~1. All required posting or displays shall:~~
 - ~~a. Be Is~~ Be Is clean, legible, and visible at all times;
 - ~~b.2. Be Is~~ Be Is displayed electronically or ~~posted~~ with a sign or label on the upper 50 percent 60% of the each face of the each dispenser; and
 - ~~e.3. Disclose Lists~~ Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes. ;
 - ~~2.4. When Displays~~ Displays the highest price of motor fuel sold from the dispenser if a the dispenser is capable of ~~computing only one price, that computed and displayed price shall be the highest price of the product which is being sold from that dispenser dispensing and computing the price of multiple grades of motor fuel. Any posting for discount shall be of lettering no less than 3/8" in height and be posted on the face of the dispenser adjacent to the price readout.~~

5. If a discount is offered, the discount shall be displayed in letters at least 1/4" in height on each face of each dispenser and be next to the undiscounted price.
- 3-6. Electronic dispensers: Displays both a cash and credit price on an electronic dispenser that is capable of electronically displaying both cash and credit prices.
 - a. Capable of cash and credit card pricing displayed electronically at each dispenser shall display both the cash and credit card price.
 - b. Preset by the cashier and unable to display electronically both credit card price and cash price at the same time shall have both cash and credit card prices posted on the dispenser.
7. Posts both a cash and credit price on each face of each electronic dispenser that is preset by the cashier if the dispenser is unable to display electronically and simultaneously both cash and credit prices.
- 4-8. Nonprice computing LPG Posts a price-per-gallon sign next to or on a non-price computing dispenser for a retail-only sale of liquefied petroleum gas used as an alternative motor fuel dispensing devices used in retail trade shall post a price-per-gallon sign adjacent to or on the dispensing device. An exception is motor fuel dispensing devices that are used in retail trade that are keylock, limited access, nonprice computing.
9. Identifies the motor fuel grade as:
 - a. Unleaded or UNL, or regular or REG for unleaded gasoline with an octane of at least 87;
 - b. Midgrade or MID for midgrade, extra, or plus for gasoline with an octane of at least 88;
 - c. Premium or PREM for super, high performance, or premium for gasoline with an octane of at least 90; and
 - d. No. 1 diesel, #1 diesel, No. 2 diesel, or #2 diesel.
- B. All gasoline dispensers which are utilized in the retail sale of gasoline to consumers shall post the An owner or operator of a service station shall ensure that:
 1. The octane rating of ~~at~~ each grade of gasoline is displayed on the upper 60% of each face of each dispenser, pursuant to as prescribed by 16 CFR 306-; and
 2. The signs required by Handbook 130, for gasoline dispensers that dispense gasoline with lead substitute, is displayed on the upper 60% of each face of each dispenser in letters at least 1/4" in height.

R20-2-707.R20-2-706. Unattended Retail Dispensers

Unattended retail motor fuel dispensing business locations In addition to all labeling and sign requirements in this Article, an owner or operator of an unstaffed service station shall post on or adjacent next to the each motor fuel dispensers dispenser a sign or label, visible to the user, containing company in public view, that conspicuously lists the owner's or operator's name, address, and telephone number of the responsible party for the device.

R20-2-708. Money Value Computations Repealed

Handbook 44 notwithstanding, money value indication on retail motor fuel devices shall not differ from the mathematically computed money value (Quantity x Unit Price = Sales Price), for any delivered quantity, by an amount greater than one-half the value of the money value division.

R20-2-709.R20-2-707. Product Transfer Documentation and Record Retention for Motor Fuel other than Arizona CBG and AZRBOB Requirements for Service Stations and Fleet Owners

- A. If a person 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 or fleet vehicle fueling facility, the person shall provide to the transferee documents that include the following information: Service station operators and fleet owners shall retain, on the premises to which motor fuel has been delivered, written documentation of the quantity and identity of each grade of motor fuel delivered. The documentation shall be retained for at least the 3 most recent deliveries of each grade of motor fuel and shall, upon request, be presented to any Department official for review.
 1. The name and address of the person transferring custody or title;
 2. The name and address of the transferee;
 3. The grade of the motor fuel;
 4. The volume of each grade of motor fuel being transferred;
 5. The date of the transfer;
 6. Product transfer document number;
 7. For conventional gasoline, the minimum octane rating of each grade;
 8. For conventional gasoline, the type and maximum volume of oxygenate contained in each grade;
 9. For conventional gasoline transported in or through the CBG covered area, the statement, "This gasoline is not intended for use inside the CBG covered area;" and
 10. Whether a lead substitute is present in the gasoline and the type of lead substitute present.
- B. A registered supplier, 3rd-party terminal, or pipeline may use standardized product codes on pipeline tickets as the product transfer documentation. For all motor fuels other than Arizona CBG, the documentation shall be on a bill of lading, loading ticket, manifest, delivery receipt, invoice, or other documentation used in customary business practice of the petroleum industry and shall provide the following information:
 1. Vendor's name;

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2. Point of origin;
 3. Manifest or loading ticket number;
 4. Date of delivery;
 5. Quantity of each grade of product;
 6. For gasoline, the octane rating of the product, and
 7. For gasoline, type of oxygenate and volume of oxygenate as a percent of the total blend under R20-2-712.
 8. For gasoline in area A, beginning on May 1, 1999, the statement "This gasoline is not intended for sale in area A."
- C.** ~~A person identified in subsection (A) Service station operators and fleet owners in area A shall retain product transfer documents as provided in R20-2-757 documentation for each shipment of gasoline delivered during the for 12 months preceding that shipment. The documentation for the 3 most recent deliveries shall be maintained on the service station or fleet owners' premises. Documentation for the remainder of all deliveries for the same 12 months This documentation shall be available within 2 working days from the time of the Department's request by the Director.~~
- D.** A person identified in subsection (A) shall maintain product transfer documentation for a transfer or delivery during the preceding 30 days at that person's address listed on the product transfer documentation.
- E.** A service station owner or operator or fleet owner shall maintain product transfer documentation for the 3 most recent deliveries of each grade of motor fuel on the service station owner's or operator's or fleet owner's premises. This documentation shall be available for Department review.
- D.E.** The Department shall accept a legible photocopy of a product transfer document instead of the original. All documents requested for review by a Department official, upon request, shall be presented to the Department. Legible photocopies shall be acceptable.
- G.** A person transferring custody or title of Arizona CBG or AZRBOB shall comply with R20-2-757.

~~R20-2-710, R20-2-708.~~ Oxygenated Fuel Blends

- A.** ~~The A person who has custody of gasoline blended with an oxygenate shall ensure that the amount of any oxygenate in an unleaded gasoline blend shall does not exceed the volume amount allowed by EPA waivers. The amount of any oxygenate in a leaded gasoline blend shall not exceed the volume allowed by EPA waivers for unleaded gasoline blends. Except as provided allowed by EPA waivers, leaded or unleaded gasolines blended with ethanol or methanol shall contain a corrosive corrosion inhibitor in an amount specified by the manufacturer of the inhibitor. Any gasoline blend containing methanol shall contain a co-solvent in an amount equal to or greater than the amount required allowed by EPA waivers for unleaded gasolines within the oxygen limits allowed.~~
- B.** Reporting requirements
1. Any person who blends gasoline with an oxygenate, or combination of oxygenates, which results in a motor fuel blend containing 1.8 percent or more by weight of oxygen, shall file a report with the Department prior to the initial sale or use of such blend. If only one oxygenate is being blended into a motor fuel, a report shall be submitted if the percent by volume is:
 - a. ~~More than 2.45 percent by volume of methanol, or~~
 - b. ~~More than 5.1 percent by volume of ethanol, or~~
 - c. ~~More than 9.6 percent by volume of MTBE, or~~
 - d. Any other oxygenate or combination of oxygenates at a level that requires an EPA waiver.
 2. The report, which shall remain confidential, shall contain the following:
 - a. ~~The name of the person blending oxygenates with gasoline and the person's address and telephone number;~~
 - b. ~~The name, address, telephone number, and signature of the person preparing the report;~~
 - c. ~~The date the report was prepared;~~
 - d. ~~The type and maximum volume of each oxygenate as a percent of the total blend; and~~
 - e. ~~The amount of co-solvent contained in methanol gasoline blends.~~

~~R20-2-711, R20-2-709.~~ Retail Oxygenated Fuel Labeling

- A.** ~~All dispensers shall be labeled when offering A service station owner or operator shall ensure that a service station dispenser that offers gasoline containing an oxygenate, or combination of oxygenates, which results that results in a motor fuel gasoline blend containing 1.8 percent 1.5% or more by weight of oxygen is clearly labeled with the oxygenate volume information. If only one 1 oxygenate is being blended into a motor fuel gasoline, dispensers each face of each dispenser shall be clearly labeled with the oxygenate volume information if the percent by volume is:~~
1. ~~More than 2.45 percent 0.3% by volume of methanol, or~~
 2. ~~More than 5.1 percent 4.3% by volume of ethanol, or~~
 3. ~~More than 9.6 percent 8.3% by volume of MTBE, or~~
 4. Any other oxygenate or combination of oxygenates at a level that would require requires a waiver from the an EPA waiver.
- B.** ~~Where labeling is A service station owner or operator shall ensure that labels required under subsection (A) above, identification shall be accomplished by posting, are displayed on the upper 50 percent 60% of the each face of the each dis-~~

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penser; the appropriate following The label indicating the maximum percent by volume of each oxygenate contained in the oxygenated fuel shall state:

1. Contains up to _____ % ethanol;
2. Contains up to _____ % methanol and _____% co-solvent; ~~or~~
3. Contains up to _____ % ether (MTBE); ~~;~~ or
4. Contains up to _____ % other (specify name of oxygenate).

C. ~~Labels posted on dispensers located in Area A shall comply with subsection (B) above and shall~~ In the CBG covered area and area B, a service station owner or operator shall ensure that a label displayed on each face of each service station dispenser also contain ~~contains~~ the following statement: ~~this~~ “This gasoline is oxygenated and will reduce carbon monoxide emissions from motor vehicles”. The statement may be printed on the ~~same~~ label required in subsection (B) ~~above~~ or on a separate label. ~~If the statement is printed on a separate label is used, it~~ the label shall be posted adjacent ~~displayed next to~~ the label required in subsection (B) ~~above~~.

D. ~~Any~~ A service station owner or operator shall ensure that any other oxygenate blended with gasoline shall be ~~is~~ disclosed in the format ~~as set forth~~ described in subsections (B) and (C) ~~above~~.

E. ~~The label and printing shall be resistant to all petroleum products and weather conditions. The~~ A service station owner or operator shall ensure that:

1. ~~The label shall be required by subsection (B) is~~ clean, legible, and visible at all times; ~~Other information may be placed on the label provided the label remains in compliance with this Section.~~
2. ~~Labels shall be~~ The label is printed in black or white block letters on a sharply contrasting background; ~~and~~ and
- 1-3. ~~Lettering~~ The lettering on labels required by ~~subsection~~ subsections (B) ~~and (C) above shall be~~ is no less than ~~1/2”~~ 1/4” in height; ~~and~~
2. ~~Lettering for the statement required by subsection (C) above shall be no less than 1/4” in height.~~

~~R20-2-712. Distribution of Oxygenated Fuel Repealed~~

~~A:~~ Any person distributing gasoline containing an oxygenate, or combination of oxygenates, which results in a motor fuel blend containing 1.8 percent or more by weight of oxygen on a wholesale basis shall provide the buyer with documentation verifying the type of each oxygenate and the volume of each oxygenate as a percent of the total blend. ~~If only one oxygenate is being blended into a motor fuel, the documentation shall be provided when gasoline contains:~~

1. ~~More than 2.45 percent by volume of methanol, or~~
2. ~~More than 5.1 percent by volume of ethanol, or~~
3. ~~More than 9.6 percent by volume of MTBE, or~~
4. ~~Any other oxygenate at a level that would require a waiver from the EPA.~~

~~B:~~ The documentation required in subsection (A) above shall be provided on the bill of lading, loading ticket, manifest, delivery receipt, invoices, or other documentation used in customary business practice.

~~C:~~ The weight oxygen content shall be calculated by the Department by using the prescribed percent volume to percent oxygen formula as described in the definition for oxygen content contained in R20-2-701.

~~R20-2-713-R20-2-710. Blending Requirements~~

~~A.~~ To enable adjustments in noncompliance inventory and to preclude A person who has custody or transports an oxygenated gasoline blend shall ensure that no neat oxygenate blending occurs at the retail a service station or fleet location, no motor fuel shall be introduced into a retail or fleet motor fuel storage tank that contains more than 20% by volume of any oxygenate. No motor fuel in the retail or fleet motor fuel storage tank shall contain concentrations of oxygenates in excess of EPA waiver specifications.

~~B.~~ If a service station storage tank contains an oxygenated gasoline blend that does not contain the amount of oxygen required by A.R.S. § 41-2123, § 41-2125, or R20-2-751, the service station owner or operator shall do 1 of the following:

1. Add gasoline that contains no more than 20% by volume of any oxygenate to the non-compliant blend;
2. Add a gasoline blend that dilutes the oxygenated gasoline blend to the level of oxygen content required by A.R.S. § 41-2123, § 41-2125, or R20-2-751; or
3. Empty the storage tank and replace the gasoline with a required oxygenate blend.

~~R20-2-714. Retail Oxygenated Fuel Marketing Repealed~~

~~In any area with a mandatory minimum oxygen level during any specific period of time the weight oxygen content of oxygenated fuel being dispensed from any dispenser shall be calculated by the Department by using the prescribed percent volume to percent oxygen formula as described in the definition for oxygen content in this Chapter.~~

~~R20-2-715-R20-2-711. Alcohol-oxygenated Fuel Gasoline Storage Tank Requirements~~

~~A.~~ Prior to the introduction of any Before a person adds an alcohol-oxygenated fuel gasoline into a motor fuel storage tank, the following procedures shall be followed person shall:

1. ~~The tank shall be tested~~ Test the tank for the presence of water and, if any water is detected, ~~it shall be removed~~ remove it from the tank; ~~;~~ and

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2. ~~Fuel~~ Install fuel filters designed for use with alcohol-oxygenated fuels gasoline shall be installed in the fuel line of all dispensers that will dispense alcohol alcohol-oxygenated gasoline blends.
- B. If water or a mixture of alcohol and water is detected in alcohol-oxygenated fuel gasoline at any time in a storage tank, the owner or operator shall empty the entire contents shall be removed from the tank storage tank.

~~R20-2-716~~R20-2-712. Water in Retail Gasoline Service Station Motor Fuel Storage Tanks

~~Water~~ A service station owner or operator shall ensure that water in retail a service station motor fuel storage tanks of regulated products, tank other than alcohol-oxygenated fuel an alcohol gasoline blend, shall does not exceed one inch 1" in depth when measured from the bottom through the fill pipe. Water The service station owner or operator shall be removed remove all water from the tank prior to the delivery and subsequent selling of additional product from such storage tank before delivery or sale of motor fuel from that tank.

~~R20-2-717~~R20-2-713. Motor Fuel Storage Tank Labeling

- A. ~~All~~ A service station owner or operator shall ensure that all motor fuel storage tank fill pipes and gasoline vapor return lines located at retail motor fuel service stations shall have a label affixed a service station are labeled to properly identify one of the following the contents accurately as:
- ~~1. Leaded gasoline,~~
 - ~~2.1. Unleaded gasoline,~~
 2. Unleaded midgrade gasoline,
 - ~~3. Unleaded premium gasoline,~~
 - ~~4. Leaded gasoline with oxygenate,~~
 - ~~5. Unleaded gasoline with oxygenate,~~
 - ~~6. Unleaded premium gasoline with oxygenate,~~
 - ~~7.4. No. 1 or #1 Diesel diesel fuel,~~
 - ~~8.5. No. 2 or #2 Diesel diesel fuel, or~~
 - ~~9.6. Gasoline vapor return line.~~
- B. ~~The~~ A service station owner or operator shall ensure that labels shall be no less than are at least 1 1/2"x 5" displaying with at least 1/4" black or white block lettering of not less than 1/4" in height on a sharply contrasting background. The label and printing shall be resistant to all petroleum products, all weather conditions, and securely affixed to the fill pipe by wire or other substantial means. The and that the label shall be is clean, visible, and legible at all times.
- C. ~~Other information may be displayed on the reverse side of the label as desired. A service station owner or operator may display other information on the reverse side of a 2-sided label.~~
- D. ~~Fuel shall not be introduced into storage tanks unless the proper label is affixed. A service station owner or operator shall not put motor fuel into storage tanks without attaching the proper label.~~

~~R20-2-718~~R20-2-714. Requirements for Gasoline Products Outside the CBG Covered Area

- A. ~~Gasoline~~ A service station owner or operator shall ensure that gasoline and gasoline-oxygenate blends offered for sale at service stations outside the CBG covered area shall meet all the ASTM D 4814-97b requirements of ASTM D 4814 except:
1. The minimum vapor pressure allowed shall be ~~four~~ 6.4 pounds per square inch;
 2. From May 1 through September ~~15~~ 30 maximum vapor pressures ~~pressure~~ shall be as follows 9.0 pounds per square inch, and other volatilities shall be consistent with the corresponding volatility classes established by ASTM D 4814:
- | | Area A | Remainder of State |
|-------------------------|--------|--------------------|
| a. May | 9.0 | 9.0 |
| b. June | 7.8 | 9.0 |
| c. July | 7.8 | 9.0 |
| d. August | 7.8 | 9.0 |
| e. September | 7.8 | 9.0 |
3. From October 1 through March 31, in Area A, the maximum vapor pressure shall be ten pounds per square inch pursuant to A.R.S. § 41-2083(E), and other volatilities shall be consistent with the corresponding volatility class established by ASTM D 4814.
 - ~~4.3.~~ For gasoline-ethanol blends, the vapor pressure may be ~~up to one~~ 1 pound per square inch ~~higher~~ greater than the vapor pressures established by ASTM D 4814 or, if applicable, the exceptions listed in paragraphs (2) and (3) above, during:
 - a. May 1 through September 15 if the base fuel meets the requirements of ~~ASTM D 4814~~ ASTM D-97b, the volatility requirements of ~~R20-2-718(A)(2)~~ subsection (A)(2) and the final gasoline-ethanol blend contains at least ~~nine percent~~ 9% ethanol by volume but does not exceed EPA waivers ; and
 - b. September 16 through April 30, ~~except in Area A during October 1 through March 31,~~ if the base fuel meets the requirements of ~~ASTM D 4814~~ ASTM D 4814-97b and the final gasoline-ethanol blend contains ~~any amount of ethanol but does not exceed EPA waivers~~ at least 1.5% ethanol by weight and does not exceed EPA waivers.

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- e. ~~October 1 through March 31, in Area A, if the base fuel meets the requirements of ASTM D 4814, the volatility requirements of R20-2-718(A)(3) and the final gasoline-ethanol blend contains at least 7.3 percent ethanol by volume but does not exceed EPA waivers.~~
- B. ~~The~~ A service station owner or operator shall ensure that the finished gasoline shall be is visually free of undissolved water, sediment, and suspended matter, and ~~shall be is~~ clear and bright at ~~the ambient temperature or 705 F (215 C) 70 degrees Fahrenheit (21 degrees Celsius), whichever is higher 70 degrees F. (21 degrees C.), whichever is greater.~~
- C. ~~Minimum~~ A service station owner or operator shall ensure that the minimum octane rating as determined by ~~(R+M)/2 method shall be the test average of ASTM D 2699 and ASTM D 2700, also known as the R+M/2 method, is:~~
 - 1. ~~87 for leaded~~ unleaded or regular;
 - 2. ~~87 for unleaded~~ 88 for midgrade, extra, or any other gasoline with an octane rating of 88 or higher; and
 - 3. ~~90 for super, high performance, premium, or any other term used to identify higher octane gasoline with an octane rating of 90 or higher.~~

~~R20-2-719. Requirements for Diesel Fuel Repealed~~

~~All #1 and #2 Diesel fuel shall meet all of the requirements of ASTM D 975.~~

~~R20-2-720.~~R20-2-715. Motor Fuel Quality Testing Methods

- ~~A.~~ A person testing gasoline blends shall use the test methods of tests for gasoline blends shall be the methods established by ASTM D 4814 ASTM D 4814-97b for gasoline and oxygenated fuel and D 975 for diesel fuel.
- ~~B.~~ A person testing #1 or #2 diesel fuel shall use the test methods established by ASTM D 975-97.

~~R20-2-721.~~R20-2-716. Sampling and Access to Records

- ~~A.~~ Samples of The Department shall obtain motor fuel samples for testing shall be obtained by the Department or its authorized agents from:
 - 1. ~~The same dispensing device~~ dispenser used for sales to customers; ;
 - 2. ~~The same dispensing device~~ dispenser used for dispensing motor fuel into fleet vehicles; ;
 - 3. ~~Any~~ A bulk storage facility; ;
 - 4. ~~Any~~ A common carrier having custody of motor fuel, including Arizona CBG or AZRBOB ; ;
 - 5. ~~Any~~ A transporter of Arizona CBG or AZRBOB; ;
 - 6. ~~Any~~ A final distribution facility; ;
 - 7. ~~Any~~ A 3rd-party terminal having custody of Arizona CBG or AZRBOB; ; or
 - 8. ~~Any~~ An oxygenate blender or registered supplier.
- ~~B.~~ Records A person required by this Article to maintain records relating to the production, importation, blending, transport, distribution and or delivery of Arizona CBG and or AZRBOB required by this Article shall be ensure that the records are available for Department inspection at any reasonable time by the Department or its authorized agents.