

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 2. ADMINISTRATION

CHAPTER 1. DEPARTMENT OF ADMINISTRATION

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R2-1-101 | New Section |
| R2-1-102 | New Section |
| R2-1-103 | New Section |
| R2-1-104 | 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. § 38-613
Implementing statute: A.R.S. § 38-613
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
None
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Karie Miller
Address: 100 N. 15th Avenue, Suite 261
Phoenix, AZ 87007
Telephone: (602) 364-4664
Fax: (602) 542-5632
E-mail: karie.miller@ad.state.az.us
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
In accordance with A.R.S. § 38-613, establishment by a statutory authority of policy and procedures for the statewide employee suggestion program that results in elimination or reduction of state expenditures or improvement of operations in the public interest.
- 6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on in its evaluation of or justification for the rule or proposes not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 7. 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
- 8. The preliminary summary of the economic, small business, and consumer impact:**
Probable costs to the implementing agency will vary based on the suggestion. In cases where the suggestion will result in the elimination or reduction of state expenditures, there will be no costs incurred. In cases where the suggestion does not eliminate or reduce state expenditures but will improve an operation in the public interest or perform a special act or service in the public interest, there will be costs incurred. The costs to the state can be approximated based on prior awards that were given out under the now expired rules. In 2001, \$895 in award money was given out,

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and in 2002, \$2,100 in award money was given out. It is projected that the new rule and award determination criteria will result in a similar expenditure to the state in the coming years.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Karie Miller
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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

A public proceeding is scheduled for August 18, 2003 at 10:00 a.m., 100 N. 15th Avenue, Room 300A & B, Phoenix, AZ. A person may submit written comments regarding the proposed rule at the address listed below. Comments must be submitted by no later than 4:00 p.m., August 20, 2003, to the following person:

Name: Karie Miller
Address: 100 N. 15th Avenue, Suite 261
Phoenix, AZ 87007
Telephone: (602) 364-4664
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11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

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

None

13. The full text of the rules follows:

TITLE 2. ADMINISTRATION

CHAPTER 1. DEPARTMENT OF ADMINISTRATION

ARTICLE 1. ~~EXPIRED~~ MERIT AWARD SYSTEM

Section

- R2-1-101. ~~Expired~~ System definitions
- R2-1-102. ~~Expired~~ Suggestion submission
- R2-1-103. ~~Expired~~ System conditions
- R2-1-104. ~~Expired~~ Recognition awards

ARTICLE 1. ~~EXPIRED~~ MERIT AWARD SYSTEM

R2-1-101. ~~Expired~~ System definitions

- A.** "Evaluation team" means a body established by the agency affected by a suggestion that reviews, evaluates and determines the feasibility of implementing the suggestion.
- B.** "Executive Director of the Merit Award System" means the Director of the Department of Administration or designee.
- C.** "Agency Coordinator" means the person designated within each state agency who is responsible for tracking the suggestions affecting the agency and for communicating with the suggester and the Merit Awards Office.
- D.** "Joint submission" means an idea submitted by two or more eligible participants.
- E.** "Merit Awards Office" means an office designated by the Director of the Department of Administration to perform administrative duties in support of the Merit Awards Board.
- F.** "Suggestion" means an original, positive idea that benefits the state and is voluntarily submitted subject to the conditions in R2-1-103.
- G.** "Adopted" means acceptance of a suggestion with the intent of implementation.

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H. "Implemented" means an original, positive idea that has been put into practical effect according to the method set forth in the suggestion.

I. "Protected" means a suggestion that is shielded from infringement or restriction by another suggester for a specified period of time to maintain the status or integrity of the original suggestion.

R2-1-102. Expired Suggestion submission

A. Suggestion receipt: A suggestion shall be considered to have been received when it is time dated in the Merit Awards Office.

B. Form completion: A completed suggestion form shall identify the suggester or suggesters, the current situation or practice the suggestion addresses, the proposed change that would alter the current situation or practice and the expected benefit of the suggestion. An incomplete suggestion will be returned to the suggester with written notice from the Merit Awards Office. The suggester may submit a revised suggestion within 30 calendar days from the date of the written notice. Failure of the suggester to complete the form after the 30 days invalidates the suggestion.

C. Joint submissions: In the case of a joint submission, the participants shall divide equally any monetary award.

D. Delayed submissions: A suggestion submitted to the Merit Awards Office within 180 days after it was implemented is eligible for award consideration. Documentation of the implementation date of a delayed submission shall be provided by the suggester.

E. Ownership: All suggestions and their contents received and recorded in the Merit Awards Office, whether adopted or not, become the property of the state of Arizona.

F. Patentability: A suggestion for which the suggester has applied for patent rights is not eligible for an award.

R2-1-103. Expired System conditions

A. Eligibility: All state employees are eligible to participate in the Merit Award System, except as indicated in subsection (B).

B. Eligibility exceptions: Agency directors, deputy, associate and assistant directors, executive directors of state boards or commissions, members of productivity commissions appointed by the Governor, members of the Merit Awards Board, supervisors, and managers as indicated in this subsection are not eligible for merit awards submitted on behalf of their respective agency. An employee who serves on an evaluation team is ineligible while serving as an active evaluator.

C. Eligibility authority: The head of the affected agency is the final authority in determining whether a suggester is eligible to receive an award.

D. Duplication: If essentially similar suggestions are submitted, the suggestion received first in the Merit Awards Office, as determined by the time-dated receipt, shall be considered to the exclusion of the other essentially similar suggestion.

E. Protection period: A suggestion that is not adopted is protected as the suggester's original idea for two years from the date of original receipt. At the end of the two-year protection period, a suggestion that is not adopted shall be removed from the Merit Awards Office's active file. A suggester may retain protection by resubmitting the suggestion prior to the end of the protection period. A suggestion shall be protected for a maximum of four years from the original date of receipt by the Merit Awards Office.

F. Re-evaluation: At any time during the protection period, the suggester may present additional information to the Merit Awards Office and request re-evaluation.

G. Unacceptable suggestions: Suggestions and ideas shall not be considered within the Merit Award System that:

1. Are unrelated to state activities or fall outside the authority or responsibility of the state.
2. Offer an indefinite means of accomplishment.
3. Concern matters resulting in organizational changes or involve high level policy decision.
4. Result in an increase to wages, salaries or employee compensation.
5. Recommend compliance with existing procedures and regulations.
6. Concern matters that are subject to legislative action.

H. The agency head has final authority to approve and implement a suggestion.

R2-1-104. Expired Recognition awards

A. The award for an adopted suggestion shall be made within 180 days after the affected agency implements the idea.

B. An employee who submits an implemented suggestion shall be awarded a trophy, a certificate of recognition, and a monetary award, if applicable.

C. The Executive Director of the Merit Awards Review Board shall ensure that an award is made for each implemented suggestion. Multiple suggesters submitting a single suggestion shall divide equally any monetary award.

D. An employee who submits a suggestion that can be applied beyond the program, division, or agency within which it was implemented shall receive a Statewide Applicability Bonus. The Merit Awards Review Board shall issue a memo describing the suggestion and the statewide applicability of the suggestion shall be given to the Director of the Department of Administration for the purpose of sharing information about the applicability of the suggestion to other agencies.

E. If the suggester of an implemented suggestion is later determined to be ineligible, the Director of the Department of Administration shall initiate reimbursement proceedings for approval by the Merit Awards Board for an award recipient to reimburse the state.

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- F.** A suggestion that has been adopted but not implemented shall be removed from the Merit Awards Office's active files after four years from the date of original receipt.
- G.** The Merit Awards Board shall assign each suggestion an evaluation score based on the following evaluation factors:
1. Cost savings.
 2. Time.
 3. Impact on customer service.
 4. Effectiveness.
 5. Visibility, and
 6. The Merit Award Board may exercise its discretion when making an award for extraordinary and unique suggestions by a unanimous vote.
- H.** The Merit Awards Board shall develop an evaluation score schedule. The Board shall dispense monetary awards based on the evaluation score. In the event of a discrepancy, the Merit Awards Board's determination as recorded in the minutes of their meetings shall prevail.

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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

An oral proceeding is not scheduled for this proposed rule. To request an oral proceeding or to submit comments, please contact the rules analyst listed in item #4 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except legal holidays. If a request for an oral proceeding is not made, the public record in this rulemaking will close at 4:30 p.m. on August 12, 2003.

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

None

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

United States Standards for Grades of Apples, 7 CFR 51.300 et seq., revised as of January 1, 2003—R3-4-701

13. The full text of the rules follows:

TITLE 3. AGRICULTURE

**CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION**

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

R3-4-701. Apple Standards

ARTICLE 7. FRUIT AND VEGETABLE STANDARDIZATION

R3-4-701. Apple Standards

A. Definitions:

1. ~~“Carefully hand-picked” means that the apples do not show evidence of rough handling or of having been on the ground.~~
2. ~~“Clean” means that the apples are free from dirt, dust, spray residue, and other foreign material which affects the edible or shipping quality.~~
3. ~~“Diameter”. When measuring for minimum size, “diameter” means the greatest dimension of the apple measured at right angles to a line from stem to blossom end. When measuring for maximum size, “diameter” means the smallest dimension of the apple determined by passing the apple through a round opening in any position.~~
4. ~~“Fairly tight” means that apples are of the proper size for molds or cell compartments in which they are packed and that molds or cells are filled in such a way that no more than slight movement of apples within molds or cells is possible. The top layer of apples, or any pad or space filler over the top layer of apples, shall be not more than 3/4 inch below the top edge of the carton.~~
5. ~~“Fairly well filled” means that the net weight of apples in containers ranging from 2,100 to 2,900 cubic inch capacity is not less than 37 pounds for Cortland, Gravenstein, Jonathan, McIntosh and Golden Delicious varieties, and not less than 40 pounds for all other varieties.~~
6. ~~“Fairly well formed” means that the apple may be slightly abnormal in shape but not to an extent which detracts from its appearance.~~
7. ~~“Mature” means that the apples have reached the stage of development which will ensure the proper completion of the ripening process. Before a mature apple becomes overripe, it will show varying degrees of firmness, depending upon the stage of the ripening process, as described by the following terms:
 - a. ~~“Hard” means apples with a tenacious flesh and starchy flavor.~~
 - b. ~~“Firm” means apples with a tenacious flesh but which are becoming crisp with a slightly starchy flavor, except the Delicious variety.~~
 - c. ~~“Firm ripe” means apples with crisp flesh except that the flesh of the Gano, Ben Davis, and Rome Beauty varieties may be slightly mealy.~~
 - d. ~~“Ripe” means apples with mealy flesh and soon to become soft for the variety.~~~~
8. ~~“Overripe” means apples which are dead ripe, with flesh very mealy or soft and past commercial utility.~~
9. ~~“Serious damage” means any one of the following defects or an equally objectionable variation or combination of these defects:~~

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- a. Smooth solid russeting, when more than 1/2 of the surface in the aggregate area is covered including any russeting in the stem cavity or calyx basin; slightly rough, or excessively rough or bark-like russeting which detracts from the appearance of the fruit to a greater extent than the amount of smooth solid russeting permitted; provided that any amount of russeting shall be permitted on Roxbury Russet and other similar varieties;
 - b. Sunburn or sprayburn which detracts from the appearance of the fruit;
 - c. Limb rubs which affect more than 1/10 of the surface in the aggregate area;
 - d. Hail marks, drought spots, or scars, if they materially deform or disfigure the fruit or if such defects affect more than 1/10 of the surface in the aggregate; provided that no hail marks which are unhealed shall be permitted and not more than an aggregate area of 1/2 inch shall be allowed for well-healed hail marks where the skin has been broken;
 - e. Stem or calyx cracks which are not well healed, or well-healed stem or calyx cracks which exceed an aggregate length of 1/2 inch;
 - f. Visible water core which affects an area of more than 1/2 inch in diameter;
 - g. Disease:
 - i. Seab spots which affect a total area of more than 3/4 inch in diameter;
 - ii. Cedar rust infection which affects a total area of more than 3/4 inch in diameter;
 - iii. Sooty blotch or fly speck which affects more than 1/3 of the surface;
 - iv. Red skin spots which affect more than 1/3 of the surface;
 - v. Bitter pit or Jonathan spot which is thinly scattered over more than 1/10 of the surface and does not materially deform or disfigure the fruit.
 - h. Insects:
 - i. Healed stings which affect a total area of more than 1/4 inch in diameter including any encircling discolored rings;
 - ii. Worm holes.
10. "Seriously deformed" means that the apple is badly misshapen.
- B.** Pursuant to A.R.S. § 3-487(B)(1), the following standards, which are equivalent to U.S. No. 1 Grade, shall apply to all apples produced in the state:
- 1. U.S. No. 1 consists of apples of one variety which are mature but not overripe, carefully handpicked, clean, fairly well formed, free from decay, internal browning, internal breakdown, bitter pit, Jonathan spot, scald-freezing injury, visible water core, and broken skins and bruises, except those which are incident to proper handling and packing:
 - a. Apples of this grade are free from serious damage caused by russeting.
 - b. Not more than 25% of the aggregate area of a U.S. No. 1 grade apple shall be covered by smooth net-like russeting.
 - c. Not more than 10% of the aggregate area of an apple shall be covered by smooth solid russeting; and in the case of the Yellow Newtown or similar varieties not more than 20% of the aggregate area of an apple shall be covered with smooth solid russeting.
 - d. Each U.S. No. 1 apple shall have the amount of color specified in subsection (C).
 - e. U.S. No. 1 grade has no requirement pertaining to invisible water core.
 - 2. U.S. No. 1 Early consists of apples which meet the requirements of U.S. No. 1 grade, except as to color and maturity, and meet a minimum size requirement. Apples of this grade have no color requirements, need not be mature, and are not less than 2 inches in diameter. This grade is provided for varieties such as Duchess, Gravenstein, Red June, Twenty Ounce, Wealthy, Williams, Yellow Transparent and Lodi, or other varieties which are normally marketed during the summer months.
 - 3. U.S. No. 1 Hail consists of apples which meet the requirements of U.S. No. 1 grade, except that hail marks where the skin has not been broken and well-healed hail marks where the skin has been broken are permitted, provided the apples are fairly well formed.
- C.** The following standards shall be considered as U.S. Condition Standards for Export and shall be applied to domestic shipments of apples as well as export lots:
- 1. Not more than 5% of the apples in any lot shall be further advanced in maturity than firm ripe.
 - 2. Not more than 5% of the apples in any lot shall be damaged by storage seab.
 - 3. Not more than a total of 5% of the apples in any lot shall be affected by scald, internal breakdown, freezing injury, decay, damage by water core, bitter pit, Jonathan spot, or other condition factors and not more than 2% shall be allowed for apples affected by decay, soft scald, slight scald or internal breakdown.
 - 4. Container packs shall comply with the packing requirements, as specified in subsection (J), and which are equivalent to the United States Standards for Grades of Apples.
 - 5. Any lot of apples shall be considered as meeting the U.S. Condition Standards for Export if the entire lot averages within the requirements specified in this Section. No package in any lot shall have more than double the percentages specified, except for packages which contain 10 pounds or less. Individual packages in any lot may have not more than three times the tolerance or one apple (whichever is the greater amount).

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- D. Color Requirements.** All apples shall have the percentage of color specified for the variety listed in Table 1.
1. For the solid red varieties, the percentage stated refers to the area of the surface which is covered with a good shade of solid red characteristic of the variety; provided that the apple having color of a lighter shade of solid red or striped red than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with the minimum percentage of good red characteristic of the variety required for the grade.
 2. For the striped red varieties, the percentage stated refers to the area of the surface in which the stripes of a good shade of red characteristic of the variety shall predominate over stripes of lighter red, green, or yellow. However, an apple having color of a lighter shade than that considered as a good shade of red characteristic of the variety may be admitted to a grade, provided it has sufficient additional area covered so that the apple has as good an appearance as one with minimum percentage of stripes of a good red characteristic of the variety required for the grade.
 3. Faded brown stripes shall not be considered as color except in the case of the Gray Baldwin variety.
- E. Color standards** USDA Visual Aid APL L-1 (including plates A, B, C, D, E, and F) consist of a folder containing the color requirements for apples, as set forth in this subsection; five plates illustrating minimum good shade of solid red or striped red color, minimum compensating color and a shade not considered color, for Red Delicious, Winesap, Delicious, McIntosh, and Jonathan varieties; and one plate illustrating minimum white or light green color and characteristic color for the Golden Delicious variety. The color standard plates A, B, C, D, E, and F as set forth in U.S. Standards for Grades of Apples, 51.300 to 51.323, amended July 25, 1972, are incorporated herein by reference and do not include any later amendments or editions of the incorporated matter. The color standards are on file with the Office of the Secretary of State and may also be examined in the Fruit and Vegetable Standardization Office, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, South Building, Washington, D. C. 20250.

TABLE 1—COLOR REQUIREMENTS FOR SPECIFIED
 U.S. GRADES OF APPLES BY VARIETY

VARIETY	U.S. EXTRA- FANCY Percent	U.S. FANCY Percent	U.S. NO. 1 Percent
Solid Red:			
Other Similar Varieties (1)	66	40	25
Red Sport Varieties (2)	66	40	25
Striped or partially red:			
Jonathan	66	33	25
McIntosh	50	33	25
Rome Beauty	50	33	15
Delicious	50	25	15
Red checked or blushed:			
Fuji	(7)	(8)	(8)
Gala	(7)	(8)	(8)
Other similar varieties	(7)	(8)	(8)
Green varieties	(9)	(9)	(9)
Yellow varieties	(9)	(9)	(9)
Golden Delicious	(10)	(10)	(9)

(1) Arkansas Black, Beacon, Detroit Red, Esopus Spitzenburg, King David, Lowry, Minjon.

(2) When Red Sport varieties are specified as such, they shall meet the color requirements specified for Red Sport varieties.

- F. Tolerance Requirements.** U.S. No. 1 Grades shall meet the following tolerances:
1. Not more than 5% of the apples in any lot shall be seriously damaged, including not more than 1% affected by decay or internal breakdown. Not more than 10% of the apples in any lot may fail to meet the total requirements prescribed in this Section.
 2. When size is designated by the numerical count for a container, not more than 5% of the apples in the lot may vary more than 1/4 inch in diameter.
 3. When size is designated by minimum or maximum diameter, not more than 5% of the apples in any lot may be smaller than the designated minimum and not more than 10% may be larger than the designated maximum.
- G. Tolerance Applications.** The contents of individual packages in the lot are subject to the following limitations, provided that the averages for the entire lot are within the tolerances specified for the grade:

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1. Packages containing more than 10 pounds shall have not more than 1 1/2 times a specified tolerance specified for the grade. Not more than double a tolerance for apples affected by decay, as set forth in subsection (E)(1), shall be permitted; except that at least one apple which is seriously damaged by insects or affected by decay or internal breakdown may be permitted in any package.
 2. Not more than 10% of packages containing 10 pounds or less may have more than three times the tolerance specified for the grade, except that at least one defective apple may be permitted in any package. Provided that not more than one apple or more than 6% (whichever is the larger amount) may be seriously damaged by insects or affected by decay or internal breakdown.
- H.** Percentages shall be calculated on the basis of count when the numerical count is marked on the container. When the minimum diameter, or minimum and maximum diameters, is marked on a container, or when the apples are jumbled in a container or in bulk, percentages shall be calculated on the basis of weight or an equivalent basis.
- I.** Decay, scald, or any other deterioration which may have developed on apples after they have been in storage or transit shall be considered as affecting the condition and not the grade.
- J.** Packing Requirements:
1. Apples which are tray packed, or cell packed in cartons, shall be at least fairly tight or fairly well filled.
 2. Closed cartons containing apples, not tray or cell packed, shall be fairly well filled or the pack shall be sufficiently tight to prevent any appreciable movement of the apples.
 3. Packs in wooden boxes or baskets shall be sufficiently tight to prevent any appreciable movement of apples within containers when the packages are closed. Each wrapped apple shall be completely enclosed by its individual wrapper.
 4. Apples on the shown face of any container shall be representative in size, color, and quality of the contents.
 5. In order to allow for variations incident to proper packing, not more than 10% of the containers in any lot may fail to meet the requirements in this subsection.
- K.** Marking Requirements. The numerical count, or the minimum diameter of the apples packed in a closed container, shall be indicated on the container and the following shall apply:
1. When the numerical count is not shown, the minimum diameter shall be plainly stamped, stenciled, or otherwise marked on the container in terms of whole inches; or whole inches and not less than 1/8-inch fractions thereof.
 2. The word "minimum" or its abbreviation when following a diameter size marking, means that the apples are of the size marked or larger.
- L.** The following controlled atmosphere standards shall apply only to rooms or storage buildings containing apples:
1. Any person owning or operating a controlled atmosphere room or storage building, or packers or repackers of apples coming under the provisions of this Section, shall register with the Director and shall provide the following information on a form furnished by the Department:
 - a. The name, company name, address, and telephone number of the applicant;
 - b. The name of each member, or partner, if operating as a partnership or firm;
 - c. The name of each officer if operating as a corporation or association;
 - d. The location of the controlled atmosphere storage facilities;
 - e. The number of rooms available for storage;
 - f. The total capacity, in bushels;
 - g. The types of fruit provided for.
 2. The registration period is from July 1 to June 30.
 3. Each owner or operator of such a room or storage building shall register with the Department on or before July 1 of each year.
 4. The Director shall assign each approved registrant a registration number preceded by the letters CA. This number shall be marked on all containers coming under the provisions of this Section and shall be in accordance with all provisions pertaining to markings, as set forth in R3-4-737.
 5. Each owner or operator shall make the required air constituents determination on a daily basis. Within 20 days after the date of sealing, the percent of oxygen shall be reduced to a maximum of 5%.
 6. Each owner or operator shall maintain a record for each room and provide the following information on a form furnished by the Department:
 - a. The owner or operator's name, address, and room number;
 - b. The date of sealing and the date of opening;
 - c. The room capacity in bushels;
 - d. The lot identification and number of bushels within each lot;
 - e. The daily air constituents determination recordings showing date of test, time of test, percentage of carbon dioxide, percentage of carbon dioxide and oxygen, percentage of oxygen, temperature, and comments.
 7. Under provisions of this Section, any person selling, offering or transporting apples for sale within the state, shall furnish the following information on an invoice covering the sale of such apples:
 - a. The CA registration number, as prescribed in subsection (L)(4), assigned to the owner or owners of the controlled atmosphere room or storage building in which each lot or lots of apples was kept.

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- b. ~~The CA registration number, as prescribed in subsection (L)(4), assigned to the owner or owners of the apples, and which is required to be marked on each container within each lot or lots of apples included thereon.~~
- 8. ~~Within 20 days after the date of sealing, each owner or operator shall provide the Department with a written report for each room containing the following information:~~
 - a. ~~The room number;~~
 - b. ~~The date of sealing;~~
 - e. ~~The number of bushels contained therein.~~
- 9. ~~Upon complying with the filling, sealing, and atmosphere requirements of this subsection, all controlled atmosphere rooms shall be sealed with a Department seal by an authorized Department representative. Any such sealed room may not be entered during the required 90-day storage period, except under the following conditions:~~
 - a. ~~In order to make repairs necessary to maintain proper storage conditions, the applicant shall notify the Director, or the Director's authorized representative, within 48 hours of such entry; and~~
 - b. ~~For the purpose of removing apples, such entry shall be subject to the following requirements:~~
 - i. ~~The Director, or authorized representative, shall be notified of the amount of apples to be removed 24 hours prior to opening the rooms; and~~
 - ii. ~~No apples shall be added during the time the room is open; and~~
 - iii. ~~While open, the temperature of rooms containing hard varieties, such as Delicious, Rome, and Stayman Winesap, shall not exceed 36° F; and~~
 - iv. ~~The oxygen content of the room shall be reduced to 5% or less within six days (144 hours) after the time the room is opened; and~~
 - v. ~~No room shall be entered more than once during the required 90-day period for the purpose of removing apples.~~
 - e. ~~Any room which has been entered, pursuant to subsection (L)(9)(b), shall be resealed by an authorized Department representative. The total amount of time the room has been above 5% oxygen shall be added to the original 90-day period thereby assuring a minimum of 90 days at, or below, 5% oxygen, except in the case of Gala, Fuji, or Braeburn varieties which shall be a minimum of 60 days at, or below, 5% oxygen.~~

The standards for apples in Arizona are the standards prescribed for U.S. No. 1 apples in the United States Standards for Grades of Apples, 7 CFR 51.300 et seq., revised as of January 1, 2003. The material is incorporated by reference and on file with the Department. This incorporation by reference contains no future additions or amendments.

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

None

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

None

13. The full text of the rule follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 1. HORSE RACING

Section

R19-2-107. Stable Names

ARTICLE 1. HORSE RACING

R19-2-107. Stable Names

- ~~**A.** A licensed owner wishing to race under a stable name shall register with the Department and shall pay the fee set forth in these rules:~~
- ~~1. Only owners shall register or secure a license under a stable name.~~
 - ~~2. A name other than the legal name of the owner shall be deemed to be a stable name.~~
- ~~**B.** The registration referred to in subsection (A) of this Section must include the identity of the individual(s), partnership(s), or corporation(s) represented by the stable name:~~
- ~~1. All persons represented by a stable name shall have owners' licenses.~~
 - ~~2. All persons represented by a stable name shall sign an authorized agent's application which appoints 1 person to act as the agent for the stable name.~~
 - ~~3. If the stable name represents a corporation:~~
 - ~~a. The corporation shall register to do business according to the laws of the state of Arizona.~~
 - ~~b. The corporation shall submit a complete list of stockholders whose ownership exceeds 10% and the number of shares owned by each.~~
 - ~~c. The corporation shall notify the Department immediately if any change of stock ownership exceeding 10% occurs.~~
 - ~~d. The corporate name under which the corporation does business in Arizona shall be considered a stable name for the purposes of these rules.~~
- ~~**C.** A stable name other than a corporate stable name may be changed at any time by registering a new stable name and by paying the fee set forth in these rules.~~
- ~~**D.** A registered stable name may be abandoned by a licensed owner after written notice of such abandonment has been given to the Department.~~
- ~~**E.** A stable name shall be plainly distinguishable from any other registered stable name.~~
- ~~**F.** A licensed owner shall not register such owner's stable name:~~
- ~~1. One which the Department determines to be misleading to the public;~~
 - ~~2. One which the Department determines to be unbecoming to the sport.~~
- ~~**G.** A licensed owner shall not be a party to more than 1 stable name at 1 time.~~
- ~~**H.** A licensed owner shall not use such owner's legal name for racing purposes if such owner has a registered stable name within the state of Arizona.~~
- ~~**I.** Only 1 stable shall be registered under a stable name.~~
- ~~**J.** All persons represented by or operating under a stable name shall be liable for all entry fees and penalties against the stable.~~
- ~~**K.** The stable name shall be carried on the official program as the name of the owner.~~
- A.** A licensed owner wishing to race under a stable name shall register with the Department and pay the fee in these rules.
- 1.** Only an owner shall register or secure a license under a stable name.
 - 2.** A name other than the legal name of the owner is deemed to be a stable name.
- B.** The licensed owner shall provide the identity of any individual or business entity operating under the stable name.
- 1.** A person operating under a stable name shall possess and be able to produce the owner's license upon request by a racing official.
 - 2.** A person operating under a stable name shall sign the authorized agent's application.

Notices of Proposed Rulemaking

3. A corporation operating under a stable name shall:
 - a. Register to do business according to the laws of the state of Arizona;
 - b. Submit a list that identifies each stockholder who owns more than 10% of the existing shares and the number of shares owned by each;
 - c. Notify the Department immediately of any change in stock ownership that would change the list in subsection (b); and
 - d. Use the name under which the corporation does business in Arizona as its stable name.
- C. If consistent with other laws, a licensed owner may change a stable name by registering the new stable name and paying the applicable fee in R19-2-106.
- D. A licensed owner may abandon a registered stable name by providing written notice of abandonment to the Department.
- E. A licensed owner shall select a stable name that is plainly distinguishable from other registered stable names.
- F. Upon registration, the Department shall determine whether a prospective stable name will be:
 1. Misleading to the public,
 2. Unbecoming to the sport, or
 3. Both misleading to the public and unbecoming to the sport.
- G. Registration of a stable name that is misleading to the public, unbecoming to the sport, or both, is prohibited.
- H. A licensed owner shall register a separate name for each of the owner's stables.
- I. A licensed owner operating under a stable name shall pay all entry fees for and penalties against the stable.
- J. A licensed owner shall furnish the applicable stable name for the official program.

NOTICE OF PROPOSED RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

PREAMBLE

1. Sections Affected

Rulemaking Action

R20-2-101	Amend
R20-2-102	Amend
R20-2-103	Amend
R20-2-104	Amend
R20-2-105	Repeal
R20-2-106	Repeal
R20-2-107	Repeal
R20-2-110	Amend
R20-2-201	Amend
R20-2-202	Repeal
R20-2-203	Amend
R20-2-205	New Section
R20-2-301	Repeal
R20-2-302	Amend
R20-2-401	New Section
R20-2-402	New Section
R20-2-501	Amend
R20-2-502	Amend
R20-2-505	Amend
R20-2-601	Amend
R20-2-602	Amend
R20-2-604	Amend
R20-2-605	New Section
R20-2-702	Amend
R20-2-704	Amend
R20-2-705	Amend
R20-2-714	Amend
R20-2-715	Amend
R20-2-717	New Section
R20-2-901	Amend
R20-2-902	Amend
R20-2-903	Amend
R20-2-904	Amend
R20-2-905	Amend
R20-2-906	Amend
R20-2-910	Amend
R20-2-911	Amend
R20-2-912	Amend

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

Authorizing statute: A.R.S. § 41-2065(A)(4)

Implementing statutes: A.R.S. §§ 41-2051, 41-2064, 41-2065(A)(4), (14), (16), (25), 41-2065(D), 41-2066, 41-2067, 41-2083(C), 41-2122(A), (B), and (D), 41-2091, 41-2092, 41-2093, 41-2094, 41-2111, 41-2112, 41-2113, 41-2132, and 41-2134

3. A list of all previous notices appearing in the Register addressing the proposed rule:

Notice of Rulemaking Docket Opening: 8 A.A.R. 5020, December 6, 2002

Notice of Rulemaking Docket Opening: 9 A.A.R. 2283, July 3, 2003

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

Name: Dennis Ehrhart, Assistant Director for Compliance
Address: 4425 W. Olive, Suite 134
Glendale, AZ 85302-3844

Notices of Proposed Rulemaking

Telephone: (602) 255-5211

Fax: (602) 255-1950

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

The Department submitted its five-year rule review to the Governor's Regulatory Review Council. The rule amendments stated in the five-year review are incorporated in this proposed rule package. The Department has worked with all of its regulated industries and their representatives since May 2000 on this rule package. After many reviews, comments, and meetings, the Department has arrived at the current proposed rule language.

In Article 1, the Certification Fees language is repealed because it duplicates statutory language, and language regarding the effective dates of license and licensing fees is added. In response to substantial input from the regulated industries about the current enforcement action rules being too broad and vague, the administrative enforcement action rules are being repealed and the Department's progressive enforcement action is being listed in more detail.

In Article 2, a rule is being added for taxicab licensees to display their licenses. Some rules are being clarified, such as the requirements for packaging and weighing packaged goods and commodities in Article 3. In Article 4, rules are being added for inspection procedures for price verification and price posting. These rules mirror current Department practice.

Some rules in Articles 6 and 9 are being amended to reflect the trend toward an industry-driven self-regulating process for inspections and testing. A rule is being added to Article 7 to clarify that if a gasoline station owner equips a gas dispenser with a hold open latch, it must operate according to manufacturer's specifications. Many existing rules are being amended to update the dates of materials incorporated by reference, add materials incorporated by reference, and to conform to legislative changes.

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

Not applicable

7. 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

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

For the majority of rule amendments, there is minimal or no impact because the rules clarify or incorporate procedures already in place. Many changes codify national standards. This provides for uniformity across state lines, which is a benefit to the regulated industry and consumers.

An impact that has been mentioned pertains to the price and grade posting of gasoline products by service stations. Because of the potentially high cost to station owners to comply with these rules, the Department has proposed a 2004 effective date. However, the requirement is currently in rule and the amendment to the rule conforms to national standards and reduces the impact to some service station owners. This change is necessary to aid consumers in comparing prices for equivalent products. Any impact is outweighed by the anticipated reduction in consumer confusion and the reduction in misleading advertising. In summary, there should be only minimal overall impact. Any higher impact is far outweighed by the consumer protection need for regulatory compliance. In contrast, many of the rules provide a favorable impact to the regulated industry.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dennis Ehrhart, Assistant Director for Compliance
Address: 4425 W. Olive, Suite 134
Glendale, AZ 85302-3844

Telephone: (602) 255-5211

Fax: (602) 255-1950

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Date: August 12, 2003

Time: 11:00 a.m.

Location: Department of Weights and Measures
4425 W. Olive, Suite 134
Glendale, AZ 85302-3844

Notices of Proposed Rulemaking

Nature: Public Comment Hearing at which members of the public may appear and make comments regarding the rules and the economic, small business, and consumer impact statement. The Department will accept comments until the close of record, August 12, 2003, 5:00 p.m.

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

None

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

R20-2-101(12) incorporates language from the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (2003 edition).

R20-2-101(13) incorporates language from the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (2002 edition).

R20-2-101(14) incorporates language from the United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (2003 edition).

R20-2-101(15) incorporates language from the United States Department of Commerce Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (January 2002, fourth edition).

R20-2-605 incorporates language from the following CARB Executive Orders and Handbook 112:

- California Air Resources Board Executive Order G-70-17-AD, *Modification of Certification of the Emco Wheaton Balance Phase II Vapor Recovery System*, May 6, 1993 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-36-AD, *Modification of Certification of the OPW Balance Phase II Vapor Recovery System*, September 18, 1992 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-52-AM, *Certification of Components for Red Jacket, Hirt, and Balance Phase II Vapor Recovery System*, October 4, 1991 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-70-AC, *Certification of the Healy Phase II Vapor Recovery System for Service Stations*, June 23, 1992 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-150-AE, *Modification to the Certification of the Marconi Commerce Systems Inc. (MCS) "Formerly Gibarco" VaporVac Phase II Vapor Recovery System*, July 12, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-153-AD, *Modification to the Certification of the Dresser/Wayne WayneVac Phase II Vapor Recovery System*, April 3, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-154-AA, *Modification to the Certification of the Tokheim MaxVac Phase II Vapor Recovery System*, June 10, 1997 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-163-AA, *Certification of the OPW VaporEZ Phase II Vapor Recovery System*, September 4, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-164-AA, *Modification to Certification of the Hasstech VCP-3A Vacuum Assist Phase II Vapor Recovery System*, December 10, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-165, *Healy Vacuum Assist Phase II Vapor Recovery System*, April 20, 1995 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

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- California Air Resources Board Executive Order G-70-169-AA, *Modification to the Certification of the Franklin Electric INTELLIVAC Phase II Vapor Recovery System*, August 11, 1997 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-177-AA, *Modification to the Certification of the Hirt VCS400-7 Vacuum Assist Phase II Vapor Recovery System*, June 22, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-180, *Order Revoking Certification of Healy Phase II Vapor Recovery Systems for Gasoline Dispensing Facilities*, April 17, 1997 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-183-AA, *Relating to language correction in existing Executive Order G-70-183 (Healy/Franklin System)*, June 29, 2001 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-186, *Certification of the Healy Model 400 ORVR Vapor Recovery System*, October 26, 1998 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-188, *Certification of the Catlow ICVN Vapor Recovery Nozzle System for use with the Gilbarco VaporVac Vapor Recovery System*, May 18, 1999 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-191-AA, *Relating to language correction in existing Executive Order G-70-191 (Healy Model 600 ORVR/800)*, July 30, 2001 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-196, *Certification of the Saber Technologies, LLC SaberVac VR Phase II Vapor Recovery System (Acrobat 272 KB)*, December 30, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices A Manual for Weights and Measures Officials*, (2002 edition), Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

R20-2-702 incorporates language from the following materials:

ASTM D 975-98b, *Standard Specification for Diesel Fuel Oils, Petroleum Products, Lubricants, and Fossil Fuels*, Volume 05.01, Petroleum Products and Lubricants (I): D56-D2596, 2001 Edition, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.

ASTM D 4814-00, *Standard Specification for Automotive Spark-Ignition Engine Fuel, Petroleum Products, Lubricants, and Fossil Fuels*, Volume 05.02, Petroleum Products and Lubricants (II): D 2597 - D 4927, 2001 Edition, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.

R20-2-901 incorporates language from the following materials:

San Diego County Air Pollution Control District Test Procedure TP-96-1, March 1996, Third Revision, Arizona Department of Weights and Measures, 4425 W. Olive, Suite 134, Glendale, Arizona 85302, www.wm.state.az.us.

13. 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

Section

- R20-2-101. Definitions
- R20-2-102. Metrology Laboratory Testing and Calibration Fees
- R20-2-103. ~~Certification Fees~~ Licensing and Fees
- R20-2-104. ~~Administrative Enforcement Action Regarding Commercial Devices~~
- R20-2-105. ~~Administrative Enforcement Action Regarding Short Quantity Commodities~~ Repealed
- R20-2-106. ~~Administrative Enforcement Action Regarding Liquid Fuels~~ Repealed
- R20-2-107. ~~Administrative Enforcement Action Regarding Vapor Recovery Systems~~ Repealed
- R20-2-110. Motion for Rehearing or Review

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ARTICLE 2. COMMERCIAL DEVICES

Section	
R20-2-201.	Licensing Process
R20-2-202.	Handbook 44 <u>Repealed</u>
R20-2-203.	Approval, Installation, and Sale of Devices
R20-2-205.	<u>Taxi Cab License Display</u>

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

Section	
R20-2-301.	Application <u>Repealed</u>
R20-2-302.	Handbook 130 and Handbook 133

ARTICLE 4. ~~REPEALED~~ PRICE VERIFICATION AND PRICE POSTING

Section	
R20-2-401.	Repealed <u>Price-Verification Inspection Procedure and Violation Exceptions</u>
R20-2-402.	Repealed <u>Price-Posting Inspection Procedure and Violation Exceptions</u>

ARTICLE 5. PUBLIC WEIGHMASTERS

Section	
R20-2-501.	Qualifications; License and Renewal Application Process
R20-2-502.	Duties
R20-2-505.	Weight Certificates

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

Section	
R20-2-601.	Qualifications; License and Renewal Application Process; and Reciprocal Agreements
R20-2-602.	Duties
R20-2-604.	Prohibited Acts
<u>R20-2-605.</u>	<u>Material Incorporated by Reference</u>

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

Section	
R20-2-702.	Material Incorporated by Reference
R20-2-704.	Price and Grade Posting on External Signs
R20-2-705.	Price, Octane, and Lead Substitute Notification on Dispensers
R20-2-714.	Requirements for Gasoline Products Outside the CBG-Covered <u>CBG-covered</u> Area
R20-2-715.	Motor Fuel Quality Testing Methods <u>and Requirements</u>
R20-2-717.	Renumbered <u>Hold Open Latch Exception</u>

ARTICLE 9. GASOLINE VAPOR CONTROL

Section	
R20-2-901.	Material Incorporated by Reference
R20-2-902.	Exemptions
R20-2-903.	Equipment and Installation
R20-2-904.	Application <u>Requirements and</u> Process for Authority to Construct <u>Plan Approval</u>
R20-2-905.	<u>Initial Inspection and Testing</u>
R20-2-906.	Fees
R20-2-910.	Annual Tests <u>Inspection and Testing</u>
R20-2-911.	Compliance Inspections
R20-2-912.	Enforcement

ARTICLE 1. ADMINISTRATION AND PROCEDURES

R20-2-101. Definitions

The definitions in A.R.S. §§ 41-2051, 41-2065, 41-2085, 41-2121, and 41-2131 and the following definitions apply to this Chapter:

1. No change
2. "Administrative order" means a corrective action notice that the Department issues for a violation of A.R.S. Title 41, Chapter 15, or this Chapter, that orders a person to: ~~a-DWM-53~~

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- a. Remove from use or sale, or dispose of, a commercial device, commodity or liquid fuel;
- b. Stop selling a commodity or liquid fuel until the person provides documentation to the Department that the weight, measure, fuel quality or price posting complies with the requirements of A.R.S. Title 41, Chapter 15 and this Chapter;
- c. Stop using a commercial device, commodity, liquid fuel, vapor recovery system, or vapor recovery system component, until the person provides documentation to the Department that the weight, measure, fuel, vapor recovery system, or component complies with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
- d. Stop performing weighmaster, registered service agency, or registered service representative licensed duties until the person provides documentation to the Department that the person is complying with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
- e. Maintain labeling, policies and cash register indicator displays according to A.R.S. Title 41, Chapter 15, and this Chapter.
- f. Stop constructing or modifying a vapor recovery system until the person complies with A.R.S. Title 41, Chapter 15, and this Chapter;
- g. Excavate a vapor recovery site according to R20-2-104(J);
- h. Comply with scheduling a test according to R20-2-104(J); or
- i. Retake a competency examination under A.R.S. § 41-2094.
3. No change
4. No change
5. No change
6. No change
7. No change
8. No change
9. No change
10. ~~“DWM-53” means a Department form that orders the stop sale, stop use, hold, or removal of commodities, devices, vapor recovery systems and components, and liquid fuels.~~
- ~~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, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (1999 2003 edition), incorporated by reference and on file with the Department and the Secretary of State. The This incorporation by reference contains no future editions or amendments.~~
13. “Handbook 112” means the National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (2002 edition), incorporated by reference and on file with the Department. 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, *Uniform Laws and Regulations*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (1999 2003 edition), incorporated by reference and on file with the Department and the Secretary of State. This incorporation by reference contains no future editions or amendments.
15. “Handbook 133” means the United States Department of Commerce Technology Administration:
 - a. National Bureau of Standards (NBS) Handbook 133, 3rd edition, entitled *Checking the Net Contents of Packaged Goods*, including supplements 1, 2, and 3 issued September 1988; and
 - b. National Institute of Standards and Technology (NIST) Handbook 133, 3rd edition, entitled *Checking The Net Contents of Packaged Goods*, including supplement 4 issued October 1994.
 - e. These publications are incorporated by reference, are on file with the Secretary of State, and are published by the Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328. National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328 (January 2002, fourth edition). This incorporation by reference contains no future editions and amendments.
16. “Hold order” means a Department administrative order requiring an owner, operator, distributor, manufacturer, licensee, or consignee to keep any commercial device, commodity, or liquid fuel, under its control and stored at its expense, pending further Department action, because it does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules. “NCWM” means the National Conference on Weights and Measures.
17. No change
18. No change

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19. No change
20. No change
21. "NIST" means the National Institute of Standards and ~~technology~~ Technology.
22. ~~"Off sale" means that a commodity has been removed from commercial sale.~~
- 23-22.No change
- 24-23.~~"Out-of-service tag" means a red rejection tag that signifies that a commercial device does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules, and that the owner or operator shall not use the device commercially until repaired Handbook 44, or this Chapter.~~
24. "Person" as defined in A.R.S. § 41-2051(13), means an owner or operator of a commercial device or vapor recovery system, retail seller, wholesaler, registered supplier, pipeline distributor, packer, manufacturer, licensee, transporter, or consignee.
25. No change
26. No change
27. No change
28. ~~"Removal order" means a Department administrative order requiring the owner, operator, distributor, manufacturer, licensee, or consignee to remove from use or sale, and dispose of a commercial device, commodity, liquid fuel, or vapor recovery component because it does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules.~~
- 29-28.No change
- 30-29.No change
- 31-30.No change
32. ~~"Stop sale order" means a Department administrative order requiring the owner, operator, distributor, manufacturer, licensee, or consignee to stop selling a commodity or liquid fuel, because it does not meet the requirements of A.R.S. Title 41, Chapter 15, or these rules.~~
- 33-31.~~"Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that an owner or operator shall not sell or use a commercial device, including a vapor recovery system component or a commodity, or liquid fuel, because it does not meet the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter these rules.~~
34. ~~"Stop use order" means a Department administrative order requiring the owner, operator, distributor, manufacturer, licensee, or consignee to prohibit the use of any commercial device, commodity, liquid fuel, or vapor recovery system, including any of its components, until the weight, measure, fuel, or vapor recovery system complies with the requirements of A.R.S. Title 41, Chapter 15, and these rules.~~
- 35-32.No change
- 36-33.No change
37. ~~"Unlicensed device tag" means an orange tag that signifies that an owner or operator shall not use the commercial device until all licensing requirements of A.R.S. Title 41, Chapter 15, and these rules are met.~~
- 38-34.~~"Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, CARB Executive Orders or these rules this Chapter, and the device may only be used within the period specified on the tag for repair, but not thereafter unless the device is in compliance with A.R.S. Title 41, Chapter 15, and these rules.~~
- 39-35.No change

R20-2-102. Metrology Laboratory Testing and Calibration Fees

- A. ~~The Department shall charge \$40.00 an hour, with a minimum charge of \$24.00, for work performed by the Department's Metrology Laboratory.~~

The Department's Metrology Laboratory charges the following fees for services:

1. \$24.00 for the first hour, or fraction of an hour; and
2. \$40.00 an hour, or fraction of an hour, after the first hour.

- B. No change

R20-2-103. ~~Certification Fees~~ Licensing and Fees

~~The fee for testing and certification of noncommercial devices and portable batch plant devices shall be the same as the fee for licensing commercial devices listed in A.R.S. § 41-2092.~~

- A. A license is effective on the first day of the month following the date that the license application is filed with the Department. If an application is filed on the first of a month and is complete and accurate, the license is effective on the first day of that month.
- B. A payment is delinquent if the Department does not receive the payment by the due date. The Department shall not process a license or renewal application for which payment is delinquent.
- C. The Department shall prorate a license renewal fee if the licensee's first renewal is fewer than 12 months from the date that license is issued.

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D. The Department shall issue a full refund to a licensee for a license renewal fee only if the licensee provides written notice to the Department before the renewal fee due date that the renewal is not needed.

R20-2-104. Administrative Enforcement Action Regarding Commercial Devices

~~A. Warning tag.~~

- ~~1. The Department shall attach a warning tag to a commercial device if the device:
 - a. Does not comply with the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, or these rules; and
 - b. Use of the device may harm the public.~~
- ~~2. The tag shall be affixed to the device in public view.~~
- ~~3. The tag shall contain the following information:
 - a. A notice that the device has been examined by the Department and has failed to comply with A.R.S. Title 41, Chapter 15, Handbook 44, or these rules;
 - b. The name of the business, location, and fee code;
 - c. A notice that it is unlawful to remove the tag;
 - d. The date;
 - e. A notice of the time allowed for repair; and
 - f. A notice that if the device is not repaired within the time allowed, it shall be placed out of service by the Department.~~
- ~~4. A person shall not remove a warning tag without authorization from the Department.~~

~~B. Out-of-service tag.~~

- ~~1. The Department shall attach an out-of-service tag to a commercial device if the device:
 - a. Does not comply with A.R.S. Title 41, Chapter 15, Handbook 44, or these rules;
 - b. Use of the device may harm the public; or
 - c. The device has not been repaired as required in subsection (A).~~
- ~~2. The tag shall be affixed to the device in public view.~~
- ~~3. The tag shall contain the following information:
 - a. A notice that the device has been examined by the Department and has failed to comply with A.R.S. Title 41, Chapter 15, Handbook 44, or these rules;
 - b. A notice that a person shall not use the device until repaired;
 - c. The name of the business, location, and fee code;
 - d. A notice that it is unlawful to remove the tag;
 - e. The date; and
 - f. A notice that failure to repair the device may subject it to seizure.~~
- ~~4. A person shall not remove an out-of-service tag without authorization from the Department.~~

~~C. Unlicensed device tag.~~

- ~~1. The Department shall attach an unlicensed device tag to a commercial device if a valid license has not been procured for the device.~~
- ~~2. The tag shall be affixed to the device in public view.~~
- ~~3. The tag shall contain the following information:
 - a. A notice that the device is unlicensed, and
 - b. A notice that a person shall not use the device for commercial purposes.~~
- ~~4. A person shall not remove an unlicensed device tag without authorization from the Department.~~

A. The Department shall take progressive enforcement action for violations of A.R.S. Title 41, Chapter 15, CARB Executive Orders, Handbook 44, Handbook 130, Handbook 133, or this Chapter.

B. The Department shall provide a copy of its inspection report to the person who owns or operates a location that the Department inspects. The report shall include the inspection results, violations, and enforcement action.

C. A person may request a hearing under R20-2-109 to dispute the inspection results, violation, or enforcement action.

D. The Department shall suspend, revoke or refuse to renew any license if the licensee does not comply with an enforcement action imposed under this Section.

E. A maximum civil penalty may be doubled as stated in A.R.S. § 41-2115(B).

F. Commercial device.

1. The Department shall place out of service an unlicensed commercial device that it determines has been in use for 31 or more days.
2. The Department shall confiscate a commercial device when a person violates an administrative order related to that commercial device, or removes a warning tag, out-of-service tag, or stop-sale, stop-use tag issued to that commercial device without Department authority.
3. The Department shall issue an out-of-service tag or a stop-sale, stop-use tag if a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the person who owns or operates the commercial device.

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- a. A person shall not use a commercial device that has an out-of-service tag until the person repairs the commercial device.
 - b. A person shall not sell or use a commercial device that has a stop-sale, stop-use tag until the commercial device meets the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, and this Chapter.
 4. The Department shall issue a warning tag when a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the public. The Department shall issue an out-of-service tag if the commercial device is not repaired by the deadline on the warning tag. A person shall not use a commercial device after the period specified on the warning tag for repair unless the commercial device complies with A.R.S. Title 41, Chapter 15, Handbook 44, and this Chapter.
 5. The Department shall issue an out-of-service tag if a person fails to affix a non-tampering seal to a commercial device.
 6. The Department shall issue an out-of-service tag if a Department inspector cannot conduct an inspection of a commercial device because of a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
 7. The Department shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero.
 8. The Department shall issue a warning tag if the manufacturer's plate on a commercial device does not contain the information required by Handbook 44, is missing, or is unreadable. The Department shall issue an out-of-service tag if the person who owns or operates a commercial device does not obtain a compliant manufacturer's plate by the 30-day deadline imposed on the warning tag.
 9. The Department shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The Department shall issue a stop-sale, stop-use tag if the large-scale approach is not made compliant by the deadline imposed on the warning tag.
 10. In addition to any enforcement action under subsections (D)(1) through (D)(9):
 - a. If the Department finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title 41, Chapter 15, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
 - i. The Department shall impose a \$300 civil penalty on the person who owns or operates the commercial device; and
 - ii. The Department shall impose a \$500 civil penalty on a person who owns or operates the commercial device. The Department shall impose this civil penalty for each reinspection until the commercial device is in compliance.
 - b. If the Department finds during an inspection that a person who weighs a product on a commercial device violates Handbook 44 or does not post rates according to Handbook 44 or this Chapter:
 - i. The Department shall issue an administrative order to the person at the conclusion of the inspection and impose a \$300 civil penalty; and
 - ii. The Department shall issue an administrative order to the person at the conclusion of the inspection and impose a \$500 civil penalty. The Department shall impose the civil penalty at each reinspection until the person complies with Handbook 44 and this Chapter.
- G. Public and deputy weighmaster.**
1. The Department shall issue an administrative order if a public weighmaster's:
 - a. Weigh tickets are not in numbered sequence or are missing,
 - b. Seal or press is not readable, or
 - c. Records are not maintained according to R20-2-505.
 2. The Department shall issue an administrative order and impose a \$500 civil penalty on a public weighmaster if:
 - a. The public weighmaster's weigh tickets contain inaccurate information,
 - b. The public weighmaster violates an administrative order, or
 - c. The public weighmaster misuses a seal or press or has an unauthorized seal or press.
 3. The Department shall confiscate a seal or press if a public weighmaster violates an administrative order issued to the public weighmaster.
 4. The Department shall suspend, revoke, or refuse to renew a license if a public weighmaster does not comply with an enforcement action under this Section.
 5. The Department shall issue an administrative order to a person who performs public weighmaster duties without a license.
 6. If a public weighmaster permits an unlicensed person to perform deputy weighmaster duties, the Department shall:
 - a. Impose a \$300 civil penalty on the public weighmaster for the first time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties;
 - b. Impose a \$500 civil penalty on a public weighmaster for the second time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties; and

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- c. Confiscate the public weighmaster's records, equipment and devices if the public weighmaster permits an unlicensed person to perform deputy weighmaster duties more than twice.

H. Package.

1. The Department shall issue an administrative order to an owner or their employee where a package inspection is held if a package is not in compliance with a requirement in Handbook 130 or Handbook 133. The person to whom the administrative order is issued shall correct the package violation by:
 - a. Returning the package to the packer or manufacturer;
 - b. Labeling the package to reflect its correct quantity;
 - c. Placing a notice on the package that states the violation and pricing the package to reflect its correct quantity; or
 - d. Repackaging the commodity so the package contains the quantity represented.
2. The Department shall impose a \$500 civil penalty per lot on a person who violates a requirement in Handbook 130 or Handbook 133.

I. Price verification.

1. The Department shall issue a stop-sale, stop-use tag to a person who fails a price verification reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
 - a. The Department shall impose a \$100 civil penalty per violation on a person who fails a reinspection if the Department finds more than one item greater than its posted price.
 - b. The Department shall impose a \$200 civil penalty per violation on a person who fails a second reinspection. The Department shall increase the per violation civil penalty imposed by \$100 for each subsequent reinspection until the violation is corrected.
2. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (I)(1) within the past 60 days from the date of the action, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Department previously imposed against this person.
3. The Department shall issue a warning to a person who does not have a written price-error policy. The Department shall impose a \$500 civil penalty if the person does not have a written price-error policy upon reinspection.
4. The Department shall issue a warning to a person who does not have a price display visible to the public at a check-out location. The Department shall issue an out-of-service tag if the person does not have a price display visible to the public at a check-out location upon reinspection.

J. Price posting.

1. The Department shall issue a stop-sale, stop-use tag to a person who fails a reinspection and cannot correct a violation within 30 minutes of the Department completing the reinspection.
2. The Department shall impose a \$50 civil penalty for each inspected lot not priced if the person fails the reinspection with a score of less than 96 percent.
3. The Department shall impose a \$100 civil penalty to a person for each inspected lot not priced who fails a second reinspection.
4. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (J)(1) within the past 60 days from the date of the action, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Department previously imposed against this person.

K. Fuel quality and labeling.

1. The Department shall issue a warning tag to a person whose fuel dispenser labeling violates A.R.S. Title 41, Chapter 15, or this Chapter. The Department shall issue an out-of-service tag to the person if the person does not correct the fuel dispenser labeling violation within the time specified on the warning tag.
2. The Department shall issue an administrative order to a person whose fuel storage tank labeling or external street signage violates A.R.S. Title 41, Chapter 15, or this Chapter. The Department shall impose a \$300 civil penalty if the person does not correct the labeling violation within the time specified in the administrative order.
3. The Department shall issue an administrative order and impose a \$500 per octane level civil penalty to a person who violates a fuel-quality requirement under A.R.S. Title 41, Chapter 15, or this Chapter. The person shall correct the violation by:
 - a. Removing non-compliant motor fuel from the storage tank and replacing it with compliant motor fuel.
 - b. Selling the motor fuel at the correct octane level.
 - c. Adding sufficient compliant motor fuel to the storage tank to bring the motor fuel in the storage tank into compliance.
 - d. Removing all water from the storage tank, or
 - e. Removing the non-compliant motor fuel to another area within the state if the motor fuel complies with specifications of that area.

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4. The Department shall issue an administrative order to a person who does not provide requested product transfer documentation within 24 hours of the Department's request. The Department shall impose a \$300 civil penalty on a person who provides the requested documentation between 24 and 72 hours. The Department shall impose a \$500 civil penalty on a person who does not provide the requested documentation within 72 hours.

L. Vapor recovery.

1. The Department shall issue an administrative order to stop construction at a vapor recovery site and impose a \$500 civil penalty on a person who:
 - a. Begins construction without an authority to construct plan approval.
 - b. Does not comply with the authority to construct plan approval, or
 - c. Does not obtain an approved change order for construction or major modification of the vapor recovery site unless:
 - i. The vapor recovery system and its components comply with A.R.S. Title 41, Chapter 15, and this Chapter; and
 - ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.
2. The Department shall impose a \$500 civil penalty on the person who does not comply with (L)(1).
3. The Department shall issue an administrative order requiring a person to excavate a vapor recovery site and impose a \$500 civil penalty if the person covers a vapor recovery component before a Department pre-burial inspection and the system does not pass required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.
4. The Department shall issue an administrative order when a person fails to schedule an initial test date within 90 days of opening a vapor recovery site or an annual test date within the person's designated test month for that year. The Department shall issue a stop-sale, stop-use tag to a person who does not comply with the administrative order.
5. The Department shall impose a \$100 civil penalty on a person who does not have an authority to construct plan approval available for inspection at the construction site during normal business hours.
6. The Department shall issue a warning tag to a person whose vapor recovery system labeling does not comply with the Authority to Construct Permit. The Department shall issue stop-sale, stop-use tag and impose a \$500 civil penalty on a person who does not correct a labeling violation within the time specified on a warning tag.
7. The Department shall issue a stop-sale, stop-use tag to a person whose vapor recovery system fails a test under R20-2-905 or R20-2-910. If the test failure is isolated to a system component, the Department's stop-sale, stop-use tag shall pertain to that component so the rest of the system can operate.
8. The Department shall impose a \$500 civil penalty and issue another stop-sale, stop-use tag to a person who removes or violates a stop-sale, stop-use tag. The Department shall revoke, suspend, or refuse to renew a commercial device license if a person removes a stop-sale, stop-use tag without approval.

M. Registered service agency and registered service representative.

1. If a registered service agency submits to the Department an inaccurate or incomplete placed-in-service or test report, the Department shall:
 - a. Return the inaccurate or incomplete placed-in-service or test report to the agency for correction, and
 - b. Impose a \$50 civil penalty on the agency each time the agency resubmits a placed-in-service or test report without making all needed corrections.
2. The Department shall impose a \$300 civil penalty on a registered service representative who incorrectly:
 - a. Installs a commercial device,
 - b. Repairs a commercial device,
 - c. Tests a vapor recovery system, or
 - d. Repairs a vapor recovery system.
3. If an unlicensed person represents itself as a registered service agency, the Department shall:
 - a. Issue an administrative order,
 - b. Impose a \$500 civil penalty and confiscate the unlicensed person's calibration standards if the unlicensed person violates the administrative order, and
 - c. Deny a registered service agency license to the unlicensed person if the unlicensed person fails to comply with the enforcement action under this subsection.
4. The Department shall issue an administrative order to an unlicensed person who performs the duties of a registered service representative. The Department shall impose a \$300 civil penalty on the registered service agency for which the unlicensed individual works.
5. The Department shall issue an administrative order if a registered service representative places a commercial device into service without Department authorization. The Department shall impose a \$500 civil penalty on the registered service agency whose representative places a commercial device into service without Department authorization.
6. The Department shall impose a \$500 civil penalty on a registered service agency whose registered service representative uses a metrology standard or vapor recovery air-to-liquid (A/L) ratio testing equipment that is not certified according to this Chapter. The Department shall confiscate a metrology standard or A/L ratio testing equipment if a

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- registered service representative uses the uncertified standard or equipment after the registered service agency is penalized. The Department shall return the standard or equipment when it is properly certified.
7. The Department shall issue an administrative order to a vapor recovery registered service agency or person who owns a vapor recovery system that does not, according to A.R.S. Title 41, Chapter 15, and this Chapter:
 - a. Notify the Department of a test date and time,
 - b. Begin a test at the approved time,
 - c. Appear for a witnessed test,
 - d. Close a vapor recovery system for repairs if a system fails, or
 - e. Perform a test.
 8. The Department shall impose a \$300 civil penalty on a vapor recovery registered service agency that violates subsection (M)(7) twice in 12 months.
 9. If a registered service agency's registered service representative does not attach a non-tampering seal on a commercial device that is equipped for a seal, the Department shall:
 - a. Impose a \$300 civil penalty on a registered service agency the first violation, and
 - b. Impose a \$500 civil penalty on the registered service agency for each subsequent violation by the registered service representative.
 10. If a registered service representative determines that a vapor recovery system or component is not in compliance with A.R.S. Title 41, Chapter 15, or this Chapter, the registered service representative shall:
 - a. Secure the non-compliant vapor recovery system or component from use before the registered service representative leaves the vapor recovery site or until the system or component passes the tests required by R20-2-910;
 - b. Notify the Department of the secured, non-compliant vapor recovery system or component before leaving the vapor recovery site; and
 - c. Notify the Department of the time of the test required by R20-2-910 by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner.
 11. If a registered service representative fails to comply with subsection (M)(10)(b) or (M)(10)(c), the Department shall:
 - a. Impose a \$300 civil penalty on the registered service representative;
 - b. Issue an administrative order, if the registered service representative is penalized under this subsection three times in 12 months, requiring the registered service representative to take and pass the licensing competency examination; and
 - c. Suspend or revoke the license of the registered service agency employing the registered service representative if the registered service representative does not comply with an order issued under subsection (M)(11)(b).

R20-2-105. ~~Administrative Enforcement Action Regarding Short-Quantity Commodities Repealed~~

- ~~**A:** The Department shall order the hold, stop-sale, stop-use, or removal of any commodity that is short of the quantity stated or improperly labeled by issuing a DWM-53 to the seller.~~
- ~~**B:** A stop-sale or stop-use tag shall be issued by the Department to those commodities for which the Department has issued a DWM-53.~~
- ~~1. The tag shall be displayed in public view.~~
 - ~~2. The tag shall contain the following information:~~
 - ~~a. A notice of the order;~~
 - ~~b. A notice that a person shall not remove the tag or dispose of the commodity without authorization from the Department;~~
 - ~~e. The location and identification of the commodity;~~
 - ~~d. A description of the violation;~~
 - ~~e. The name of the Department employee who affixed the tag; and~~
 - ~~f. The date.~~
- ~~**C:** Any wholesaler, or retailer shall not sell any commodity for which a DWM-53 has been issued without the Department's written authorization to:~~
- ~~1. Separate the goods that are at or more than their represented quantity from the tagged lot and return those goods for sale.~~
 - ~~2. Sell the commodity provided it can be brought up to the represented quantity.~~
 - ~~3. Relabel the commodity at its actual quantity.~~
 - ~~4. Place a notice on the commodity of the violation and adjust the price accordingly.~~
- ~~**D:** The Department may provide written authorization of the disposition of a tagged commodity provided it does not conflict with A.R.S. Title 41, Chapter 15, or these rules.~~
- ~~**E:** Any disposition authorized by the Department shall be recorded on the DWM-53.~~

R20-2-106. ~~Administrative Enforcement Action Regarding Liquid Fuels Repealed~~

- ~~**A:** If the Department finds that a liquid fuel fails to meet the requirements of A.R.S. Title 41, Chapter 15, or these rules, the~~

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Department shall order the hold, stop sale, or stop use of the liquid fuel by issuing a DWM-53.

- B:** A stop sale, stop use tag may be affixed by the Department to a storage vessel containing the liquid fuel:
1. The Department shall attach the tag to the storage tank fill cap and dispenser where the liquid fuel is stored and dispensed.
 2. The tag shall contain the following information:
 - a. A notice that the liquid fuel has been prohibited from sale or use;
 - b. A notice that the liquid fuel is not to be disposed of without written authorization from the Department;
 - c. The location and identification of the liquid fuel;
 - d. The brand name of the fuel;
 - e. The number of containers;
 - f. A description of the violation;
 - g. The name of the Department employee who affixed the tag; and
 - h. The date.
- C:** A person shall not sell or use liquid fuel that has been issued a DWM-53 except under the following circumstances:
1. The Department may authorize the wholesaler, or retailer to sell the liquid fuel provided it can be brought up to:
 - a. Represented quality and
 - b. Specifications in A.R.S. Title 41, Chapter 15, and these rules.
 2. The Department may provide written authorization of the disposition of liquid fuel issued a DWM-53 provided the disposition does not conflict with A.R.S. Title 41, Chapter 15, or these rules.
- D:** The Department shall record the disposition of a non-compliant commodity on the DWM-53. The Department may authorize liquid fuel for which a DWM-53 has been issued to be removed:
1. To a facility capable of reblending or refining;
 2. To another area within the state if specifications of that area can be met, or
 3. Outside the state.

R20-2-107. Administrative Enforcement Action Regarding Vapor Recovery Systems Repealed

- A:** Stop Sale, Stop Use Tag
1. If the Department finds that a vapor recovery system or any component fails to meet the requirements set forth in A.R.S. Title 41, Chapter 15, or these rules, the Department shall order the stop sale, stop use of the vapor recovery system by issuing a DWM-53.
 2. A stop sale, stop use tag may be affixed by the Department to a vapor recovery system:
 - a. The Department shall attach the tag to the noncompliant component in public view.
 - b. The tag shall contain the following information:
 - i. A notice that the vapor recovery system has been prohibited from use.
 - ii. The location and identification of the vapor recovery system.
 - iii. A notice that it is unlawful to remove the tag without Department authorization.
 - iv. A description of the violation.
 - v. The name of the Department employee who affixed the tag.
 - vi. The date.
 3. A person shall not use a vapor recovery system issued a DWM-53 to dispense liquid fuel for commercial purposes.
- B:** Warning Tag.
1. The Department shall attach a warning tag to a vapor recovery system or any of its components if the system or components:
 - a. Do not comply with the requirements of A.R.S. Title 41, Chapter 15, CARB certifications that apply to the system, or these rules; and
 - b. The use of the vapor recovery system will not harm the public.
 2. The Department shall affix the tag to the noncompliant component in public view.
 3. The tag shall contain the following information:
 - a. Notice that the Department has examined the system and the system fails to comply with Title 41, Chapter 15, CARB certifications that apply to the system, or these rules;
 - b. The name of the business and location;
 - c. A notice that it is unlawful to remove the tag without Department authorization;
 - d. The date;
 - e. A notice of the time allowed for the repair; and
 - f. A notice that if the system is not repaired within the required time, the Department shall issue a stop sale, stop use tag.

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R20-2-110. Motion for Rehearing or Review

- A. No change
- B. A motion for rehearing or review may be amended at any time before it is ruled upon by the Department. A response may be filed within ~~10~~ 15 days after service of the motion or amended motion by any other party. The Department may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C. No change
- D. No change
- E. No change
- F. When a motion for rehearing or review is based upon affidavits, ~~they~~ the moving party shall ~~be served~~ serve the affidavits with the motion. An opposing party ~~shall have~~ has ~~10~~ 15 days from the date of service to serve opposing affidavits. The Department may extend the period to respond up to 20 days for good cause shown ~~up to 20 days~~, or by written stipulation of the parties. If the Department permits reply affidavits, ~~they shall be served within 5~~ the replying party has five days in which to serve them.

ARTICLE 2. COMMERCIAL DEVICES

R20-2-201. Licensing Process

~~An owner of a device may~~ Before using a commercial device, a person or a contracted registered service representative shall apply for a license for the commercial device. The commercial device may be used without a license for up to 30 days after an application is filed with the Department. The application shall be on a form supplied by the Department. The application form that includes: may require:

1. The applicant's name, address, and telephone number;
2. The name, address, and telephone number of the location where the commercial device will be operated;
3. ~~The device~~ A description of the commercial device; and
4. The applicant's signature.

R20-2-202. Handbook 44 Repealed

As required by A.R.S. § 41-2064, all commercial devices shall comply with the specifications, tolerances, and other technical requirements set forth in Handbook 44, except as otherwise stated in these rules.

R20-2-203. Approval, Installation, and Sale of Devices

- A. ~~All~~ A commercial devices device installed or placed in use after January 1, 1975, shall be prototype-approved by NIST NCWM or have a certificate of approval from the California Type Evaluation Program.
 1. If a commercial device has been continuously licensed since January 1, 1975, the commercial device is exempt from NCWM or California Type Evaluation Program prototype approval. All devices installed before January 1, 1975, are exempt from NIST prototype approval.
 2. If a commercial device exempt under subsection (A)(1) fails the specifications, tolerances, or other technical requirements of Handbook 44 during a Department inspection, the Department shall revoke the commercial device license and a person shall not use the device commercially.
- ~~B.~~ The owner of a device installed for commercial purposes shall report its use to the Department within 7 days of its use.
- ~~C.~~ B. The seller of any a commercial device that has been is remanufactured for the purpose of commercial sale shall ~~not sell~~ the device unless it is marked as having been mark the commercial device remanufactured.

R20-2-205. Taxi Cab License Display

A taxicab device licensee shall post the device license on the outside of the rear window of the taxicab.

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

R20-2-301. Application Repealed

- ~~A.~~ This Article shall apply to consumer and nonconsumer packages that are produced, kept, offered, or exposed for sale.
- ~~B.~~ This Article shall not apply to:
 1. Shipping containers or wrappings used solely for the transportation of any commodities in bulk or in quantity, but in no event shall this exclusion apply to packages of consumer or nonconsumer commodities, as defined in Handbook 130;
 2. Auxiliary containers or outer wrappings used to deliver packages of commodities to retail customers if the containers or wrappings bear no printed matter pertaining to any particular commodity;
 3. Containers used for retail displays if the container itself is not intended to be sold;
 4. Commodities offered for sale in variable weights and sizes, weighed or measured at the time of sale, if the method of sale is posted near the commodity being sold;
 5. Open carriers and transparent wrappers used for containers if the wrappers or carriers do not bear any written, printed, or graphic matter obscuring the label information required by Handbook 130; or
 6. Inner wrappings not intended for sale to customers.

R20-2-302. Handbook 130 and Handbook 133

- A. A person shall comply with ~~all~~ all packaging, labeling, and method of sale requirements ~~shall follow in~~ Handbook 130, except as otherwise stated in these rules. A person shall ensure that ~~Packaged~~ packaged commodities kept, offered, exposed for sale, sold, or in the process of delivery ~~shall be~~ are weighed, measured, and inspected using sampling and testing procedures designated in Handbook 133, except as otherwise stated in these rules.
- B. A retail seller shall ensure that each package that is offered for sale in a variable weight, measurement, or count, and that is weighed, measured, or counted at the time of sale, includes a label on each package identifying the net weight, measurement, or count, item description, and packer's name if the packer is not the retailer. Pre-packaged produce does not require a label on each package if the retailer:
 - 1. Clearly labels the price-per-pound where the packaged produce is displayed, and
 - 2. Deducts a tare for the packaging from the gross weight at the time of sale.
- C. A retail seller shall price a commodity at the date and time that it is ordered by a customer.
- D. A retail seller who offers, exposes, or advertises a commodity for sale or rent shall post a definite, plain, and conspicuous price on the commodity or adjacent to where the commodity is displayed. If the price of the commodity is by weight, measure, or count, the retailer shall place the price per weight, measure, or count on the commodity or adjacent to where the commodity is displayed. If a retailer offers a commodity for sale or rent at a price reduced by a percentage or a fixed amount from a previously offered price, the retailer shall place the reduction or reduced price on the commodity or adjacent to where the commodity is displayed.
- E. A person who owns or operates a plant nursery shall label each commodity with its identity, container size, and price, or post a sign with this information adjacent to the point of display.
- F. A retail seller shall ensure that the price of each item purchased is displayed visibly to the public at each check-out location.

ARTICLE 4. ~~REPEALED~~ PRICE VERIFICATION AND PRICE POSTING

R20-2-401. ~~Repealed Price-Verification Inspection Procedure and Violation Exceptions~~

- A. The Department shall use the randomized sample collection or stratified sample collection procedures in Handbook 130, §§ 7.3.1 and 7.3.2, for a price-verification inspection and shall:
 - 1. Follow the inspection procedures in A.R.S. Title 41, Chapter 6, Article 1;
 - 2. Conduct all price-verification inspections in a single-stage format with a 25-item sample size for a store with three or fewer check-out registers and a 50-item sample size for all other stores;
 - 3. Request that a store representative accompany the Department on the inspection, and allow the store's representative to choose the items for the inspection under Handbook 130, §§ 7.3.1 and 7.3.2 sampling procedures.
 - 4. Consider that a store passes a price-verification inspection if the price of no more than one item in the 25- or 50-item sample size is not verified; and
 - 5. Conduct a post-inspection interview with a store representative that includes providing inspection results and the potential Department action.
- B. The following are price-verification violations:
 - 1. The price of an item on the cash register display differs from the posted or displayed price, or
 - 2. The charged price of an item, as indicated by the purchase receipt, differs from the posted or displayed price.
- C. The following are not price-verification violations:
 - 1. An item is not in the store's inventory or point-of-sale database when the item is scanned but, during the inspection, the item's price matches the posted price as determined by a store representative using the store's customary policy or procedure;
 - 2. The scanned price of an item is less than the posted price but the store provides information during the inspection to confirm that the lower price was recorded in the store's scanning database no more than five business days before or one business day after the effective date of the lower price;
 - 3. The scanned price of an item is more than the price posted but the store provides information during the inspection to confirm that the higher price was recorded in the store's scanning database no more than five business days before or one business day after the effective date of the higher price;
 - 4. A discrepancy between the scanned price and the posted price is due to a discounted price being rounded down;
 - 5. An error in an advertised price if the store places a notice adjacent to the item stating that the advertisement was in error and stating the correct price;
 - 6. A price label or display sign that has inadvertently fallen or been removed from a shelf;
 - 7. An item that has been inadvertently misplaced;
 - 8. An item on which the bar code is unreadable by the scanner, requiring a store employee to enter the correct price of the item into the cash register manually;
 - 9. If items are sold by the case, the case price is clearly posted;
 - 10. If items are displayed in a case but sold individually, the per-item price is clearly posted; and

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11. If more than one price is indicated on an item, the lowest posted price is the correct price.
- D.** The retail seller shall ensure that an item's price is visible on the cash register display to a customer as the price is entered on the cash register by a store employee.

R20-2-402. ~~Repeated~~ Price-Posting Inspection Procedure and Violation Exceptions

- A.** The Department shall choose one item that was used and four adjacent items that were not used for a price-verification inspection as the samples for a price-posting inspection.
- B.** If the Department finds an alleged price-posting violation involving an item used during its price-verification inspection, the Department shall record the price-posting violation on the inspection report.
- C.** The following are price-posting violations:
1. No price is posted or displayed for an inspected item, or
 2. Less than 98 percent of the prices of inspected items are posted accurately.
- D.** The following are not price posting violations:
1. A price is posted on a shelf where an item is displayed rather than marked on the item individually;
 2. A price is posted on the shelf at the farthest left side of all items with the same price for up to 3 feet of shelf space. The price for commodities with the same uniform price code may be more than three feet from the price posted if they are all displayed in the same location;
 3. A price posted above the highest item in a vertical location is the price of the items in that location;
 4. A storage area that is posted as a storage area for which a customer should ask for assistance;
 5. A restocking area that is posted as a restocking area for which a customer should ask for assistance;
 6. A price is posted on a hook in front of or behind a row of items but the price is clearly visible or a notice is clearly visible stating that the price is posted behind the row of items;
 7. An item is located in an advertising display without a posted price but a notice is posted informing a customer to ask for price information assistance about an item in the display. A service counter is not an advertising display;
 8. A menu-type sign at a point of display that lists the name and price of every item at the point of display in text at least 3/8" high;
 9. A point of display contains more than one item posted with the manufacturer's name or logo and the price and name of each item in the point of display is posted;
 10. A price is posted only at each entrance to a store but that price is the price of each item in the store, or at each entrance to a department within a store but that price is the price of each item in the department; and
 11. A notice states that there is an additional charge based on an item's size and each size and the additional charge for each size is posted.

ARTICLE 5. PUBLIC WEIGHMASTERS

R20-2-501. Qualifications; License and Renewal Application Process

- A.** In addition to the requirements of A.R.S. § 41-2093, to be ~~A~~ a public weighmaster or a deputy public weighmaster, a person shall have the following minimum qualifications:
1. Be ~~a person~~ at least 18 years old;
 2. Be able to operate a scale accurately;
 3. Be able to execute weight certificates properly.
- B.** A deputy public weighmaster shall have the same minimum qualifications as a public weighmaster. A public weighmaster who designates a deputy public weighmaster shall notify the Department in writing within 5 days of designating a deputy. A ~~deputy person~~ shall not perform the duties of a public weighmaster or deputy public weighmaster until the ~~deputy has passed person passes~~ the written weighmaster ~~exam~~ examination administered by the Department. A person shall not take the examination more than two times in six months.
- C.** An individual ~~A person that meeting~~ meets the qualifications for public weighmaster or deputy public weighmaster, ~~as set forth in this Section,~~ may apply for a license on a form supplied by the Department.
1. The application form ~~may require~~ includes:
 - a. The applicant's name, address, and telephone number;
 - b. A ~~representation~~ statement by the applicant that the applicant knows and understands ~~all applicable weights and measures~~ weighmaster laws and rules;
 - e. The name, address, and telephone number for each location of the applicant's business;
 - ~~d.c.~~ The name, address, and telephone number of each of the applicant's public weighmaster locations; and
 - d. The applicant's signature.
 2. The public weighmaster's application form also includes:
 - e-a. The name of each deputy public weighmaster;
 - f.b. The name and address of the scale;
 - g-c. The scale description; and

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h. ~~The applicant's signature.~~

~~2.3. Applicants~~ An applicant may be required to submit evidence of ~~their~~ qualifications and shall be examined regarding ~~their~~ competence or qualifications.

D. Before the Department issues or renews ~~any license or renewal of~~ a public weighmaster license, the applicant shall pay ~~any the~~ required fees and provide ~~any~~ information required ~~by the Department in A.R.S. Title 41, Chapter 15, or this Article in A.R.S. Title 41, Chapter 15, or this Chapter~~

E. The Department does not charge a fee for a change in name or address.

R20-2-502. Duties

A public weighmaster shall:

1. ~~Be available at the scale location and~~ responsible for ~~its~~ the daily operation and maintenance of the licensed scale used when performing weighmaster duties, unless specifically exempted in writing by the Department;
2. Use scales according to applicable laws and rules; and
3. Be responsible for all acts performed by any deputy public weighmaster designated by the weighmaster.

R20-2-505. Weight Certificates

A. No change

B. No change

C. No change

D. No change

E. No change

F. A weight certificate shall state:

1. The date of issuance;
- ~~2. The kind of property, produce, commodity, or article weighed;~~
- ~~3.2.~~ The name of the declared owner, agent, or consignee of the material weighed;
- ~~4.3.~~ The accurate weight of the material weighed and counted;
- ~~5.4.~~ The means by which the material is being transported at the time it is weighed;
- ~~6.5.~~ An identification number of the transporting unit, including a license number; and
- ~~7.6.~~ The following statement: "PUBLIC WEIGHMASTER'S CERTIFICATE OF WEIGHT AND MEASURE." This is to certify that the following described merchandise was weighed and counted or measured by a public or deputy weighmaster, and when properly signed and sealed, shall be prima facie evidence of the accuracy of the weight shown as prescribed by law".

G. No change

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

R20-2-601. Qualifications; License and Renewal Application Process; and Reciprocal Agreements

A. Registered Service Agency

1. ~~The Department shall accept applications for licensure of an agency that provides~~ To obtain a license as a registered service agency, an applicant shall provide evidence that:
 - a. ~~The applicant's registered service representatives have~~ has a thorough knowledge of all appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter; and that the applicant provided its representative with a copy of the portions of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter relating to registered service representative duties;
 - b. The applicant:
 - i. ~~possesses~~ Possesses the necessary certified standards and testing equipment to service commercial devices; and
 - ii. Possesses the necessary test equipment calibrated annually by the equipment manufacturer to perform an air to liquid (A/L) test of a vapor recovery system or vapor recovery component properly; or
 - iii. ~~that the applicant has~~ Has access to the necessary standards and testing equipment belonging to another registered service agency and has written approval from that agency to use its standards and testing equipment, and
 - c. ~~It~~ The applicant will operate the equipment in accordance with appropriate laws according to A.R.S. Title 41, Chapter 15, Handbook 44, CARB Executive Orders, and this Chapter.
2. The Department ~~may require an applicant to:~~ shall not issue a registered service agency license until at least one of the applicant's employees passes a registered service representative competency exam.
 - a. ~~Submit evidence or references concerning qualifications; and~~
 - b. ~~Have at least 1 of its representatives pass a competency examination, before issuing a license.~~

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3. ~~The application forms for registered service agencies may require the following information: An applicant for a registered service agency license shall submit an application form, obtained from the Department that provides:~~
 - a. Name, address, telephone ~~number~~, ~~electronic mail address~~, and facsimile ~~numbers number~~;
 - b. ~~Previous and current license~~ License information from other states;
 - c. Types of devices serviced, repaired, or installed, ~~or vapor recovery systems or components repaired or tested~~;
 - d. A list of all of the applicant's devices ~~and testing equipment~~ with corresponding serial or identification numbers;
 - e. Branch office information;
 - f. Names of ~~registered~~ service representatives and their experience with other ~~registered~~ service agencies or states;
 - g. License and disciplinary history; and
 - h. ~~Signatures of the applicant's agent or its representatives~~ Applicant's signature.
- B. Registered Service Representative
 1. ~~The Department shall accept an application for licensure of a representative that provides~~ To obtain a license as a registered service representative, an applicant shall provide evidence that:
 - a. The applicant has a thorough knowledge of all appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter;
 - b. The applicant possesses the necessary training or experience regarding appropriate standards and testing equipment to service ~~devices~~ a specific commercial device, vapor recovery system, or vapor recovery system component indicated on the application; and
 - c. The applicant will operate ~~in accordance with~~ according to appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, CARB Executive Orders; and this Chapter; ~~and~~
 2. ~~The Department shall may require an applicant to submit evidence or references concerning qualifications.~~
 - 3-d. ~~The applicant shall has passed a competency examination before being issued a license. An applicant shall bring a copy of Handbook 44 and Handbook 112 to the examination site. The Department shall require an applicant for a vapor recovery registered service representative license to complete the Department's training class before allowing the applicant to take the competency examination.~~
 - 4-2. ~~The application forms for a registered service representatives may require the following information: An applicant for a registered service representative license shall submit an application on a form obtained from the Department that provides:~~
 - a. Name, address, telephone ~~number~~, and facsimile ~~numbers number~~;
 - b. ~~Previous and current license~~ License information from other states;
 - c. Types of devices serviced, repaired, or installed, ~~or vapor recovery systems or components repaired or tested~~;
 - d. ~~Experience~~ Work experience with other ~~registered service agencies in Arizona~~ or ~~other~~ states;
 - e. License and disciplinary history; and
 - f. Signature.
- ~~C.~~ ~~The Department shall accept the certification of standards and testing equipment from any state that has standards traceable to NIST, unless the Department finds that a laboratory's standards or testing equipment are not traceable to NIST.~~
- C. To renew a vapor recovery registered service representative license, an applicant shall:
 1. Complete the Department's training class, and
 2. Take and pass a written vapor recovery examination, administered by the Department.
- D. An applicant shall not take a registered service representative examination more than two times in six months.
- E. An applicant shall complete an examination within the time specified.
- F. The Department does not charge a license fee for a change in business name or address.

R20-2-602. Duties

- A. Registered Service Agency
 1. A registered service agency shall ~~maintain~~:
 - a. Maintain all equipment in accordance with used for commercial device certification according to standards traceable to NIST, and
 - b. Maintain and use equipment for testing vapor recovery systems and vapor recovery system components according to this Chapter and manufacturer specifications.
 2. ~~When using a "placed-in-service report", a~~ A registered service agency shall use a placed-in-service report form prescribed by the Department.
 - a. A registered service agency shall ~~fill out~~ complete a placed-in-service report in triplicate;
 - b. Within ~~7~~ seven calendar days after a commercial device is restored to service or newly placed-in-service, a registered service agency shall mail the original of the properly completed and signed placed-in-service report to the Department;
 - c. A registered service agency shall give a ~~duplicate~~ copy of the placed-in-service report to the person who owns or operator of operates the commercial device;

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- d. A registered service agency shall retain a ~~duplicate~~ copy of the placed-in-service report or any required vapor recovery report for one year;
 - e. A registered service agency shall ~~assure~~ ensure that the placed-in-service report contains the assigned license number of the registered service representative who completed the report;
 - f. A registered service agency shall ensure that the placed-in-service report is completed and signed by the registered service representative noting each rejected commercial device restored to service and each newly installed commercial device placed-in-service;
 - g. A registered service agency shall ensure that the placed-in-service report includes the serial or identification number of each standard used by the registered service representative to calibrate the commercial device for each rejected device restored to service and for each newly installed device placed in service; and
 - h. A registered service agency shall ensure that the placed-in-service report includes the license number of the registered service representative who installs or repairs a commercial device.
- ~~4.3.~~ A registered service agency shall have all equipment used for commercial device certification and A/L testing certified annually by the manufacturer.
- ~~5.4.~~ A registered service agency shall not use new equipment for commercial device certification until it is certified by a NIST-traceable laboratory. ~~A registered service agency shall report any newly acquired equipment or changes in certified equipment to the Department within 10 days of the acquisition or change.~~
- ~~6.5.~~ A registered service agency shall ~~assure~~ ensure that ~~no~~ employees do not perform registered service representative duties ~~before being~~ until licensed. A registered service agency may train an employee in registered service representative duties only if the employee is within the direct line of sight and hearing of an onsite supervising licensed registered service representative.
6. A registered service agency shall use a form approved by the Department to record vapor recovery test results and violations. The registered service agency shall submit the summary test report within 24 hours following the test. All other forms relating to the test shall be mailed within seven days after completion of the test.
7. A registered service agency shall ensure that its registered service representative provides a copy of the Regulatory Bill of Rights, defined in A.R.S. § 41-1001.01, to the owner or operator before beginning a vapor recovery test that is not witnessed by the Department.
8. A registered service agency shall ensure that its registered service representative provides a vapor recovery system owner or operator with written test preparation instructions, approved by the Department, at least 10 business days before an initial or annual test.
- B. Registered Service Representative**
- ~~1.~~ A registered service representative shall use standards traceable to NIST.
 - ~~2.~~ A registered service representative who calibrates any metering device shall use a certified prover to run a 1-minute, uninterrupted, normal test draft, with the following capacity:
 - a. Wholesale devices – 50 gallons.
 - b. Retail motor fuel meters – 5 gallons.
 - ~~1.3.~~ A registered service representative shall ~~also~~:
 - a. Install only commercial devices that meet the requirements of ~~Article 2~~ this Chapter;
 - b. Perform all vapor recovery tests according to this Chapter;
 - c. Perform all appropriate tests when repairing a commercial device or repairing or replacing a vapor recovery system or component to ensure that the requirements of A.R.S. Title 41, Chapter 15, this Chapter, Handbook 44, Handbook 112, and CARB Executive Orders are met.
 - ~~b.d.~~ Report to the user equipment or commercial devices that do not conform to NIST standards ~~to the user~~; and
 - ~~e.e.~~ Complete placed-in-service reports accurately.
 2. If a vapor recovery registered service representative cannot correct a violation and has to leave the vapor recovery site, the registered service representative shall secure the non-compliant vapor recovery system or component from commercial use. The non-compliant system or component shall not be used for commercial purposes until it is repaired and passes the test required by R20-2-910. The registered service representative shall notify the Department of the stop-sale, stop-use by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner, so that the Department can witness the test.

R20-2-604. Prohibited Acts

- A.** A person shall not:
1. Perform any duty or do any act required to be done by a registered service agency or registered service representative without holding a registered service ~~agent~~ agency or registered service representative license issued by the Department;
 2. Use the title of registered service agency or registered service representative, any similar title, or hold oneself out as a registered service agency or representative without a valid license; or

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3. Remove an official out-of-service, warning, or ~~unlicensed device~~ stop-sale, stop-use tag except as authorized in this Chapter, or by the Department.
- B. A registered service agency or registered service representative shall not:
 1. Fraudulently complete or file a placed-in-service ~~Report~~ report;
 2. Delegate licensed authority or responsibility to an unlicensed person;
 3. Perform ~~any~~ a function without certified equipment;
 4. Install or place in service ~~any~~ a commercial device before satisfying all of the statutory and rule requirements; ~~or~~
 5. ~~Leave any location where a device was found not in compliance, without 1st tagging the device with an out-of-service, warning, or unlicensed device tag. Fail to report a commercial device to the Department within two business days of finding that device is out of compliance;~~
 6. Install, calibrate, or repair a commercial device without placing a sequentially numbered decal or label on the device as prescribed by the Director;
 7. Leave a location where there is a non-compliant commercial device without securing the commercial device from commercial use; or
 8. Leave a vapor recovery site where there is a non-compliant system or component without securing the system or component from commercial use.

R20-2-605. Material Incorporated by Reference

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

1. California Air Resources Board Executive Order G-70-17-AD, Modification of Certification of the Emco Wheaton Balance Phase II Vapor Recovery System, May 6, 1993 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
2. California Air Resources Board Executive Order G-70-36-AD, Modification of Certification of the OPW Balance Phase II Vapor Recovery System, September 18, 1992 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
3. California Air Resources Board Executive Order G-70-52-AM, Certification of Components for Red Jacket, Hirt, and Balance Phase II Vapor Recovery System, October 4, 1991 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
4. California Air Resources Board Executive Order G-70-70-AC, Certification of the Healy Phase II Vapor Recovery System for Service Stations, June 23, 1992 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
5. California Air Resources Board Executive Order G-70-150-AE, Modification to the Certification of the Marconi Commerce Systems Inc. (MCS) "Formerly Gibarco" VaporVac Phase II Vapor Recovery System, July 12, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
6. California Air Resources Board Executive Order G-70-153-AD, Modification to the Certification of the Dresser/Wayne WayneVac Phase II Vapor Recovery System, April 3, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
7. California Air Resources Board Executive Order G-70-154-AA, Modification to the Certification of the Tokheim MaxVac Phase II Vapor Recovery System, June 10, 1997 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
8. California Air Resources Board Executive Order G-70-163-AA, Certification of the OPW VaporEZ Phase II Vapor Recovery System, September 4, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
9. California Air Resources Board Executive Order G-70-164-AA, Modification to Certification of the Hasstech VCP-3A Vacuum Assist Phase II Vapor Recovery System, December 10, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
10. California Air Resources Board Executive Order G-70-165, Healy Vacuum Assist Phase II Vapor Recovery System, April 20, 1995 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
11. California Air Resources Board Executive Order G-70-169-AA, Modification to the Certification of the Franklin Electric INTELLIVAC Phase II Vapor Recovery System, August 11, 1997 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
12. California Air Resources Board Executive Order G-70-177-AA, Modification to the Certification of the Hirt VCS400-7 Vacuum Assist Phase II Vapor Recovery System, June 22, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
13. California Air Resources Board Executive Order G-70-180, Order Revoking Certification of Healy Phase II Vapor Recovery Systems for Gasoline Dispensing Facilities, April 17, 1997 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

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14. California Air Resources Board Executive Order G-70-183-AA, Relating to language correction in existing Executive Order G-70-183 (Healy/Franklin System), June 29, 2001 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
15. California Air Resources Board Executive Order G-70-186, Certification of the Healy Model 400 ORVR Vapor Recovery System, October 26, 1998 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
16. California Air Resources Board Executive Order G-70-188, Certification of the Catlow ICVN Vapor Recovery Nozzle System for use with the Gilbarco VaporVac Vapor Recovery System, May 18, 1999 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
17. California Air Resources Board Executive Order G-70-191-AA, Relating to language correction in existing Executive Order G-70-191 (Healy Model 600 ORVR/800), July 30, 2001 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
18. California Air Resources Board Executive Order G-70-196, Certification of the Saber Technologies, LLC SaberVac VR Phase II Vapor Recovery System (Acrobat 272 KB), December 30, 2000 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
19. United States Department of Commerce Technology Administration National Institute of Standards and Technology (NIST) Handbook 112, Examination Procedure Outlines for Commercial Weighing and Measuring Devices A Manual for Weights and Measures Officials, (2002 edition), Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-9328.

ARTICLE 7. MOTOR FUELS AND PETROLEUM PRODUCTS

R20-2-702. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Department and the Secretary of State. These documents ~~incorporations~~ incorporated by reference contain no future editions or amendments.

1. 16 CFR 306 - ~~Automotive Fuel Ratings, Certification and Posting~~ Automotive Fuel Ratings, Certification and Posting, January 1, 1998 ~~Edition~~ edition, Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
2. ASTM ~~D 975-98b~~ ~~D 975-97~~, ~~Specification for Diesel Fuel Oils, Petroleum Products, Lubricants, and Fossil Fuels~~ Standard Specification for Diesel Fuel Oils, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, Petroleum Products and Lubricants (I): D56-D2596, 2001 Edition ~~1998 edition~~, American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103-1187.
3. ASTM ~~D 4814-00~~ ~~D 4814-97b~~, ~~Specification for Automotive Spark-Ignition Engine Fuel, Petroleum Products, Lubricants, and Fossil Fuels~~ Standard Specification for Automotive Spark-Ignition Engine Fuel, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.02 ~~05-03~~, Petroleum Products and Lubricants (II) ~~(H): D 2597 - D 4927, 2001 Edition~~ ~~D 4636~~ ~~latest; Catalysts, 1998 edition~~. 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, Title II, Regulation of Fuels, Part A, Motor Vehicle Emission and Fuel Standards, (40 CFR 80), 40 CFR 211, Regulation of Fuels (January 28, 1992 edition), United States Environmental Protection Agency Fuels Section (EN-397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street SW, Washington, D.C. 20460.
5. No change

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

A. ~~An owner or operator of~~ A person who owns or operates a service station that has ~~a prominently displayed~~ an external sign shall ensure that the sign:

1. Identifies whether the ~~type of sale is cash, credit, or debit~~ if the price for payment differs depending on whether the payment is cash, credit or debit;
2. Identifies the self-service and full-service prices, if different;
3. ~~Identifies the grade of motor fuel as:-~~
 - a. ~~Unleaded, or UNL, 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;~~
4. ~~Discloses the full price of motor fuel~~ price including fractions of a cent and all federal and state taxes, if the sign displays the motor fuel price. A decimal point shall be used in the displayed price when a dollar sign precedes the posted price.
5. ~~Lettering~~ Displays lettering at a height is of at least 1/5 of the letter height of the motor fuel price displayed on the external sign or 2 1/2", whichever is larger, and is visible from the road;

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6-5. States the terms of any condition if the displayed price is conditional upon the sale of another product or service. The terms of any condition shall comply with the letter height requirement in subsection (5) (4)-;

6. Describes diesel fuel as No. 1 diesel, #1 diesel, No. 2 diesel, #2 diesel, or biodiesel-; and

7. Identifies the unit of measure of the price, if it is other than per gallon.

B. Effective January 1, 2004, if the sign reflects the following terms to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum anti-knock index:

<u>Term</u>	<u>Minimum Anti-Knock Index</u>
1. <u>Regular, Reg, Unleaded, UNL, or UL</u>	<u>87</u>
2. <u>Midgrade, Mid, or Plus</u>	<u>89</u>
3. <u>Premium, PREM, Super, Supreme, High, or High Performance</u>	<u>91</u>

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

A. A service station owner or operator shall ensure that information regarding pricing, and motor fuel grade information, octane rating, and any lead substitute addition displayed on a service station motor fuel dispenser:

1. Is clean, legible, and visible at all times;
2. Is displayed electronically or with a sign or label on the upper ~~60%~~ 60 percent of each face of the dispenser;
3. Lists the full price of the motor fuel including fractions of a cent and all federal and state taxes;
4. Displays the highest price of motor fuel sold from the dispenser if the dispenser is capable of dispensing and computing the price of multiple grades of motor fuel-;
5. ~~If Displays a discount, is if offered, the discount shall be displayed~~ in letters at least 1/4" in height on each face of ~~each the~~ dispenser and ~~be~~ next to the undiscounted price;
6. Displays both a cash and credit price on ~~an electronic~~ dispenser that is capable of electronically displaying both cash and credit prices-;
7. Posts both a cash and credit price on each face of ~~each electronic a~~ dispenser that is preset by the cashier if the dispenser is unable to display electronically and simultaneously both cash and credit prices-;
8. Posts a price-per-gallon sign next to or on a non-price computing dispenser for a retail-only sale of liquefied petroleum gas used as an alternative motor fuel; and
9. ~~Identifies the motor fuel grade as:~~
 - a. ~~Unleaded or UNL 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;~~
 - e. ~~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.~~Complies with the requirements of R20-2-704(A)(1) through (7).

B. ~~An owner or operator of~~ A person who owns or operates a service station shall ensure that:

1. The octane rating of each grade of gasoline is displayed on the upper ~~60 percent~~ 60 percent of each face of each dispenser, as prescribed by 16 CFR 306; and
2. The signs required by Handbook 130, for gasoline dispensers that dispense gasoline with lead substitute, ~~is~~ are displayed on the upper ~~60%~~ 60 percent of each face of each dispenser in letters at least 1/4" in height.

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

A. A ~~person who owns or operates~~ service station owner or operator shall ensure that gasoline and gasoline-oxygenate blends offered for sale at service stations outside the ~~CBG covered~~ CBG-covered area meet all the ASTM D ~~4814-00~~ 4814-97b requirements except:

1. The minimum vapor pressure shall be 6.4 pounds per square inch;
2. From May 1 through September 30, maximum vapor pressure shall be 9.0 pounds per square inch;
3. For gasoline blends, the vapor pressure may be one † pound per square inch greater than the vapor pressures established by ASTM D ~~4814-00~~ 4814-97b during:
 - a. May 1 through September 15, if the base fuel meets the requirements of ASTM D ~~4814-00~~ 4814-97b, the volatility requirements of 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, if the base fuel meets the requirements of ASTM D ~~4814-00~~ 4814-97b and the final gasoline-ethanol blend contains at least 1.5 percent ~~1.5%~~ ethanol by weight and does not exceed EPA waivers.

B. No change

C. No change

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

A. ~~A Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing gasoline blends shall use the test methods for gasoline blends established by methodologies and meet the test requirements of~~ ASTM D ~~4814-00~~ 4814-97b.

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- B. ~~A~~ Unless otherwise required in A.R.S. Title 41, Chapter 15, or this Chapter, a person testing #1 or #2 diesel fuel shall use the test methods established by methodologies and meet the test requirements of ASTM D 975-98b 975-97.

R20-2-717. Renumbered Hold Open Latch Exception

If a service station owner or operator has a motor fuel nozzle equipped with a hold-open latch, the latch shall operate according to the manufacturer's specifications.

ARTICLE 9. GASOLINE VAPOR CONTROL

R20-2-901. Material Incorporated by Reference

The following documents are incorporated by reference, ~~and~~ on file with the ~~Secretary of State, Department, and do not include any~~ The documents incorporated by reference contain no later amendments or editions:

1. No change
2. ~~Arizona Department of Weights and Measures Vapor Recovery Test Procedure TP-WM1, Determination of Vapor Piping Connections to Underground Gasoline Storage Tanks Tie Tank Test), April 1998, Arizona Department of Weights and Measures, 9545 E. Doubletree Ranch Road, Scottsdale, Arizona 85258. San Diego County Air Pollution Control District Test Procedure TP-96-1, March 1996, Third Revision, Arizona Department of Weights and Measures, 4425 W. Olive, Suite 134, Glendale, Arizona 85302, www.wm.state.az.us.~~
3. No change

R20-2-902. Exemptions

- A. ~~The owner or operator of a site applying for~~ To obtain an exemption from this Article, a person shall demonstrate to submit a written request to the Department's satisfaction that there has not been a monthly Department and attest that gasoline throughput at the gasoline dispensing site is not in excess of that specified in A.R.S. § 41-2132(C) for any month for the 2-year period before the date of the application for exemption. By the 15th of each month, beginning the month after the Department approves the exemption, the person shall submit a written throughput report to the Department. If a person does not timely file a monthly throughput report or if a monthly throughput report reflects that the exemption limit is exceeded, the Department deems the exemption void.
- B. ~~A candidate for~~ To obtain an independent small business marketer exemption, a person shall derive at least 50% 50 percent of the person's annual income from the sale of gasoline at each gasoline dispensing site that is being considered for this exemption the exemption is requested. The person shall submit a written request for exemption to the Department. The Department shall determine the percentage of total annual income represented by the sale of gasoline on the basis of an or operator's a person's state and federal gross income for income tax purposes. The following items are excluded from income computations:
1. Purchase and sale of ~~Diesel~~ diesel fuel, and
 2. State lottery sales net commissions and incentives.
- C. Motor raceways, motor vehicle proving grounds, and marine and aircraft fueling facilities are exempt from ~~state~~ stage II vapor recovery requirements.

R20-2-903. Equipment and Installation

- A. The Department shall reject a vapor recovery system or component from future installation if:
1. Federal regulations prohibit its use,
 2. The vapor recovery system or component does not meet the manufacturer's specifications as certified by CARB using test methods approved in R20-2-901, or
 3. The vapor recovery system or component fails greater than 20% of the number of Department inspections for that system or component or the Department receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Department provides at least 30 days public notice of its proposed rejection.
- ~~A.B.~~ The piping of both a stage I and stage II vapor recovery systems shall be designed and constructed as certified by CARB for that specific vapor recovery system. An owner or operator A person shall not alter a stage I and stage II vapor recovery systems and associated or components from their the CARB-certified configuration without obtaining Department approval under the Authority to Construct in R20-2-904.
- ~~B.C.~~ The fittings, assemblies, and components of both stage I and stage II vapor recovery systems shall be certified by CARB. If Department inspection or test data reveals reveal a deficiency in fittings a fitting, assemblies assembly, or components that cannot be permanently corrected, the deficient fittings fitting, assemblies assembly, and components shall not be used in Arizona.
- ~~C.D.~~ A Stage stage I spill containments may have a plugged drains in place of drain rather than a drain valves valve if a hand-operated pumps are pump is kept onsite for draining entrapped liquid. All Stage A stage II vapor recovery systems system shall have pressure/vacuum (P/V) threaded valves valves on top of the vent lines for gasoline storage tanks.

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R20-2-904. Application Requirements and Process for Authority to Construct Plan Approval

A. A person shall not begin to construct a site requiring a vapor recovery system or to make a major modification of an existing vapor recovery system before obtaining approval of an authority to construct plan application. A major modification is:

1. The repair or replacement of a gasoline storage tank that is equipped with a Department approved stage II vapor recovery system;
2. The repair or replacement of underground piping, vapor piping within a dispenser, or a dispenser at an existing vapor recovery site unless the dispenser replacement is necessary due to unforeseen damage to the existing dispenser; or
3. The replacement of a Department-approved stage II vapor recovery system of one certified configuration with an approved stage II vapor recovery system of a different certified configuration.

B. A person shall file with the Department a written change order to the authority to construct plan approval on a form provided by the Department if a modification of the approved vapor recovery system or a component is needed after the Department issues an authority to construct plan approval. The person shall not make any modification until the Department approves the amendment.

A.C. ~~Prior to the installation, replacement, modification, or initial operation of a stage I or stage II vapor recovery system, the owner or operator of the gasoline dispensing site~~ To obtain an authority to construct plan approval, a person shall submit to the Department, on a form provided by the Department, a complete application as defined in R20-2-108 for Authority to Construct with the following information:

1. The name, address, and phone number of any owner, operator, and proposed contractor, if known;
2. The name of the stage I or stage II vapor recovery system or component to be installed along with the specific CARB certification for that system or component;
3. The street address of the site where construction or operation major modification will take place with an estimated timetable for construction or commencement of the operation modification;
4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all equipment and piping detail; and
5. For nonattainment area stage II vapor recovery systems, an An application fee.

B.D. ~~After review and determination that the~~ and approval of the authority to construct plan is in compliance, the Department shall issue the Authority authority to Construct construct plan approval and mail the plan approval form in duplicate to the address indicated on the application.

1. A copy of the Authority authority to Construct construct plan approval shall be posted maintained at the facility during construction so that it is accessible for Department review.
2. Construction of a stage II vapor recovery equipment system or component at a site not having an approved Authority authority to Construct construct plan, shall be stopped and no further installation work shall be done until an Authority authority to Construct construct plan approval is obtained is approved, unless the Authority to Construct is approved within 7 days.
3. An authority to construct plan approval is not transferable.

C.E. ~~The Department may shall deny an Authority authority to Construct construct plan for any of the following reasons:~~

1. Providing incomplete, false, or misleading information; ; or
2. Failure Failing to meet the requirements stated in this Article Chapter.

D.F. ~~If excavation is involved, the Department may visually inspect the stage II underground piping of a gasoline dispensing sites that have been issued an Authority to Construct, before the pipeline is buried, for compliance with submitted the authority to construct plans plan approval and conditions contained in the Authority to Construct. The owner or operator of a gasoline dispensing site~~ A person who owns or operates a vapor recovery system or component shall give the Department notice by facsimile at least 2 two business days notice by facsimile of the time when before the underground piping will be is complete. The Department may shall require the owner or operator to excavate all piping not inspected before burial if the owner or operator does has not given the required 2 two business days' prior notice.

E.G. ~~After construction is complete, a person who has~~ Upon completion of construction, a gasoline dispensing site with a valid Authority authority to Construct construct plan approval may dispense gasoline for up to 90 days before final approval, if an initial providing a final inspection has been is scheduled in accordance with according to R20-2-905.

F.H. ~~An Authority authority to Construct construct plan approval expires 1 one year from the date of issuance~~ issue or the completion of construction, whichever is sooner.

R20-2-905. Initial Inspection and Testing

A. Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, the owner or operator a person shall provide the Department with a written certification of completion by the contractor and arrange scheduling of schedule an inspection that shall include includes tests and acceptance criteria specified in the Authority authority to Construct construct plan approval. The inspection shall be witnessed by the Department at a time approved by the Department and include any of the following as they pertain relevant to the specific vapor recovery system installed:

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1. A dynamic pressure performance test from each dispenser for each product grade to its associated underground storage tank;
 2. A pressure decay test ~~procedure~~ for each vapor control system including nozzles, underground storage tanks, and tank vents. This test shall be performed with caps removed from stage I fill and vapor risers. If the pressure decay test in R20-2-901(1) is used, the Department may shall fail the pressure decay test at a gasoline dispensing site vapor recovery system if gasoline storage tanks have less than 10 percent 40% or greater than 60 percent 60% vapor space. If the pressure decay test in R20-2-901(2) is used, the Department shall fail the vapor recovery system if storage tanks have less than 15 percent vapor space or more than 30,000 gallon vapor space. The Department shall compute combined tank vapor space for manifolded systems;
 3. ~~Determination of communication~~ Communication from dispenser to tanks for each product, using the ~~Department's San Diego TP-96-1 and CARB TP-201.4 test procedure procedures;~~
 4. ~~Determination, by volume meter, of air~~ Air to liquid volume ratio by volume meter of vapor recovery systems, using CARB TP-201.5 or CARB-endorsed equivalent procedures to determine air to liquid (A/L) ratios;
 5. ~~Test procedures, other than static pressure or pressure decay tests, that are part of the CARB certification for each specific system;~~
 - 6.5. ~~Determination of spillage~~ Spillage of Phase stage II vapor recovery systems, using the CARB TP-201.2C procedure;
 - 7.6. ~~Determination of liquid~~ Liquid removal of Phase stage II vapor recovery systems, using the CARB TP-201.6 procedure;
 - 8.7. ~~Determination of flow vs.~~ Flow versus pressure for equipment in Phase stage II vapor recovery systems, using the CARB TP-201.2B procedure;
 - 9.8. Procedures specified by a manufacturer for testing its equipment; and
- ~~10.B.~~ Tests required by the Department using Department-owned testing equipment to verify test results. If there is a difference between a testing contractor's and the Department's test results, the Department Department's test results shall be determinative-prevail.
- C. If the site fails to pass any of the tests required by subsection (A) the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system passes the appropriate tests in subsection (A).
- ~~B.D.~~ A person who cancels an initial inspection shall notify the Department by calling the Department's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. If an owner or operator cancels an inspection test, the owner or operator shall reschedule the inspection test to a date before the annual inspection date or the Department's scheduled deadline for corrective action, whichever applies. The Department may shall take enforcement action if a person an owner or operator fails to comply with this Section timely reschedule the inspection test.
- ~~C.E.~~ If the site fails to pass any of the tests required pursuant to this Article, the owner or operator shall make necessary repairs and adjustments in the time specified by the Department. The owner or operator shall also submit to the Department a reinspection fee and shall reschedule with the Department by mail or facsimile a time for repeat tests to be witnessed by the Department. A person shall notify the Department when a vapor recovery system or component is repaired after failing an initial inspection. The registered service representative shall not proceed with a reinspection until the Department approves the reinspection date and time.
- ~~D.F.~~ If the deficiencies are not corrected by a deadline set by the Department, the Department may issue a DWM-53. If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Department shall fail the initial inspection.
- G. If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.
1. The Department shall take enforcement action if the person fails to timely reschedule the inspection.
 2. The registered service agency shall notify the Department in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
 3. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the inspection date and time.

R20-2-906. Fees

- A. The Authority to Construct plan ~~review and approval fee~~ is \$500-00.
- B. The reinspection fee is \$300-00, and shall be ~~charged paid~~ each time an initial or preburial reinspection is required, or when the Department is not timely notified that an inspection is canceled.
 1. ~~The site fails to pass any of the required tests;~~
 2. ~~Testing personnel do not show up at the facility within 30 minutes after the scheduled time;~~
 3. ~~Within 30 minutes of arrival at the scheduled facility, the Department determines that the facility is not ready to test or cannot complete the test because of inadequate, or improperly installed or maintained equipment or inadequate vapor space in storage tanks; or~~
 4. ~~The owner or operator's testing contractor has not begun the stage II pressure decay test within 30 minutes of the~~

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~~beginning of the scheduled time and the Department defers testing to another time.~~

R20-2-910. Annual Tests Inspection and Testing

- ~~A. The stage I and stage II tests annual inspection required by A.R.S. § 41-2065(15) are is described in this Article. The owner or operator A person shall ensure that an annual inspection is conducted by a registered service representative on or before arrange these tests annually, with Department approval, to be completed by the annual test inspection date. The annual test inspection date is established on the date of the last annual test or a later date approved by the Department as the last day of the month of the last scheduled annual inspection. The registered service agency shall notify the Department in writing at least 10 business days prior to the inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the inspection date and time. The registered service agency shall not perform the inspection unless the Department approves the inspection date and time. The annual test shall be performed in the presence of a witness from the Department.~~
- ~~B. The tests shall include those defined in R20-2-905(A)(1) through (8) as they pertain to the specific vapor recovery system installed.~~
- ~~C. If an owner or operator's testing contractor has not begun the annual stage II pressure decay test within 30 minutes of the scheduled start time, the Department may defer testing to another time.
If there is a difference between a testing contractor's and the Department's test results, the Department Department's test results shall be determinative prevail.~~
- ~~**B.D.** If the site fails to pass any of the tests required by subsection (A) the owner or operator shall make any necessary repairs or adjustments (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system passes the appropriate tests in subsection (B). The owner or operator shall submit the appropriate reinspection fee and reschedule with the Department by phone or facsimile a time for repeat tests to be conducted so that they may again be witnessed by the Department.~~
- ~~E. Once an inspection has commenced, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.~~
- ~~F. A registered service representative shall perform all tests according to Article 9 and any other vapor recovery procedure that the Department issues to registered service agencies.~~
- ~~G. A person who cancels a witnessed inspection shall notify the Department by calling the Department's designated telephone number at least one hour prior to the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. The registered service agency shall notify the Department in writing at least 10 business days before the inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, of its approval of the inspection date and time. The Department shall take enforcement action if a person does not comply with this subsection.~~

R20-2-911. Compliance Inspections

~~In addition to the annual test, the The Department shall not announce when it plans to conduct a compliance inspection of a Stage I and or Stage II vapor recovery installations system or component at least annually. Compliance inspections shall be unannounced. If results of the a compliance inspection reveal violations a violation of A.R.S. Title 41, Chapter 15, or this Article, the Department may shall require the owner or operator to schedule undergo a specific test as required in R20-2-910.~~

R20-2-912. Enforcement

- ~~A. If the Department finds that a stage II vapor recovery equipment system or component at a gasoline dispensing site is defective or otherwise in violation of 1 non-compliant with one or more of the provisions of this Chapter Article or A.R.S. Title 41, Chapter 15, the Department shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant equipment DWM 53. The order shall extend to all equipment at the site that has reduced vapor recovery performance due to a violation is defective or non-complaint. A order shall require that a tag that is the subject of the order shall then be affixed to the equipment in public view. The owner or operator may be required to schedule an inspection for demonstrate that a Stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 41, Chapter 15 and meets the 95% effective level by conducting 1 or more of the tests specified in this Chapter Article before the equipment vapor recovery system or component is may be placed-in-service.~~
- ~~B. The owner or operator of a gasoline dispensing site that has been issued a DWM-53 pursuant to subsection (A) may request an informal review of the order by making a request in writing to the Department within 10 days of the order. Notice of the time and place of the informal review shall be mailed to the owner or operator at least 5 days prior to the informal review. Disposition of the informal review shall be mailed to the owner or operator within 5 days after conclusion of the informal review. Unless the order is vacated by the Department, or the equipment is reauthorized for use by the Department, the DWM-53 shall remain in effect during these proceedings.~~
- ~~C. The Department may impose civil penalties for stage I and stage II violations pursuant to A.R.S. § 41-2115.~~