

NOTICES OF FINAL RULEMAKING

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

NOTICE OF FINAL RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 14. DEPARTMENT OF HEALTH SERVICES LABORATORIES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R9-14-610 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 36-136(A)(7), (F)
Implementing statute: A.R.S. § 36-495.01
- 3. The effective date of the rule:**
The Department of Health Services (ADHS) is requesting that the rule become effective immediately upon filing with the Office of the Secretary of State as authorized under A.R.S. § 41-1032(A)(4) because the rule will provide a benefit to the public, and a penalty is not associated with a violation of the rule.

ADHS has identified three analytes for which the U.S. Food and Drug Administration (FDA) requires bottled drinking water to be tested, but the U.S. Environmental Protection Agency (EPA) and the Arizona Department of Environmental Quality (ADEQ) do not, and for which the ADHS rules do not currently include approved drinking water methods. ADHS has approved one drinking water method for each of these analytes, but is currently unable to approve additional methods, although they are authorized for use by the FDA, because R9-10-610(B)(2)(d)(iii) currently requires that a petitioner provide a reference to an EPA or ADEQ requirement to test the parameter for which a method approval is requested. Until R9-10-610(B)(2)(d)(iii) is amended to allow for an FDA requirement for testing of a parameter, ADHS cannot approve the additional methods that environmental laboratories desire to use. At least one laboratory that performs compliance testing for bottled drinking water is waiting for ADHS to complete this rulemaking so that it can obtain director approval of the method that it prefers to use when testing for phenol, one of the three analytes discussed above. This laboratory and other laboratories that perform compliance testing for bottled drinking water will be benefited if this rulemaking becomes effective immediately.
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 9 A.A.R. 4200, October 3, 2003
Notice of Proposed Rulemaking: 9 A.A.R. 5520, December 26, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Steven Baker, Office Chief |
| Address: | Arizona Department of Health Services
Office of Laboratory Licensure, Certification, and Training
1740 W. Adams, Suite 203N
Phoenix, AZ 85007 |
| Telephone: | (602) 364-0735 |
| Fax: | (602) 364-0759 |
| E-mail: | sbaker@hs.state.az.us |
| or | |
| Name: | Kathleen Phillips, Rules Administrator |
| Address: | Arizona Department of Health Services |

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Office of Administrative Rules
1740 W. Adams, Suite 202
Phoenix, AZ 85007

Telephone: (602) 542-1264
Fax: (602) 364-1150
E-mail: kphilli@hs.state.az.us

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

The rules in 9 A.A.C. 14, Article 6 establish minimum standards of proficiency, methodology, quality assurance, operation, and safety for environmental laboratories. They provide for the licensing of environmental laboratories and the certification of test methods, and they prescribe fees and the manner and form in which compliance testing results are reported. The rules are mandated by A.R.S. §§ 36-495.01 through 36-495.15, which were originally passed in 1989 in response to community and interdepartmental concerns. Since their promulgation, these rules have improved the quality of compliance testing and have helped to protect the public health and safety and the environment for all residents and guests of the State of Arizona through the monitoring and licensing of the laboratories testing Arizona's wastewater, drinking water, air, and hazardous wastes.

ADHS substantially revised the rules for environmental laboratory licensure effective December 15, 2000. At that time, ADHS adopted a provision in R9-14-610(B) allowing for Director approval of a method or method alteration if an approved method or existing alternate method was not available for the parameter involved or if an EPA or ADEQ statute or rule required or authorized use of a method that was not an approved method or existing alternate method. ADHS has since determined that some environmental laboratories desire to use methods that are not approved methods or existing alternate methods and that are not required or authorized to be used by the EPA or ADEQ, but instead are required or authorized to be used by the FDA. In addition, ADHS has determined that once the rules for bottled water in 9 A.A.C. 8 are updated, some environmental laboratories that perform compliance testing for bottled water processed in Arizona and sold only in Arizona may need to use methods that are required to be used by ADHS in 9 A.A.C. 8 rather than by the EPA, ADEQ, or the FDA. Additionally, ADHS has determined that the EPA is no longer promulgating methods only in the form of regulations, but instead is issuing less formal documents such as memoranda authorizing or requiring the use of methods. For these reasons, ADHS has determined that it is necessary to broaden the scope of circumstances under which a licensee may petition ADHS for approval of a new alternate method or method alteration.

This rulemaking amends R9-14-610(B) to allow a licensee to petition ADHS for approval of a new alternate method or method alteration if an approved method or existing alternate method is not available for a particular parameter or a different method or method alteration is required or authorized by the EPA, ADEQ, the FDA, or 9 A.A.C. 8.

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

ADHS did not review any study relevant to the rule.

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

Not applicable

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

ADHS will incur minimal-to-moderate costs from the rulemaking process and potentially moderate costs from the possible increase in the number of requests for Director approval of methods and method alterations. State agencies that are clients of environmental laboratories will potentially benefit substantially from this rulemaking because it will be possible for the environmental laboratories that they use to obtain Director approval for methods that could not have been Director-approved (and thus could not have been used) without the changes made in this rulemaking.

Political subdivisions that run environmental laboratories will potentially benefit substantially from this rulemaking because it will be possible to obtain Director approval for methods that could not have been Director-approved (and thus could not have been used) without the changes made in this rulemaking. Political subdivisions that are clients of environmental laboratories will potentially benefit substantially as well, for the same reason.

Private environmental laboratories will potentially benefit substantially from this rulemaking because it will be possible to obtain Director approval for methods that could not have been Director-approved (and thus could not have been used) without the changes made in this rulemaking. Businesses that are clients of environmental laboratories will potentially benefit substantially as well, for the same reason.

The general public may benefit from this rulemaking because it will result in environmental laboratories' being able to use the most up-to-date methods and method alterations available without waiting an extended period for ADHS to complete emergency or regular rulemaking. Because this could result in more accurate test results regarding the con-

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tents of samples of Arizona's wastewater, drinking water, air, and hazardous wastes, it may result in enhanced protection of the public health and safety and the environment for all residents and guests of the State of Arizona.

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

ADHS has not made any changes to the rule since it was proposed.

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

ADHS held an oral proceeding regarding this rulemaking on February 3, 2004, but did not receive any comments. ADHS also did not receive any written comments regarding this rulemaking.

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

Not applicable

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

This rulemaking does not make any changes to the incorporations by reference contained in R9-14-610(A).

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

No

15. The full text of the rule follows:

TITLE 9. HEALTH SERVICES

CHAPTER 14. DEPARTMENT OF HEALTH SERVICES

LABORATORIES

ARTICLE 6. LICENSING OF ENVIRONMENTAL LABORATORIES

Section

R9-14-610. Approved Methods and References

ARTICLE 6. LICENSING OF ENVIRONMENTAL LABORATORIES

R9-14-610. Approved Methods and References

A. No change

B. If an approved method or existing alternate method is not available for a particular parameter, or a different method or method alteration is required or authorized to be used for a particular parameter by ~~an~~ the EPA ~~or~~ ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8, a licensee may petition the Department for approval of a new alternate method or method alteration.

1. For a method or method alteration required or authorized by ~~an~~ the EPA ~~or~~ ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8, the petition shall include:
 - a. The name, address, and telephone number of the licensee submitting the petition;
 - b. The name, address, and telephone number of the laboratory for which approval of the method or method alteration is requested;
 - c. Identification of the parameter for which approval of the method or method alteration is requested; and
 - d. Reference to the EPA ~~or~~ ADEQ ~~statute or rule~~, U.S. Food and Drug Administration, or 9 A.A.C. 8 requirement or authorization for ~~that requires or authorizes~~ the use of the method or method alteration for which approval is requested.
2. For a method or method alteration that is not required or authorized by ~~an~~ the EPA ~~or~~ ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8, the petition shall include:
 - a. The name, address, and telephone number of the licensee submitting the petition;
 - b. The name, address, and telephone number of the laboratory for which approval of the method or method alteration is requested;
 - c. Identification of the parameter for which approval of the method or method alteration is requested; and
 - d. Written justification for using the method or method alteration for which approval is requested, including the following:
 - i. A detailed description of the method or method alteration;
 - ii. References to published or other studies confirming the general applicability of the method or method alteration to the parameter for which its use is intended;
 - iii. Reference to the EPA ~~or~~ ADEQ, U.S. Food and Drug Administration, or 9 A.A.C. 8 requirement to test the parameter; and
 - iv. Data that demonstrate the performance of the method or method alteration in terms of accuracy, precision, reliability, ruggedness, ease of use, and ability to achieve a detection limit appropriate for the proposed use

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- of the method or method alteration.
3. Before approving a new alternate method or method alteration that is not required or authorized by ~~an~~ the EPA ~~or~~ , ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8, the Department may require that the method or method alteration be performed by a laboratory designated by the Department to verify that, using the parameter for which its use is intended, the method or method alteration produces data that comply with subsection (B)(2)(d)(iv).
 4. The Department may approve a new alternate method or method alteration that is not required or authorized by ~~an~~ the EPA ~~or~~ , ADEQ ~~statute or rule~~, the U.S. Food and Drug Administration, or 9 A.A.C. 8 if the Department determines that use of the method or method alteration is justified as described in subsection (B)(2)(d).

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TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

PREAMBLE

1. Sections Affected

R20-2-101
R20-2-102
R20-2-103
R20-2-104
R20-2-105
R20-2-106
R20-2-107
R20-2-110
R20-2-201
R20-2-202
R20-2-203
R20-2-205
R20-2-301
R20-2-302
Article 4
R20-2-402
R20-2-501
R20-2-502
R20-2-505
R20-2-601
R20-2-602
R20-2-604
R20-2-605
R20-2-702
R20-2-704
R20-2-705
R20-2-714
R20-2-715
R20-2-717
R20-2-901
R20-2-902
R20-2-903
R20-2-904
R20-2-905
R20-2-906
R20-2-910
R20-2-911
R20-2-912

Rulemaking Action

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

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

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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. The effective date of the rules:

The rules will be effective 60 days after they are date-stamped by the Secretary of State.

4. 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

Notice of Proposed Rulemaking: 9 A.A.R. 3017, July 11, 2003

5. 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 Ave, Suite 134
Glendale, AZ 85302-3844

Telephone: (602) 255-5211

Fax: (602) 255-1950

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

The Department's five-year rule review was approved by the Governor's Regulatory Review Council on June 4, 2002. The rule amendments stated in the five-year review are incorporated in this 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 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 described in more detail.

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

Some rules in Articles 6 and 9 are 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 amended to update or add materials incorporated by reference and to conform to legislative changes.

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

None

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

Not applicable

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

For all 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. The rules spell out civil penalty criteria.

An impact pertains to the price and grade posting of gasoline products by service stations. Because of the potential cost to station owners to comply with these rules, the Department is delaying implementation of the requirement until June 5, 2004; 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 reduction in consumer confusion and the reduction in misleading advertising.

In summary, there should be only minimal overall impact. Economic impact is far outweighed by the consumer protection provided by regulatory standards. Many of the rules provide a favorable impact to the regulated industry.

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

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R20-2-401 has been removed and will be re-noticed. Effective date will change to June 5, 2004. R20-2-704 effective date also changes to June 5, 2004. In response to a stakeholder comment (see item 11) in regard to major modification, R20-2-904(A)(1) and (2) have been amended to strike "Repairing" and insert "Adding." Clarification in R20-2-601 that Registered Service Agencies and Registered Service Representatives shall have knowledge of NIST Handbook 112 and equipment shall be operated in accordance with NIST Handbook 112. Table 1 regarding civil penalties was removed and replaced with a narrative explanation of violations and corresponding enforcement actions. Authority to Construct "Permit" changed to "Plan Approval." R20-2-904(B) "Written Amendment" changed to "Change Order." Edition dates of a NIST Handbook incorporated by reference is a later version due to the length of time elapsed to complete rulemaking.

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

A letter from Conoco-Phillips dated August 11, 2003, RE: R20-2-904(A)(1) and (2). The recommendation is an attempt to align R20-2-101(18) to the requirement within R20-2-904(A) relating to when an Authority to Construct is to be submitted. The Department has made changes requested.

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

As required by A.R.S. 41-2083(C), the director of the Department of Environmental Quality was involved in the stakeholder process.

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

R20-2-101(12) incorporates 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. 20402-0001 (2003 edition).

R20-2-101(13) incorporates 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. 20402-0001 (2002 edition).

R20-2-101(14) incorporates 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. 20402-0001 (2003 edition).

R20-2-101(15) incorporates 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. 20402-0001 (January 2003 edition).

R20-2-605 incorporates the following CARB Executive Orders:

- 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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 Systems*, October 4, 1991, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

- California Air Resources Board Executive Order G-70-70-AC, *Modification of Certification of the Healy Phase II Vapor Recovery System for Gasoline Dispensing Facilities*, June 23, 1992, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

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- California Air Resources Board Executive Order G-70-163-AA, *Modification to the Certification of the OPW VaporEZ Phase II Vapor Recovery System*, September 4, 1996, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
- California Air Resources Board Executive Order G-70-165, *Certification of the Healy Vacuum Assist Phase II Vapor Recovery System with the Model 600 Nozzle*, April 20, 1995, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
- 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, California Air Resources Board, P.O. Box 2815, 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*, December 9, 1999, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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 Systems, Inc.)*, June 29, 2001, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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 Systems, Inc.)*, July 30, 2001, California Air Resources Board, P.O. Box 2815, 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*, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

R20-2-702 incorporates the following materials:

ASTM D 975-98b: *Standard Specification for Diesel Fuel Oils*, published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.01, 2001, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

ASTM D 4814-00: *Standard Specification for Automotive Spark-Ignition Engine Fuel*, published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05.02, 2001, American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

R20-2-901 incorporates the following materials:

San Diego County Air Pollution Control District Test Procedure TP-96-1, March 1996, Third Revision, Air Pollution Central District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.

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

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 1. ADMINISTRATION AND PROCEDURES

Section

R20-2-101. Definitions

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

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- 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

ARTICLE 2. COMMERCIAL DEVICES

Section

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

ARTICLE 3. PACKAGING, LABELING, AND METHOD OF SALE

Section

- R20-2-301. ~~Application~~ Repealed
R20-2-302. Handbook 130 and Handbook 133

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

Section

- R20-2-402. Price-posting Inspection Procedure and Violation Exceptions

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
R20-2-605. Material Incorporated by Reference

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~~ CBG-covered Area
R20-2-715. Motor Fuel Quality Testing Methods and Requirements
R20-2-717. ~~Renumbered~~ Hold Open Latch Exception

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 Requirements and Process for Authority to Construct Plan Approval
R20-2-905. Initial Inspection and Testing
R20-2-906. Fees
R20-2-910. Annual ~~Tests~~ Inspection and Testing
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 DWM-53~~ 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. 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, deputy 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(L);
 - h. Comply with scheduling a test according to R20-2-104(L); 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.~~
- ~~10. 11. No change~~
- ~~11. 12. No change~~
- ~~12. 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 0001 (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 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. 20402-0001 (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 0001 (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-~~

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- 0001 (January 2003 edition), incorporated by reference and on file with the Department. 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
 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, 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 or vapor recovery 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 Depart-

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ment. 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.
- 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;~~
 - e. ~~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~~
 - e. ~~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;~~
 - e. ~~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 a violation 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. The person who owns or operates a location inspected by the Department 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 more than 30 days.

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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.
 - 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 commercial device does not have a non-tampering seal affixed.
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 (F)(1) through (F)(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 the person who owns or operates the commercial device 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 and impose a \$500 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 unli-

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censed 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
- 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 an employee of the owner 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. In addition to an administrative order, 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 initial inspection of a retail location for price verification is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
- 2. 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 at more 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.
- 3. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, 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.
- 4. 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.
- 5. 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 initial inspection of a retail location for price posting is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
- 2. The Department shall issue a stop-sale, stop-use tag to a person who fails a price posting reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
- 3. The Department shall impose a \$50 civil penalty for each inspected lot not priced if a person fails a reinspection with a score of less than 96 percent.
- 4. The Department shall impose a \$100 civil penalty for each inspected lot not priced if a person fails a second reinspection.
- 5. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (J)(2) within the 60 days before the date of the complaint, 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 or signage 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.

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- 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.
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 or makes a major modification 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 issue an administrative order requiring a person to excavate a vapor recovery site if the person covers a vapor recovery component before a Department pre-burial inspection and shall impose a \$500 civil penalty if the excavated system does not pass required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.
3. The Department shall issue an administrative order if 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 if the person does not comply with the administrative order.
4. 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.
5. The Department shall issue a warning tag to a person whose vapor recovery system labeling does not comply with the authority to construct plan approval. The Department shall issue a 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.
6. 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 may operate.
7. The Department shall impose a \$500 civil penalty and issue another stop-sale, stop-use tag to a person who violates a stop-sale, stop-use tag. The Department shall impose a \$500 civil penalty and 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

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- 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 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 the 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 \$300.00 civil penalty on the registered service agency for 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 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;
 - ~~e.~~ 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;
- ~~e.~~ 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.~~ 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 as 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 wrapping 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.~~

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R20-2-302. Handbook 130 and Handbook 133

- A. A person shall comply with all packaging, labeling, and method of sale requirements shall follow in Handbook 130, except as otherwise stated in these rules this Chapter. 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 this Chapter.
- B. A retail seller shall ensure that a 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 the 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

R20-2-402. ~~Repealed 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 all 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 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; , and

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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 may 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. 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 ~~owner~~; and
 - g. ~~c.~~ The scale description; and
 - 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 or deputy 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, and this Chapter~~
- E. The Department does not charge a fee to process 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 or counted;
 - 5-4. The means by which the material is being transported at the time it is weighed or counted;
 - 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, counted, or measured by a public or deputy weighmaster, and when properly signed and sealed, ~~shall be is~~ prima facie evidence of the accuracy of the weight, count, or measure 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~~ 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~~ representative has a thorough knowledge of all appropri-

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ate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter;

b. 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-c.~~ 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

d. ~~It~~ The applicant shall ensure that its registered service representative will operate operates the equipment ~~in accordance with appropriate laws according to A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, 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.~~

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~~ 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~~ the 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, Handbook 112, CARB Executive Orders; and this Chapter; and

2. ~~The Department shall may require an applicant to submit evidence or references concerning qualifications.~~

~~3d.~~ The applicant shall pass 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. An applicant for a vapor recovery registered service representative license shall complete the Department's training class before taking the competency examination.

42. ~~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~~ Applicant's 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.

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- D. An applicant may 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 fee to process a change in business name or address.

R20-2-602. Duties

- A. Registered Service Agency 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~~ When a registered service agency restores or newly places in service a commercial device, the registered service agency shall use complete a placed-in-service report form prescribed by the Department.
 - a. ~~A-The~~ registered service agency shall ~~fill out a~~ complete the placed-in-service report in triplicate;:
 - b. Within 7 seven calendar days after ~~a-the~~ the commercial device is restored to service or newly placed in service, ~~a-the~~ registered service agency shall mail the original of the properly completed and signed placed-in-service report to the Department;:
 - c. ~~A-The~~ 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;:
 - d. ~~A-The~~ registered service agency shall retain a ~~triplicate~~ copy of the placed-in-service report or any required vapor recovery report for one year;:
 - e. ~~A-The~~ registered service agency shall ~~assure~~ ensure that the placed-in-service report contains the assigned license number of the registered service representative who ~~completed-completes~~ the report;:
 - f. ~~A-The~~ 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-placed in service~~;:
 - g. ~~A-The~~ 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. The registered service agency shall ensure that the placed-in-service report includes the license number of the registered service representative who installs or repairs the 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 a 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 to the Department 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 of a vapor recovery system 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 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 sys-

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tem 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
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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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 Systems, October 4, 1991, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
4. California Air Resources Board Executive Order G-70-70-AC, Modification of Certification of the Healy Phase II Vapor Recovery System for Gasoline Dispensing Facilities, June 23, 1992, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
8. California Air Resources Board Executive Order G-70-163-AA, Modification to the Certification of the OPW

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- VaporEZ Phase II Vapor Recovery System, September 4, 1996, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
 10. California Air Resources Board Executive Order G-70-165, Certification of the Healy Vacuum Assist Phase II Vapor Recovery System with the Model 600 Nozzle, April 20, 1995, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, December 9, 1999, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
 14. California Air Resources Board Executive Order G-70-183-AA, Relating to Language Correction in Existing Executive Order G-70-183 (Healy Systems, Inc.), June 29, 2001, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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, California Air Resources Board, P.O. Box 2815, 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 Systems, Inc.), July 30, 2001, California Air Resources Board, P.O. Box 2815, 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, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

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 The 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, Mail Stop SSOP, Washington, D.C. 20402-9328.
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, published in ASTM Annual Book of Standards, ~~Volume 05-01~~, Petroleum Products, and Lubricants, and Fossil Fuels, (I): D56-D2596, 1998 ~~edition~~, Volume 05.01, 2001, American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, PA 19103-1187~~, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
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, published in ASTM Annual Book of Standards, Petroleum Products, Lubricants, and Fossil Fuels, Volume 05-03 05.02, 2001, Petroleum Products and Lubricants (III): D 4636 -latest; Catalysts, 1998 ~~edition~~. American Society for Testing and Materials, ~~1916 Race Street, Philadelphia, PA 19103-1187~~ 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.
4. Waiver Requests under Section 211(f) of the Clean Air Act, 40 CFR 211, Regulation of Fuels (January 28, 1992 (August 22, 1995 edition)), United States Environmental Protection Agency, Fuels Section (EN 397F), Field Operations and Support Division, U.S. Environmental Protection Agency, 401 M Street SW, Transportation and Regional Programs Division, Fuels Program Support Group, Mail Code 6406J, Washington, D.C. 20460. Section 211(f) of the Clean Air Act allows a fuel or fuel additive manufacturer to apply to the Environmental Protection Agency's administrator to waive the prohibitions of certain paragraphs of Section 211(f)(4). A list of the administrator's rulings on all waiver requests is available from the Environmental Protection Agency.

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

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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;~~
 - 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;~~
- 4.3. 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;
- 5.4. ~~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;
- 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)~~ (A)(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 June 5, 2004, if a sign uses the following terms to describe a gasoline grade or gasoline-oxygenate blend, the grade or blend shall meet the following minimum antiknock index:

<u>Term</u>	<u>Minimum Antiknock 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~~-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 ~~each~~ 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~~ 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~~ is next to the undiscounted price;
 6. Displays both a cash and credit price on an ~~electronic~~ 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~~ electronic 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), (A)(2), (A)(3), (A)(5), (A)(6), and (A)(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%~~ 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 a service station owner or operator~~ shall ensure that gasoline and gasoline-oxygenate blends offered for sale at a service stations station 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 estab-

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lished 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 a gasoline blends-blend shall use the test methods for gasoline blends established by methodologies and meet the test requirements of ASTM D 4814-00 4814-97b.~~
- 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. Hold-open Latch Exception Renumbered

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, Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.~~
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 for which an 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 the person's state and federal gross income for the preceding year 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 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 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.

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~~B.A.~~ The piping of both a stage I and stage II vapor recovery systems system 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 system and associated or components component from their the CARB-certified configuration without obtaining Department approval under the Authority to Construct in R20-2-904.

~~C.B.~~ 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~~ component that cannot be permanently corrected, the deficient ~~fittings~~ fitting, ~~assemblies~~ assembly, and/or ~~components~~ component shall not be used in Arizona.

~~D.C.~~ A Stage ~~stage~~ I spill ~~containments~~ containment 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 ~~values~~ on top of the vent lines for gasoline storage tanks.

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 or component before obtaining approval of an authority to construct plan application. A major modification is:

1. Adding or replacing a gasoline storage tank that is equipped with a Department approved stage II vapor recovery system;
2. Adding or replacing 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. Replacing 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 an authority to construct plan approval on a form provided by the Department if a modification of the approved vapor recovery system or 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 change order.

~~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 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~~ site 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 give 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

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~~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 + 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:

- ~~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 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 10% 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 gasoline storage tanks have less than 15 percent or more than 30,000 gallons 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 a vapor recovery systems system, 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 a stage II vapor recovery systems system, using the CARB TP-201.2C procedure;
- ~~7.6.~~ Determination of liquid Liquid removal of Phase a stage II vapor recovery systems system, using the CARB TP-201.6 procedure;
- ~~8.7.~~ Determination of flow vs. Flow versus pressure for equipment components in Phase a stage II vapor recovery systems system, using the CARB TP-201.2B procedure; and
- ~~9.8.~~ Procedures specified by a manufacturer for testing its equipment; and the vapor recovery system.

~~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 a 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 and component pass all 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. A 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 of that site.

~~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 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 are described in this Article. The owner or operator~~ A person shall ensure that an annual inspection, as required by A.R.S. § 41-2065(A)(15), 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 the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Department in writing at least 10 business days before an annual 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 annual inspection date and time. The registered service agency shall not perform the annual 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 annual inspection shall include the tests defined in R20-2-905(A)(1 through 8) that pertain to the specific vapor recovery system installed.
- C. ~~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 a 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 and component pass all 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.
- 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.~~
- E. After an annual inspection begins, 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 before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Department in writing at least 10 business days before an annual 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 stage I and or Stage-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 vapor recovery system or component to schedule undergo an appropriate a specific test as required specified 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 vapor recovery system or component. 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~~

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operator may be required to schedule an inspection for demonstrate that a Stage 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 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.~~