

Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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From the Publisher

ABOUT THIS PUBLICATION

The paper copy of the *Administrative Register* (A.A.R.) is the official publication for rules and rulemaking activity in the state of Arizona.

Rulemaking is defined in Arizona Revised Statutes known as the Arizona Administrative Procedure Act (APA), A.R.S. Title 41, Chapter 6, Articles 1 through 10.

The Office of the Secretary of State does not interpret or enforce rules published in the *Arizona Administrative Register* or *Code*. Questions should be directed to the state agency responsible for the promulgation of the rule as provided in its published filing.

The *Register* is cited by volume and page number. Volumes are published by calendar year with issues published weekly. Page numbering continues in each weekly issue.

In addition, the *Register* contains the full text of the Governor's Executive Orders and Proclamations of general applicability, summaries of Attorney General opinions, notices of rules terminated by the agency, and the Governor's appointments of state officials and members of state boards and commissions.

ABOUT RULES

Rules can be: made (all new text); amended (rules on file, changing text); repealed (removing text); or renumbered (moving rules to a different Section number). Rules activity published in the *Register* includes: proposed, final, emergency, expedited, and exempt rules as defined in the APA.

Rulemakings initiated under the APA as effective on and after January 1, 1995, include the full text of the rule in the *Register*. New rules in this publication (whether proposed or made) are denoted with underlining; repealed text is stricken.

WHERE IS A "CLEAN" COPY OF THE FINAL OR EXEMPT RULE PUBLISHED IN THE REGISTER?

The *Arizona Administrative Code* (A.A.C.) contains the codified text of rules. The A.A.C. contains rules promulgated and filed by state agencies that have been approved by the Attorney General or the Governor's Regulatory Review Council. The *Code* also contains rules exempt from the rulemaking process.

The printed *Code* is the official publication of a rule in the A.A.C. is prima facie evidence of the making, amendment, or repeal of that rule as provided by A.R.S. § 41-1012. Paper copies of rules are available by full Chapter or by subscription. The *Code* is posted online for free.

LEGAL CITATIONS AND FILING NUMBERS

On the cover: Each agency is assigned a Chapter in the *Arizona Administrative Code* under a specific Title. Titles represent broad subject areas. The Title number is listed first; with the acronym A.A.C., which stands for the *Arizona Administrative Code*; following the Chapter number and Agency name, then program name. For example, the Secretary of State has rules on rulemaking in Title 1, Chapter 1 of the *Arizona Administrative Code*. The citation for this chapter is 1 A.A.C. 1, Secretary of State, Rules and Rulemaking

Every document filed in the office is assigned a file number. This number, enclosed in brackets, is located at the top right of the published documents in the *Register*. The original filed document is available for 10 cents a copy.

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ADMINISTRATIVE CODE
A price list for the *Arizona Administrative Code* is available online. You may also request a paper price list by mail. To purchase a paper Chapter, contact us at (602) 364-3223.

PUBLICATION DEADLINES
Publication dates are published in the back of the *Register*. These dates include file submittal dates with a three-week turnaround from filing to published document.

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Participate in the Process

Look for the Agency Notice

Review (inspect) notices published in the *Arizona Administrative Register*. Many agencies maintain stakeholder lists and would be glad to inform you when they proposed changes to rules. Check an agency's website and its newsletters for news about notices and meetings.

Feel like a change should be made to a rule and an agency has not proposed changes? You can petition an agency to make, amend, or repeal a rule. The agency must respond to the petition. (See A.R.S. § 41-1033)

Attend a public hearing/meeting

Attend a public meeting that is being conducted by the agency on a Notice of Proposed Rulemaking. Public meetings may be listed in the Preamble of a Notice of Proposed Rulemaking or they may be published separately in the *Register*. Be prepared to speak, attend the meeting, and make an oral comment.

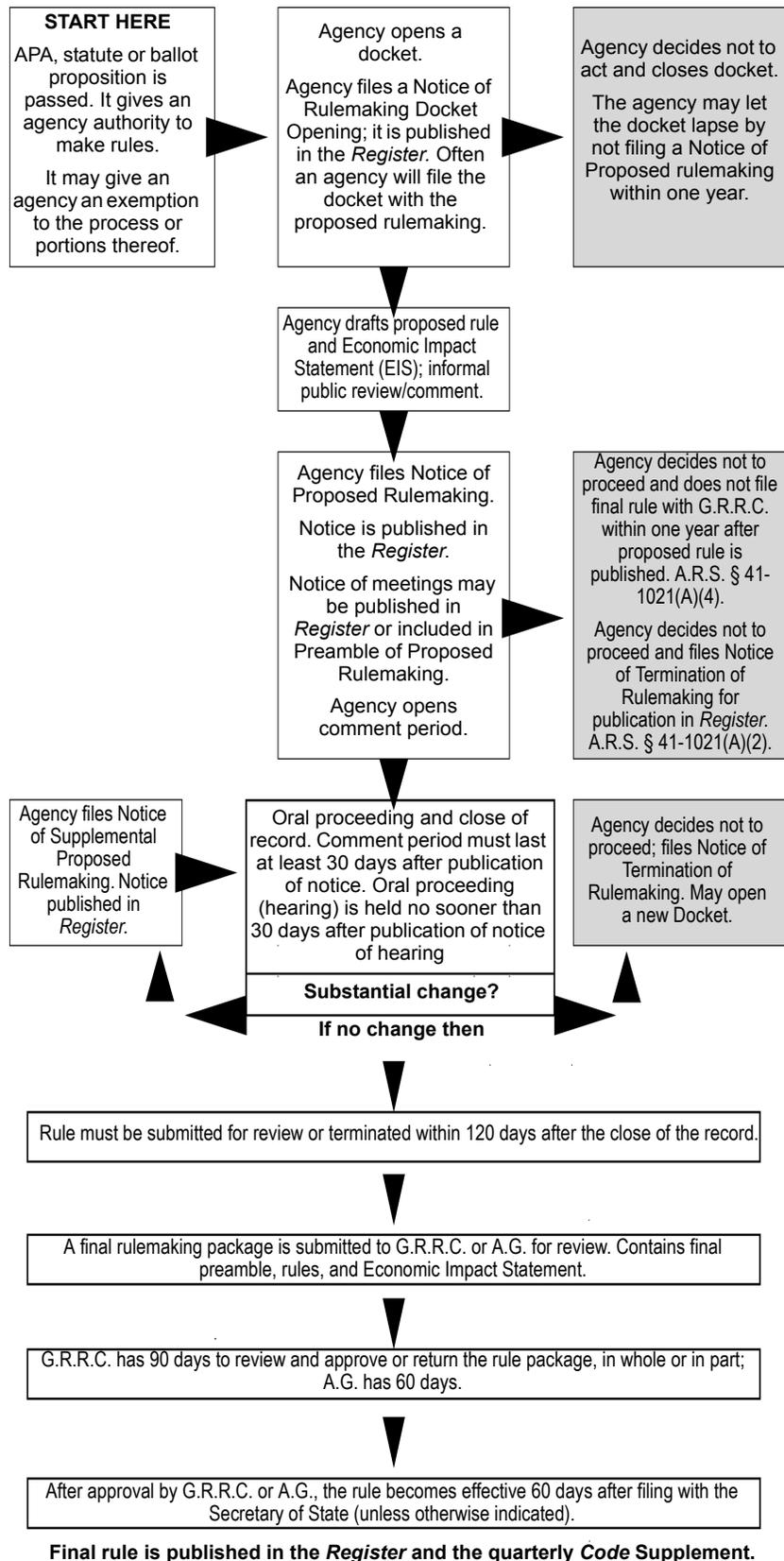
An agency may not have a public meeting scheduled on the Notice of Proposed Rulemaking. If not, you may request that the agency schedule a proceeding. This request must be put in writing within 30 days after the published Notice of Proposed Rulemaking.

Write the agency

Put your comments in writing to the agency. In order for the agency to consider your comments, the agency must receive them by the close of record. The comment must be received within the 30-day comment timeframe following the *Register* publication of the Notice of Proposed Rulemaking.

You can also submit to the Governor's Regulatory Review Council written comments that are relevant to the Council's power to review a given rule (A.R.S. § 41-1052). The Council reviews the rule at the end of the rulemaking process and before the rules are filed with the Secretary of State.

Arizona Regular Rulemaking Process



Definitions

Arizona Administrative Code (A.A.C.): Official rules codified and published by the Secretary of State's Office. Available online at www.azsos.gov.

Arizona Administrative Register (A.A.R.): The official publication that includes filed documents pertaining to Arizona rulemaking. Available online at www.azsos.gov.

Administrative Procedure Act (APA): A.R.S. Title 41, Chapter 6, Articles 1 through 10. Available online at www.azleg.gov.

Arizona Revised Statutes (A.R.S.): The statutes are made by the Arizona State Legislature during a legislative session. They are compiled by Legislative Council, with the official publication codified by Thomson West. Citations to statutes include Titles which represent broad subject areas. The Title number is followed by the Section number. For example, A.R.S. § 41-1001 is the definitions Section of Title 41 of the Arizona Administrative Procedures Act. The "§" symbol simply means "section." Available online at www.azleg.gov.

Chapter: A division in the codification of the *Code* designating a state agency or, for a large agency, a major program.

Close of Record: The close of the public record for a proposed rulemaking is the date an agency chooses as the last date it will accept public comments, either written or oral.

Code of Federal Regulations (CFR): The *Code of Federal Regulations* is a codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the federal government.

Docket: A public file for each rulemaking containing materials related to the proceedings of that rulemaking. The docket file is established and maintained by an agency from the time it begins to consider making a rule until the rulemaking is finished. The agency provides public notice of the docket by filing a Notice of Rulemaking Docket Opening with the Office for publication in the *Register*.

Economic, Small Business, and Consumer Impact Statement (EIS): The EIS identifies the impact of the rule on private and public employment, on small businesses, and on consumers. It includes an analysis of the probable costs and benefits of the rule. An agency includes a brief summary of the EIS in its preamble. The EIS is not published in the *Register* but is available from the agency promulgating the rule. The EIS is also filed with the rulemaking package.

Governor's Regulatory Review (G.R.R.C.): Reviews and approves rules to ensure that they are necessary and to avoid unnecessary duplication and adverse impact on the public. G.R.R.C. also assesses whether the rules are clear, concise, understandable, legal, consistent with legislative intent, and whether the benefits of a rule outweigh the cost.

Incorporated by Reference: An agency may incorporate by reference standards or other publications. These standards are available from the state agency with references on where to order the standard or review it online.

Federal Register (FR): The *Federal Register* is a legal newspaper published every business day by the National Archives and Records Administration (NARA). It contains federal agency regulations; proposed rules and notices; and executive orders, proclamations, and other presidential documents.

Session Laws or "Laws": When an agency references a law that has not yet been codified into the Arizona Revised Statutes, use the word "Laws" is followed by the year the law was passed by the Legislature, followed by the Chapter number using the abbreviation "Ch.," and the specific Section number using the Section symbol (§). For example, Laws 1995, Ch. 6, § 2. Session laws are available at www.azleg.gov.

United States Code (U.S.C.): The Code is a consolidation and codification by subject matter of the general and permanent laws of the United States. The Code does not include regulations issued by executive branch agencies, decisions of the federal courts, treaties, or laws enacted by state or local governments.

Acronyms

A.A.C. – *Arizona Administrative Code*

A.A.R. – *Arizona Administrative Register*

APA – *Administrative Procedure Act*

A.R.S. – *Arizona Revised Statutes*

CFR – *Code of Federal Regulations*

EIS – *Economic, Small Business, and Consumer Impact Statement*

FR – *Federal Register*

G.R.R.C. – *Governor's Regulatory Review Council*

U.S.C. – *United States Code*

About Preambles

The Preamble is the part of a rulemaking package that contains information about the rulemaking and provides agency justification and regulatory intent.

It includes reference to the specific statutes authorizing the agency to make the rule, an explanation of the rule, reasons for proposing the rule, and the preliminary Economic Impact Statement.

The information in the Preamble differs between rulemaking notices used and the stage of the rulemaking.



NOTICES OF PROPOSED RULEMAKING

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency the promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 9. REGISTRAR OF CONTRACTORS**

[R16-263]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R4-9-102 | Amend |
- 2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. §§ 32-1104(A)(5) and A.R.S. § 32-1105
 Implementing statute: Arizona Revised Statutes, Title 32, Chapter 10
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 22 A.A.R. 3708, December 30, 2016 (*in this issue*).
- 4. The agency’s contact person who can answer questions about the rulemaking:**
 Name: Jim Knupp, Legislative Liaison
 Address: Registrar of Contractors
 1700 W. Washington St., Suite 105
 Phoenix, AZ 85007
 Telephone: (602) 771-6710
 E-mail: jim.knupp@azroc.gov
 Web site: https://roc.az.gov
- 5. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**
 The Agency proposes to increase the dollar limit for projects for a contracting license classification to ensure licensees are able to contract for work envisioned by the construction industry and the Agency. The rulemaking also clarifies the scope of work allowed to be performed by the licensee.
- From 1980 to 1991, the dollar limit for an entity holding a B-2 Small Commercial Contractor license was to not exceed \$175,000.00 per project. From 1991 to 2014, the limit was increased to not exceed \$250,000.00 per project. Effective July 1, 2014, a Rule amendment increased the limit to not exceed \$750,000.00 per project.
- The most recent increase was long overdue as the cost of construction increased regardless of whether the Agency’s amending of Rules kept pace. In fact, some, including those within the Agency, believe the increase was not significant enough to realistically enable B-2 license holders to contract for work envisioned by the classification.
- The Agency proposes to increase the dollar limit for projects the B-2 General Small Commercial Contractor contracting license classification to not exceed \$2,000,000.00. The limit is currently \$750,000.00.



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

Not applicable

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

Not applicable

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

The Agency foresees only minor economic impacts based on the proposed change. These impacts include effected licensees being able to contract-for higher cost projects and increase revenue due to the proposed increase in the dollar limitation.

9. The agency's contact person who can answer questions about the economic, small business and consumer impact statement:

Name: Jim Knupp, Legislative Liaison
Address: Registrar of Contractors
1700 W. Washington St., Suite 105
Phoenix, AZ 85007
Telephone: (602) 771-6710
E-mail: jim.knupp@azroc.gov
Web site: https://roc.az.gov

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

The agency does not intend to hold public hearings on this rule, unless a public hearing is requested within 30-days of the publication of this rule. The Agency will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. E-mail comments will be accepted.

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The agency does not issue general permits because activities or practices in license classifications are not substantially similar in nature. Statutes require the agency to classify licenses in a manner consistent with established usage and procedure found in the construction industry.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-9-102. Commercial Contractor License Classifications and Scopes of Work

ARTICLE 1. GENERAL PROVISIONS

R4-9-102. Commercial Contractor License Classifications and Scopes of Work

A. No change

ENGINEERING CONTRACTING

A- No change



- A-4 No change
- A-5 No change
- A-7 No change
- A-9 No change
- A-11 No change
- A-12 No change
- A-14 No change
- A-15 No change
- A-16 No change
- A-17 No change
- A-19 No change

GENERAL COMMERCIAL CONTRACTING

- B-1 No change
- B-2 No change

SPECIALTY COMMERCIAL CONTRACTING

- C-4 No change
- C-6 No change
- C-9 No change
- C-11 No change
- C-16 No change
- C-27 No change
- C-37 No change
- C-39 No change
- C-49 No change
- C-53 No change
- C-58 No change
- C-74 No change
- C-77 No change
- C-78 No change
- C-79 No change

B. Commercial contracting scopes. The scope of work which may be done under the commercial contracting license classifications is as follows:

A- GENERAL ENGINEERING

No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
- 10. No change
- 11. No change

No change

A-4 No change

No change

A-5 EXCAVATING, GRADING AND OIL SURFACING

No change

- 1. No change
- 2. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change

A-7 PIERS AND FOUNDATIONS

No change

A-9 SWIMMING POOLS

No change



- No change
- A-11 STEEL AND ALUMINUM ERECTION
 - No change
- A-12 SEWERS, DRAINS AND PIPE LAYING
 - No change
- A-14 ASPHALT PAVING
 - No change
- A-15 SEAL COATING
 - No change
- A-16 WATERWORKS
 - No change
- A-17 ELECTRICAL AND TRANSMISSION LINES
 - No change
 - No change
- A-19 SWIMMING POOLS, INCLUDING SOLAR
 - No change
 - No change
- B-1 GENERAL COMMERCIAL CONTRACTOR
 - No change
 - No change

B-2 GENERAL SMALL COMMERCIAL CONTRACTOR
 Small commercial construction in connection with any new structure or addition built, being built, or to be built for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind for which the total amount paid to the licensee does not exceed ~~\$750,000~~ \$2,000,000. This scope includes the supervision of all or any part of the above and includes the management or direct or indirect supervision of any work performed.

~~Also included are the scopes of work allowed by the CR-2 through CR-80 license classifications.~~ Work related to electrical, plumbing, fire protection systems, air conditioning systems, boilers, swimming pools, spas and water wells must be subcontracted to an appropriately licensed contractor. This classification does not include work authorized by the A-, B-, ~~or B-3,~~ or residential scopes.

- C-4 BOILERS, STEAMFITTING AND PROCESS PIPING
 - No change
 - No change
- C-6 SWIMMING POOL SERVICE AND REPAIR
 - No change
 - No change
 - No change
- C-9 CONCRETE
 - No change
 - No change
 - No change
 - No change
- C-11 ELECTRICAL
 - No change
- C-16 FIRE PROTECTION SYSTEMS
 - No change
 - No change
 - No change
- C-27 LIGHTWEIGHT PARTITIONS
 - No change
 - No change
- C-37 PLUMBING
 - No change
 - No change
 - No change
 - No change
- C-39 AIR CONDITIONING AND REFRIGERATION
 - No change
 - No change



- No change
- No change
- C-49 REFRIGERATION
 - No change
 - No change
 - No change
 - No change
- C-53 WATER WELL DRILLING
 - No change
 - No change
 - No change
 - No change
- C-58 COMFORT HEATING, VENTILATING, EVAPORATIVE COOLING
 - No change
 - No change
 - No change
- C-74 BOILERS, STEAMFITTING AND PROCESS PIPING, INCLUDING SOLAR
 - No change
 - No change
- C-77 PLUMBING INCLUDING SOLAR
 - No change
 - No change
 - No change
 - No change
- C-78 SOLAR PLUMBING LIQUID SYSTEMS ONLY
 - No change
 - No change
 - No change
 - No change
- C-79 AIR CONDITIONING AND REFRIGERATION INCLUDING SOLAR
 - No change
 - No change
 - No change
 - No change
 - No change

**NOTICE OF PROPOSED RULEMAKING
TITLE 4. PROFESSIONS AND OCCUPATIONS
CHAPTER 23. BOARD OF PHARMACY**

[R16-265]

PREAMBLE

- | | |
|---|---------------------------------|
| <u>1. Articles, Parts, and Sections Affected</u> | <u>Rulemaking Action</u> |
| R4-23-703 | Amend |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statute: A.R.S. § 32-1904(A)(1)
 Implementing statute: A.R.S. §§ 32-1901(77)(b) and 32-1968(A)(5)
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**
 Notice of Rulemaking Docket Opening: 22 A.A.R. 3415, December 9, 2016
- 4. The agency's contact person who can answer questions about the rulemaking:**
 Name: Kamlesh Gandhi
 Address: Board of Pharmacy
 1616 W. Adams St., Suite 120
 Phoenix, AZ 85007
 Telephone: (602) 771-2740
 Fax: (602) 771-2749



E-mail: kgandhi@azpharmacy.gov

Web site: www.azpharmacy.gov

5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The Board is making its rules consistent with standard practice of assisted living facilities (ALF), rules of the Department of Health Services (See R9-10-816(A)(2)), which licenses ALFs, and an advisory opinion of the Board of Nursing (<https://www.azbn.gov/media/1067/ao-orders-accepting-transcribing-reviewing-orders.pdf>). As a convenience to residents, personnel of ALFs, after obtaining verbal direction from a resident's physician, call the prescription order into the resident's pharmacy of choice. A confirming written prescription order is then generated by the physician's office and sent to the pharmacy and ALF for their records.

A.R.S. § 32-1968(A)(5) allows a pharmacist to dispense a drug on an oral prescription order that is promptly reduced to writing and filed by the pharmacist. A.R.S. § 32-1901(77)(b) indicates a prescription order is one transmitted to a pharmacist through word of mouth, telephone, or other means of communication directed by a medical practitioner.

The Board has determined that as currently written, R4-23-703, which provides that a pharmacy shall dispense, sell, or deliver a prescription or nonprescription drug to an ALF resident only after receiving a prescription order from the resident's medical practitioner, is inconsistent with the standard practice of ALFs, rules of the Department of Health Services, and the advisory opinion of the Board of Nursing. This rulemaking will make the Board's rules consistent with the practices of other agencies.

An exemption from EO2016-03 was provided by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's Office, by e-mail dated July 14, 2016.

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

The Board does not intend to review or rely on a study in its evaluation of or justification for the rule in this rulemaking.

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

Not applicable

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

The Board believes making its rules consistent with standard practice of other agencies, as authorized by the Board's statutes, will benefit residents of ALFs and the personnel who provide their care by enabling a pharmacist to fill many prescription orders on verbal direction from ALF personnel. The rulemaking will eliminate a regulatory burden caused by the Board's rules being inconsistent with the practices of other agencies.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:

Name: Kamlesh Gandhi
Address: Board of Pharmacy
1616 W. Adams St., Suite 120
Phoenix, AZ 85007
Telephone: (602) 771-2740
Fax: (602) 771-2749
E-mail: kgandhi@azpharmacy.gov
Web site: www.azpharmacy.gov

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

An oral proceeding regarding the proposed rule will be held as follows:

Date: Monday, January 30, 2017
Time: 9:00 a.m.
Location: Board of Pharmacy
1616 W. Adams St., Suite 120
Phoenix, AZ 85007



11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rulemaking requires no permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

There are federal laws relating to selling and dispensing of drugs. However, none is specifically applicable to this rulemaking. No rule in the rulemaking is more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

13. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 7. NON-PHARMACY LICENSED OUTLETS - GENERAL PROVISIONS

Section

R4-23-703. Assisted Living Facilities

ARTICLE 7. NON-PHARMACY LICENSED OUTLETS - GENERAL PROVISIONS

R4-23-703. Assisted Living Facilities

A. ~~Assisted living facilities are licensed by the state Department of Health Services. Before dispensing, selling, or delivering a prescription or nonprescription drug to an assisted living facility resident, a pharmacy permittee shall obtain a copy of the current license issued by the Arizona Department of Health Services to the assisted living facility and make the copy available for inspection on request by a Board compliance officer.~~

B. A pharmacy permittee shall ensure that:

1. ~~Only dispense, sell, or deliver a prescription or nonprescription drug to an assisted living facility resident only after receiving a prescription order for the narcotic drug from the resident's medical practitioner; and~~ A narcotic prescription drug is dispensed, sold, or delivered to an assisted living facility resident only after receiving a prescription order for the narcotic drug from the resident's medical practitioner; and
2. ~~Label, The narcotic drug is labeled in accordance with A.R.S. §§ 32-1963.01, 32-1968, and 36-2525, all drugs dispensed, sold, or delivered to an assisted living facility resident; and includes the following on the label:~~ Label, The narcotic drug is labeled in accordance with A.R.S. §§ 32-1963.01, 32-1968, and 36-2525, all drugs dispensed, sold, or delivered to an assisted living facility resident; and includes the following on the label:
 - a. The name, strength, and quantity of the drug; and
 - b. A beyond-use date.
3. ~~Obtain a copy of the current Arizona Department of Health Services license issued to an assisted living facility before dispensing drugs to that facility's resident; and~~
4. ~~Maintain, for inspection by a Board compliance officer, a file containing the license copy required in subsection (B)(3).~~

C. A pharmacy permittee may dispense, sell, or deliver to an assisted living facility resident a non-narcotic prescription or non-prescription drug if the pharmacy permittee:

1. Receives a written or oral prescription order for the non-narcotic prescription or non-prescription drug from:
 - a. The resident's medical practitioner,
 - b. An individual licensed by the Arizona Board of Nursing, or
 - c. An assisted living facility manager or caregiver acting under the authority of R9-10-816(A)(2);
2. Determines the written or oral prescription order:
 - a. Meets the requirements of R4-23-407, and
 - b. Includes the name and title of the individual transmitting the prescription order; and
3. Labels the non-narcotic prescription or non-prescription drug in accordance with A.R.S. §§ 32-1963.01 and 32-1968 and includes the following on the label:
 - a. The name, strength, and quantity of the drug; and
 - b. A beyond-use date.

C. ~~In addition to the labeling requirements of A.R.S. §§ 32-1963.01, 32-1968, and 36-2525, the label on a prescription medication for an assisted living facility resident shall include the name, strength, and quantity of the drug and a beyond-use date.~~



- D. If the label on an assisted living facility resident's drug container becomes damaged or soiled, a pharmacist employed by the pharmacy permittee that dispensed the drug container, through the exercise of professional judgment, may relabel the drug container. Only a pharmacist is permitted to label a drug container or alter the label of a drug container.
- E. A pharmacist may help assisted living facility personnel ~~to~~ develop written policies and procedures ~~for the procurement, administration, storage, control, recordkeeping, and disposal of~~ regarding procuring, administering, storing, controlling, keeping records, and disposing of drugs in the facility and provide ~~other~~ information concerning ~~drugs that assisted living facilities should have for~~ safe and effective supervision of drug self-administration.
- F. A pharmacy permittee shall not place an emergency drug supply unit as ~~defined~~ described in R4-23-701.02 or an automated dispensing system as ~~defined~~ described in R4-23-701.04 in an assisted living facility.
- G. ~~Drugs~~ A pharmacist shall not repackage a drug previously dispensed to a resident of the an assisted living facility resident by another pharmacy, and drugs previously dispensed by the provider pharmacy, shall not be repackaged.



NOTICES OF FINAL RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Rulemaking. Final rules have been through the regular rulemaking process as defined in the Administrative Procedures Act. These rules were either approved by the Governor's Regulatory Review Council or the Attorney General's Office. Certificates of Approval are on file with the Office.

The final published notice includes a preamble and

text of the rules as filed by the agency. Economic Impact Statements are not published.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the final rules should be addressed to the agency that promulgated the rules. Refer to Item #5 to contact the person charged with the rulemaking. The codified version of these rules will be published in the Arizona Administrative Code.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

[R16-266]

PREAMBLE

- 1. Articles, Parts, and Sections Affected (as applicable) Rulemaking Action
R4-11-401 Amend
R4-11-402 Amend
R4-11-403 New Section
R4-11-405 Amend
R4-11-406 Amend
2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):
Authorizing statute: A.R.S. §§ 32-1207(A)(1) and (12), 32-1207(B)(3)(C), and 32-1207(E) and (F)
Implementing statute: A.R.S. §§ 32-1213(B)(4), (C), and (D), 32-1232(A) and (B), 32-1236(C), (D), and (F), 32-1240(B), 32-1262(G), 32-1284(A), 32-1287(A), (C), (D), and (F), 32-1292.01(B), 32-1297.04, 32-1297.06, and 32-1299.23
3. The effective date of the rule:
February 6, 2017
a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):
Not applicable
b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):
Not applicable
4. Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:
Notice of Rulemaking Docket Opening: 22 A.A.R. 2056, August 5, 2016
Notice of Proposed Rulemaking: 22 A.A.R. 2307, September 2, 2016
5. The agency's contact person who can answer questions about the rulemaking:
Name: Elaine Hugunin, Executive Director
Address: State Board of Dental Examiners
4205 N. 7th Ave., Suite 300
Phoenix, AZ 85013
Telephone: (602) 542-4493
Fax: (602) 242-1445
E-mail: elaine.hugunin@azdentalboard.us
Website: www.dentalboard.az.gov



6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

A.R.S. § 41-1008(D) requires an agency to comply with the provisions of the Administrative Procedure Act when establishing or increasing a fee. The Board is placing in rule the fees it is expressly authorized to collect for an initial or renewal license of a dentist (A.R.S. § 32-1236), dental hygienist (A.R.S. § 32-1287), and dentist (A.R.S. § 32-1297.06) and registration as a business entity offering dental services (A.R.S. § 32-1213). The Board is also placing in rule the fee for late renewal by a business entity (A.R.S. § 32-1213(D)).

The Board's statutes establish some fees the Board is authorized to collect. In the interest of assisting applicants and licensees comply with statute, the Board is placing those fees in rule. The fees established in statute are:

- Jurisprudence examination fee for dentists (A.R.S. § 32-1232(B))
- Jurisprudence examination fee for dental hygienists (A.R.S. § 32-1984(A))
- License by credential for dentists (A.R.S. § 32-1240(B))
- License by credential for dental hygienists (A.R.S. § 32-1292.01(B))
- Reinstatement penalty for dentists (A.R.S. § 32-1236(D))
- Reinstatement penalty for dental hygienists (A.R.S. § 32-1287(D))
- Reinstatement penalty fee for denturists (A.R.S. § 32-1297.06(D))

To reduce the balance in the Dental Board fund (A.R.S. § 32-1212), the Board is reducing by 15 percent the amount collected to renew a license and reducing the amount collected for a permit to administer general anesthesia or semiconscious, conscious, or oral sedation at multiple locations. The Board is also extending the term of a permit to administer general anesthesia or semiconscious, conscious, or oral sedation from three to five years. The Board is also no longer collecting a convenience fee for taking payments by credit card.

An exemption from EO2015-03 was provided by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's Office, in an e-mail dated June 24, 2016.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on 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:

The Board did not review or rely on a study in its evaluation of or justification for a rule in this rulemaking.

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

Not applicable

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

Because the Board has been collecting the licensing fees being placed in rule, the economic impact on applicants and licensees will be minimal. The 15 percent reduction in renewal fees, the reduction from \$300 to \$25 per additional location for using a permit to administer general anesthesia or semiconscious, conscious, or oral sedation at multiple locations, extending the term of a permit to administer general anesthesia or semiconscious, conscious, or oral sedation, and no longer collecting a convenience fee for use of a credit card will have a positive economic benefit for licensees. These reductions will reduce the balance the Board carries in its fund and will reduce the amount the Board contributes to the general fund.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

No changes were made between the proposed and final rules.

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

No comments were received regarding the rulemaking. No one attended the oral proceeding on October 12, 2016.

12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The licenses for which fees are being placed in Article 4 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:



The rules are not more stringent than federal law because no federal law is directly applicable to the fees charged by the Board.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

No rule in this rulemaking was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 4. FEES

Section

- R4-11-401. Retired or Disabled Licensure ~~Renewal Fees~~ Fee
- R4-11-402. Business Entity Fees
- R4-11-403. ~~Repealed~~ Licensing Fees
- R4-11-405. ~~Other Fees~~ Charges for Board Services
- R4-11-406. ~~Fees for Anesthesia and Sedation~~ Permits Permit Fees

ARTICLE 4. FEES

R4-11-401. Retired or Disabled Licensure ~~Renewal Fees~~ Fee

As expressly authorized under A.R.S. § 32-1207(B)(3)(c), the licensure renewal fee for a retired or disabled dentist or dental hygienist is \$15.

- ~~A. Dentist. Retired or disabled licensure renewal: \$15.00.~~
- ~~B. Dental Hygienist. Retired or disabled licensure renewal: \$15.00.~~

R4-11-402. Business Entity Fees

~~A. Under A.R.S. § 32-1213(B)(3), the fee for a~~ As expressly authorized under A.R.S. § 32-1213, the Board establishes and shall collect the following fees from a Business Entity offering dental services:

- 1. ~~Initial triennial registration is \$100 per year, \$300 per location;~~
- 2. ~~Renewal of triennial registration, \$300 per location; and~~
- 3. ~~Late triennial registration renewal, \$100 per location in addition to the fee under subsection (2).~~

~~B. The civil penalty fee for failure to notify the Board of a change in either business entity name, address, telephone number, location of any office, or licensee responsible for dental services within 30 days after the change is \$50. The civil penalty fee increases to \$100 if a business entity fails to notify the Board of the change within 60 days.~~

R4-11-403. ~~Repealed~~ Licensing Fees

~~A. As expressly authorized under A.R.S. §§ 32-1236, 32-1287, and 32-1297.06, the Board establishes and shall collect the following licensing fees:~~

- 1. ~~Dentist triennial renewal fee: \$510;~~
- 2. ~~Dentist prorated initial license fee: \$110;~~
- 3. ~~Dental hygienist triennial renewal fee: \$255;~~
- 4. ~~Dental hygienist prorated initial license fee: \$55;~~
- 5. ~~Denturist triennial renewal fee: \$233; and~~
- 6. ~~Denturist prorated initial license fee: \$46.~~

~~B. The following license-related fees are established in or expressly authorized by statute. The Board shall collect the fees:~~

- 1. ~~Jurisprudence examination fee:~~
 - a. ~~Dentists: \$300;~~
 - b. ~~Dental Hygienists: \$100; and~~
 - c. ~~Denturists: \$250.~~
- 2. ~~Licensure by credential fee:~~
 - a. ~~Dentists: \$2,000; and~~
 - b. ~~Dental Hygienists: \$1,000.~~
- 3. ~~Penalty to reinstate an expired license or certificate: \$100 for a dentist, dental hygienist, or denturist in addition to renewal fee specified under subsection (A).~~



- 4. Penalty for a dentist, dental hygienist, or denturist who fails to notify Board of a change of mailing address:
 - a. Failure after 10 days: \$50; and
 - b. Failure after 30 days: \$100.

R4-11-405. Other Fees Charges for Board Services

The Board shall charge the following for the services provided:

- ~~A.1.~~ Duplicate license: ~~\$25.00;~~ \$25;
- ~~B.2.~~ Duplicate certificate: ~~\$25.00;~~ \$25;
- ~~C.3.~~ License verification:
 - 1-a. For licensee: ~~\$25.00;~~ \$25; and
 - 2-b. For non-licensure: ~~\$5.00;~~ \$5;
- ~~D.4.~~ Copy of ~~tape~~ audio recording: ~~\$10.00;~~ \$10;
- ~~E.5.~~ Photocopies (per page): ~~\$0.25;~~ \$25;
- ~~F.6.~~ Mailing lists:
 - 1-a. Dentists:
 - a-i. In-state licensees - paper or labels: ~~\$150.00;~~ \$150;
 - b-ii. All licensees - paper or labels: ~~\$175.00;~~ \$175; and
 - e-iii. ~~Computer disk~~ Mailing list in digital format: ~~\$100.00;~~ \$100;
 - 2-b. Dental hygienists:
 - a-i. In-state licensees - paper or labels: ~~\$150.00;~~ \$150;
 - b-ii. All licensees - paper or labels: ~~\$175.00;~~ \$175; and
 - e-iii. ~~Computer disk~~ Mailing list in digital format: ~~\$100.00;~~ \$100; and
 - 3-c. Denturists: All certificate holders - paper, ~~or~~ labels, ~~or~~ digital format: ~~\$5.00;~~ \$5; and
- ~~G.7.~~ Board meeting agendas and minutes (mailed directly to consumer):
 - 1-a. Agendas and minutes (~~annual fee~~): ~~\$75.00;~~ \$75 for 12 months;
 - 2-b. Agendas only (~~annual fee~~): ~~\$25.00;~~ \$25 for 12 months; and
 - 3-c. Minutes only (~~annual fee~~): ~~\$50.00;~~ \$50 for 12 months.

R4-11-406. Fees for Anesthesia and Sedation Permits Permit Fees

- A. Under A.R.S. § 32-1207(D), the fee for a ~~As~~ expressly authorized under A.R.S. § 32-1207, the Board establishes and shall collect the following fees:
 - 1. Section 1301 permit ~~to administer general anesthesia and semi-conscious sedation or a~~ fee: \$300 plus \$25 for each additional location;
 - 2. Section 1302 ~~or~~ permit fee: \$300 plus \$25 for each additional location;
 - 3. Section 1303 permit ~~to administer conscious or oral conscious sedation~~ fee: \$300 plus \$25 for each additional location; and
 - 4. Section 1304 permit fee: ~~is~~ \$300 ~~per location~~ plus \$25 for each additional location.
- B. Upon successful completion of the ~~an~~ initial onsite evaluation and upon receipt of the required permit fee, the Board shall issue a separate Section 1301, 1302, ~~or~~ 1303, ~~or~~ 1304 permit to a dentist for each location requested by the dentist. A permit expires on December 31 of every ~~third~~ fifth year.
- C. The renewal fee for each Permit renewal fees:
 - 1. Section 1301 permit renewal fee: \$300 plus \$25 for each additional location;
 - 2. Section 1302, ~~or~~ permit renewal fee: \$300 plus \$25 for each additional location;
 - 3. Section 1303 permit ~~is~~ renewal fee: \$300 ~~per location~~ plus \$25 for each additional location; and
 - 4. Section 1304 permit renewal fee: \$300 plus \$25 for each additional location.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 17. ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

[R16-267]

PREAMBLE

<u>1. Articles, Parts, and Sections Affected (as applicable)</u>	<u>Rulemaking Action</u>
Table 1	Amend
R4-17-202	Amend
R4-17-203	Amend
R4-17-204	Amend
R4-17-205	Amend
R4-17-206	Amend



Article 3	New Article
R4-17-301	New Section
R4-17-302	New Section
R4-17-303	New Section
R4-17-304	New Section
R4-17-305	New Section
R4-17-306	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 32-2504(B)
Implementing statute: A.R.S. §§ 32-2505, 32-2521, 32-2523, 32-2526, and 41-1072

3. The effective date for the rules:

February 6, 2017

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

4. Citation to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 22 A.A.R. 2217, August 19, 2016
Notice of Proposed Rulemaking: 22 A.A.R. 2310, September 2, 2016

5. The agency's contact person who can answer questions about the rulemaking:

Name: Patricia McSorley, Executive Director
Address: Arizona Regulatory Board of Physician Assistants
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258
Telephone: (480) 551-2700
Fax: (480) 551-2704
E-mail: patricia.mcsorley@azmd.gov
Web site: www.azpa.gov

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The rules are being amended in response to four significant factors: A five-year-review report approved by the Council on June 2, 2015; Laws 2015, Chapter 84; Laws 2015, Chapter 46; and the decision by the National Commission on Certification of Physician Assistants to move to a 10- rather than six-year renewal cycle of certification. In this rulemaking, the Board:

- Consistent with Laws 2015, Chapter 84, amends the rules to provide for biennial license renewal and adjusts the continuing education and renewal fees accordingly;
- Amends R4-17-202 to be consistent with the 10-year renewal of certification required by NCCPA;
- Amends R4-17-203 to request documentation relating to malpractice actions earlier in the application process;
- Amends R4-17-204 and R4-17-206 to ensure provisions are consistent with the Americans with Disabilities Act;
- Consistent with Laws 2015, Chapter 46, amends R4-17-203 and R4-17-206 regarding the responsibility of a physician assistant who registers under the Controlled Substances Act to register also with the Board of Pharmacy and obtain access to the Controlled Substances Prescription Monitoring Program Database; and
- Makes new Sections memorializing the duties the Board has delegated to the executive director.
- Amends the table associated with R4-17-102 to make the time frame regarding license renewal consistent with A.R.S. § 32-2523(C). The Board also reduced the time for an applicant to response to a request for additional information during the substantive review time frame.

An exemption from Executive Order 2015-01 was provided for part of this rulemaking by Christina Corieri, Policy Advisor for Health and Human Services in the Governor's office in an e-mail dated September 24, 2015. Ms. Corieri provided an exemption to EO2016-03 for an additional part of this rulemaking in an e-mail dated July 25, 2016.



- 7. **A reference to any study relevant to the rule that the agency reviewed and either relied on 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:**
The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.
- 8. **A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. **A summary of the economic, small business, and consumer impact:**
The Board determined this rulemaking will have minimal economic impact on applicants and licensees because it simply makes the rules consistent with recent statutory changes, the Americans with Disabilities Act, and recent changes made by the NCCPA, which is a national organization that certifies Physician Assistants. Placing in rule the duties the Board delegated to the executive director enables the Board to operate in a more efficient and cost effective manner while providing quality service to applicants and licensees.
- 10. **A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:**
Minor changes in word organization and punctuation were made to make the rules more clear, concise, and understandable. No substantive changes were made between the proposed and final rulemaking.
- 11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:**
The Board received no written comments regarding the rulemaking. No one attended an oral proceeding on October 12, 2016.
- 12. **All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
The licenses listed in Table 1 are general permits consistent with A.R.S. § 41-1037 because they are issued to qualified individuals or entities to conduct activities that are substantially similar in nature.
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**
Numerous federal laws apply to the provision of health care. However, no federal law is directly applicable to the subject of this rulemaking.
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
No analysis was submitted.
- 13. **A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**
None
- 14. **Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:**
No rule in this rulemaking was previously made, amended, or repealed as an emergency rule.
- 15. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 17. ARIZONA REGULATORY BOARD OF PHYSICIAN ASSISTANTS

ARTICLE 1. GENERAL PROVISIONS

Section
Table 1.

~~Time frames~~ Time Frames

ARTICLE 2. PHYSICIAN ASSISTANT LICENSURE

Section

- R4-17-202. Examination
- R4-17-203. Regular License Application
- R4-17-204. Fees and Charges
- R4-17-205. Continuing Medical Education; Request for Extension of Time
- R4-17-206. License Renewal



ARTICLE 3. ~~REPEALED~~ DUTIES OF THE EXECUTIVE DIRECTOR

Section

- R4-17-301. ~~Repealed~~ Dismissal of Complaint
- R4-17-302. ~~Repealed~~ Referral to Formal Hearing
- R4-17-303. ~~Repealed~~ Non-disciplinary Consent Agreement
- R4-17-304. ~~Repealed~~ Request for Inactive Status and License Cancellation
- R4-17-305. ~~Repealed~~ Referral to Formal Interview
- R4-17-306. Denial of License

ARTICLE 1. GENERAL PROVISIONS

Table 1. ~~Time frames~~ Time Frames (in days)

Type of License	Overall Time frame <u>Time Frame</u>	Administrative Review Time frame <u>Time Frame</u>	Time to Respond to Deficiency Notice	Substan- tive Review Time frame <u>Time Frame</u>	Time to Respond to Request for Additional Information
Regular License including schedule II or schedule III controlled substances approval R4-17-203	120	30	365	90	270 <u>90</u>
License Renewal R4-17-206	30 <u>75</u>	30	Not later than Sept. 30 of each year <u>60</u>	Not Applicable <u>45</u>	Not Applicable <u>60</u>

ARTICLE 2. PHYSICIAN ASSISTANT LICENSURE

R4-17-202. Examination

- ~~A.~~ An applicant for a regular license as a physician assistant shall pass the PANCE or PANRE and be certified by the NCCPA at the time of application for licensure.
- ~~B.~~ An applicant for a regular license who has not passed the PANCE within six years preceding the date of the application shall submit documentation that shows the applicant passed the PANRE within six years preceding the date of the application.

R4-17-203. Regular License Application

- A. An applicant for a regular license shall submit a completed application to the Board that includes:
 1. The applicant's:
 - a. First, last, and middle name;
 - b. Every other name used by the applicant;
 - c. Social Security number;
 - d. ~~Practice address and telephone number~~ Office, mailing, e-mail, and home addresses;
 - e. ~~Mailing address, if different from the practice address~~ Office, mobile, and home telephone numbers; and
 - f. ~~Home address and telephone number;~~ and
 - g. Birth date and city state or country of birth;
 2. The name and address of the approved program completed by the applicant and the date of completion;
 3. The name of each state or province in which the applicant has ever been certified, registered, or licensed as a physician assistant, including the certificate, registration, or license number, and current status;
 4. Whether the applicant has practiced as a physician assistant since graduation from a physician assistant program or for 10 continuous years before the date the application was submitted to the Board and if not, an explanation;
 5. A questionnaire that includes answers to the following:
 - a. Whether the applicant has had an application for a certificate, registration, or license refused or denied by any licensing authority, and if so, an explanation;
 - b. Whether the applicant has had the privilege of taking an examination for a professional license refused or denied by any entity, and if so, an explanation;
 - c. Whether the applicant has ever resigned or been requested to resign, been suspended or expelled from, been placed on probation, or been fined while enrolled in an approved program in a medical school or a postsecondary educational program, and if so, an explanation;
 - d. Whether, while attending an approved program, the applicant has ever had any action taken against the applicant by ~~an~~ the approved program, resigned, or been asked to leave the approved program for any amount of time, and if so, an explanation;
 - e. Whether the applicant has ever surrendered a health professional license, and if so, an explanation;



- f. Whether the applicant has ever had a health professional license suspended or revoked, or whether any other disciplinary action has ever been taken against a health professional license held by the licensee, and if so, an explanation;
 - g. Whether the applicant is currently under investigation by any health profession regulatory authority, ~~health care~~ health care association, licensed health care institution, or there are any pending complaints or disciplinary actions against the applicant, and if so, an explanation;
 - h. Whether the applicant has ever had any action taken against the applicant's privileges, including termination, resignation, or withdrawal by a health care institution or health profession regulatory authority, and if so, an explanation;
 - i. Whether the applicant has ever had a federal or state regulatory authority take any action against the applicant's authority to prescribe, dispense, or administer controlled substances including revocation, suspension, or denial, or whether the applicant ever surrendered ~~such~~ the authority in lieu of any of these actions, and if so, an explanation;
 - j. Whether the applicant has ever been charged with, convicted of, pleaded guilty to, or entered into a plea of no contest to a felony or misdemeanor involving moral turpitude or has been pardoned or had a record expunged or vacated, and if so, an explanation;
 - k. Whether the applicant has ever been charged with or convicted of a violation of any federal or state drug statute, rule, or regulation, regardless of whether a sentence was or was not imposed, and if so, an explanation;
 - l. Whether the applicant, ~~within the last 10 years from the date of the application,~~ has been named as a defendant in a malpractice matter currently pending or that resulted in had a judgment or a settlement entered against the applicant ~~in a medical malpractice suit,~~ and if so, an explanation;
 - m. Whether the applicant has ever been court-martialed or discharged other than honorably from any branch of military service, and if so, an explanation;
 - n. Whether the applicant has ever been involuntarily terminated from a health professional position, resigned, or been asked to leave the health care position, and if so, an explanation;
 - o. Whether the applicant has ever been convicted of insurance fraud or received a sanction, including limitation, suspension, or removal from practice, imposed by any state or the federal government, and if so, an explanation; and
 - p. Whether the applicant, within the ~~last~~ three years before the date of the application, has completed 45 hours in pharmacology or clinical management of drug therapy or is certified by a national commission on the certification of physician assistants or its successor;
6. A confidential questionnaire that includes answers to the following:
- a. ~~Whether the applicant, within the last five years before the date of the application, has been diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation; Whether the applicant has received treatment within the last five years for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently impairs the applicant's ability to exercise the judgment and skills of a medical professional;~~
 - b. ~~Whether the applicant is currently being treated by a health professional or, within five years from the date of the application, has been treated by a health professional for substance use disorder or participated in a rehabilitation program for a substance use disorder, and if so, an explanation that includes: If the answer to subsection (A)(6)(a) is yes:~~
 - i. ~~The name of each health professional or health care institution that addressed the substance use disorder and a discharge summary that includes progress made by the applicant; or A detailed description of the use, disorder, or condition; and~~
 - ii. ~~A copy of the confidential agreement or order issued by a health professional or health care institution, if applicable; and An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and~~
 - c. ~~Whether the applicant currently has any disease or condition, including a behavioral health illness or condition, substance use disorder, physical disease or condition that interferes with the applicant's ability to perform health care tasks authorized by A.R.S. § 32-2531 and if so, an explanation; A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution within the last five years, if applicable;~~
7. Consistent with the Board's statutory authority, ~~such~~ other information as the Board may ~~require~~ deem necessary to ~~fully~~ evaluate the applicant fully; and
8. A sworn statement that complies with A.R.S. § 32-2522(C).
- B.** In addition to the requirements in subsection (A), an applicant shall submit the following to the Board:
1. Documentation of citizenship or alien status that conforms to A.R.S. § 41-1080;



- 2. Documentation of a legal name change if the applicant’s legal name is different from that shown on the document submitted in accordance with subsection (B)(1);
- 3. A form provided by the Board and completed by the applicant that lists all current or past employment with health professionals or health care institutions within five years before the date of application or since graduation from a physician assistant program, if less than five years, including each health professional’s or health care institution’s name, address, and dates of employment;
- 4. ~~If the applicant has more than one malpractice settlement or judgment against the applicant within 10 years from the date of the application, a form provided by the Board for each malpractice settlement or judgment against the applicant that includes:~~ Verification of any medical malpractice matter currently pending or resulting in a settlement or judgment against the applicant, including a copy of the complaint and either the agreed terms of settlement or the judgment and a narrative statement specifying the nature of the occurrence resulting in the medical malpractice action. An applicant who is unable to obtain a document required under this subsection may submit a written request for a waiver of the requirement. The applicant shall include the following information in a request for waiver:
 - a. ~~The applicant’s name; The document for which waiver is requested;~~
 - b. ~~A description of the event that led to the malpractice settlement or judgment including:~~ Detailed description of efforts made by the applicant to provide the required document; and
 - i. ~~The patient’s name, age, and sex;~~
 - ii. ~~The date of occurrence;~~
 - iii. ~~Location of occurrence; and~~
 - iv. ~~A detailed narrative of the event;~~
 - c. ~~The amount of the settlement or judgment; Reason the applicant’s inability to provide the required document is due to no fault of the applicant; and~~
 - d. ~~The date the settlement was entered into or judgment was made;~~
 - e. ~~The amount of the settlement or judgment attributed to the applicant; and~~
 - f. ~~Whether any state medical board has investigated the matter; and~~
- 5. The fee required in R4-17-204.
- C. In addition to the requirements in subsections (A) and (B), an applicant shall have the following directly submitted to the Board:
 - 1. A copy of the applicant’s certificate of successful completion of the ~~NCCPA PANCE or PANRE examination~~ and the applicant’s examination score provided by the NCCPA;
 - 2. An approved program form provided by the Board, completed and signed by the director or administrator of the approved program that granted the applicant a physician assistant degree, that includes the:
 - a. Applicant’s full name,
 - b. Type of degree earned by the applicant,
 - c. Name of the physician assistant program completed by the applicant,
 - d. Starting and ending dates, and
 - e. Date the applicant’s degree was granted.
- D. ~~When the Board issues The Board’s issuance of a regular license to an applicant, the Board is also approving approves~~ the applicant to issue prescriptions ~~or and~~ dispense or issue schedule II or schedule III controlled substances subject to the limits and requirements specified in A.R.S. § 32-2532.

R4-17-204. Fees and Charges

- A. The As expressly authorized under A.R.S. § 32-2526(A), the Board shall charge the following fees, which are not refundable unless A.R.S. § 41-1077 applies:
 - 1. License application - \$125.00;
 - 2. Regular license - ~~\$185.00~~ 370.00, prorated for each month remaining in the ~~annual~~ biennial period;
 - 3. Regular license renewal - ~~\$185.00~~ 370.00 if the renewal application is postmarked no later than July 1 the applicant’s birthdate; and
 - 4. Penalty for late renewal - \$100.00;.
- B. As expressly authorized under A.R.S. § 32-2526(B), the Board establishes the following charges for providing the services listed:
 - ~~5-1.~~ Duplicate license - \$25.00;
 - ~~6-2.~~ Copies of Board documents - \$1.00 for first three pages, \$.25 for each additional page;
 - ~~7-3.~~ Medical Directory (CD-ROM) - \$30.00;
 - ~~8-4.~~ Data Disk - \$100.00; and
 - ~~9-5.~~ License verification - \$10.00.

R4-17-205. Continuing Medical Education; Request for Extension of Time

- A. Under A.R.S. § 32-2523(A), renewal of a license is conditioned on the licensee completing 40 hours of category I continuing medical education during each biennial license period.
- B. During a licensee’s first biennial license period, the licensee may complete a pro-rated number of continuing medical education hours established by the Board.



- ~~A.C.~~ A licensee who is unable to complete ~~20~~ the required hours of continuing medical education for any of the reasons in A.R.S. § 32-2523(E) may submit a written request to the Board for an extension no later than 30 days before expiration of the license that contains:
1. The name, address, and telephone number of the licensee;
 2. The reason for the request;
 3. The number of continuing medical education hours completed during the biennial license period;
 - ~~3-4.~~ The date by dates on which the remaining hours of continuing medical education will be scheduled to be completed; and
 - ~~4-5.~~ The signature of the licensee.
- ~~B.D.~~ The Board shall send a written notice of approval ~~or denial~~ of the extension ~~request~~ within seven days from the date of receipt of the request ~~if the Board determines:~~
1. The extension is needed for a reason specified in A.R.S. § 32-2523(E).
 2. The remaining hours of continuing medical education are scheduled to be completed within 30 days, and
 3. The extension is in the best interest of the state.

R4-17-206. License Renewal

- A. To renew a license, a licensee shall submit a completed application to the Board that includes:
1. An application form that contains the licensee's:
 - a. ~~First, and last, names~~ and middle ~~initial~~ names;
 - b. Arizona license number;
 - c. Office, mailing, e-mail, and home addresses;
 - d. Office, mobile, and home ~~phone~~ telephone numbers;
 2. A questionnaire that includes answers to the following since the last renewal date:
 - a. Whether the licensee has had an application for a certificate, registration, or license refused or denied by any licensing authority, and if so, an explanation;
 - b. Whether the licensee has had the privilege of taking an examination for a professional license refused or denied by any entity, and if so, an explanation;
 - c. Whether the licensee has voluntarily surrendered a health care professional license, and if so, an explanation;
 - d. Whether the licensee has had a health professional license suspended or revoked, or whether any other disciplinary action has been taken against a health professional license held by the licensee, and if so, an explanation;
 - ~~e. Whether the licensee is currently under investigation by any health profession regulatory authority, healthcare association, licensed health care institution, or there are any pending complaints or disciplinary actions against the applicant, and if so, an explanation;~~
 - ~~f.e.~~ Whether the licensee has had any action taken against the applicant's privileges, including termination, resignation, or withdrawal by a health care institution or health profession regulatory authority, and if so, an explanation;
 - ~~g.f.~~ Whether the licensee has had a federal or state regulatory authority take any action against the licensee's authority to prescribe, dispense, or administer controlled substances including revocation, suspension, or denial, or whether the applicant surrendered ~~such~~ the authority in lieu of any of these actions, and if so, an explanation;
 - ~~h.g.~~ Whether the licensee has been charged with, convicted of, pleaded guilty to, or entered into a plea of no contest to a felony or misdemeanor involving moral turpitude or an alcohol- or drug-related offense in any state, or has been pardoned or had a record expunged or vacated, and if so, an explanation;
 - ~~i.h.~~ Whether the licensee has been court-martialed or discharged other than honorably from any branch of military service, and if so, an explanation;
 - ~~j.i.~~ Whether the licensee has been involuntarily terminated from a health professional position with any city, county, state, or federal government, and if so, an explanation;
 - ~~k.j.~~ Whether the licensee has been convicted of insurance fraud or a state or the federal government has sanctioned or taken any action against the licensee, such as suspension or removal from practice, and if so, an explanation;
 3. Consistent with the Board's statutory authority, ~~such~~ other information as the Board may ~~require~~ deem necessary to ~~fully~~ evaluate the licensee fully;
 4. A dated and sworn statement by the licensee verifying that during the past ~~state fiscal year~~ biennial license period, the licensee completed ~~a minimum of 20~~ at least 40 hours of Category I continuing medical education as required by A.R.S. § 32-2523;
 5. The fee required in R4-17-204; ~~and~~
 6. A confidential questionnaire that includes answers to the following:
 - a. ~~Whether the licensee, since the last renewal date, has been diagnosed with or treated for bi-polar disorder, schizophrenia, paranoia, or any other psychotic disorder, and if so, an explanation; Whether the applicant has received treatment since the last renewal for use of alcohol or a controlled substance, prescription-only drug, or dangerous drug or narcotic or a physical, mental, emotional, or nervous disorder or condition that currently impairs the applicant's ability to exercise the judgment and skills of a medical professional;~~



- b. ~~Whether the licensee is currently being treated or has been treated since the last renewal date for substance use disorder or participated in a rehabilitation program, and if so, an explanation that includes: If the answer to subsection (A)(6)(a) is yes:~~
 - i. ~~The name of each health professional or health care institution that addressed the substance use disorder and a discharge summary that includes progress; or A detailed description of the use, disorder, or condition; and~~
 - ii. ~~A copy of the confidential agreement or order issued by a health professional or health care institution, if applicable; and An explanation of whether the use, disorder, or condition is reduced or ameliorated because the applicant receives ongoing treatment and if so, the name and contact information for all current treatment providers and for all monitoring or support programs in which the applicant is currently participating; and~~
 - c. ~~Whether the licensee currently has any disease or condition including a behavioral health illness or condition, substance abuse disorder, physical disease or condition that interferes with the licensee's ability to perform health care tasks authorized by A.R.S. § 32-2531 and if so, an explanation. A copy of any public or confidential agreement or order relating to the use, disorder, or condition, issued by a licensing agency or health care institution since the last renewal, if applicable; and~~
7. ~~If the document submitted under R4-17-203(B)(1) was a limited form of work authorization issued by the federal government, evidence that the licensee's presence in the U.S. continues to be authorized under federal law.~~
- B. ~~The Under A.R.S. §32-2523(A), the Board may shall randomly select a number of statements of completion of continuing education at least 10 percent of renewal applications submitted by licensees who are not currently certified by a national certification organization to verify the accuracy of the statements and the acceptability of the Category I continuing medical education attended. Physician assistants whose statements have been selected shall submit any additional information requested by the Board to assist in the verification compliance with the continuing medical education requirement specified in R4-17-205(A). If selected, a licensee shall submit to the Board documents that verify compliance with the continuing medical education requirement.~~

ARTICLE 3. ~~REPEALED~~ DUTIES OF THE EXECUTIVE DIRECTOR

R4-17-301. ~~Repealed~~ Dismissal of Complaint

- A. ~~The executive director, with concurrence of the investigative staff, shall dismiss a complaint if review shows the complaint is without merit and dismissal is appropriate.~~
- B. ~~The executive director shall provide to the Board, at each regularly scheduled Board meeting, a list of physician assistants about whom complaints were dismissed since the preceding Board meeting.~~

R4-17-302. ~~Repealed~~ Referral to Formal Hearing

- A. ~~The executive director may refer a case directly to a formal hearing if the investigative staff, medical consultant, and lead Board member concur after review of the case that a formal hearing is appropriate.~~
- B. ~~The executive director shall provide to the Board, at each regularly scheduled Board meeting, a list of the physician assistants whose cases were referred to formal hearing since the preceding Board meeting and indicate whether each case was referred because it involves revocation, suspension, out- of-state disciplinary action, or complexity.~~

R4-17-303. ~~Repealed~~ Non-disciplinary Consent Agreement

~~The executive director may enter into a consent agreement under A.R.S. § 32-2505(C)(23) with a physician assistant to limit the physician assistant's practice or rehabilitate the physician assistant if there is evidence the physician assistant is mentally or physically unable to engage in the practice of medicine safely and the investigative staff, medical consultant, and lead Board member concur after review of the case that a consent agreement is appropriate.~~

R4-17-304. ~~Repealed~~ Request for Inactive Status and License Cancellation

- A. ~~If a physician assistant requests inactive status or license cancellation, meets the requirements of A.R.S. §§ 32-2525 or 32-2528, and is not participating in the program defined under A.R.S. § 32-2552(E), the executive director shall grant the request.~~
- B. ~~The executive director shall provide to the Board, at each regularly scheduled Board meeting, a list of the individuals granted inactive or cancelled license status since the preceding Board meeting.~~

R4-17-305. ~~Repealed~~ Referral to Formal Interview

~~The executive director shall refer a case to a formal interview on a future Board meeting agenda if the investigative staff, lead Board member, and in cases involving quality of care, the medical consultant, concur after review of the case that a formal interview is appropriate.~~

R4-17-306. ~~Denial of License~~

- A. ~~The executive director shall deny a license to an applicant if the executive director, in consultation with the investigative staff and medical consultant concur after review of the application, that the applicant does not meet the statutory requirements for licensure.~~
- B. ~~The executive director shall provide to the Board, at each regularly scheduled Board meeting, a list of the physician assistants whose applications were denied since the preceding Board meeting.~~

NOTICES OF RULEMAKING DOCKET OPENING

This section of the *Arizona Administrative Register* contains Notices of Rulemaking Docket Opening.

A docket opening is the first part of the administrative rulemaking process. It is an “announcement” that the agency intends to work on its rules.

When an agency opens a rulemaking docket to consider rulemaking, the Administrative Procedure Act (APA) requires the publication of the Notice of Rulemaking Docket Opening.

Under the APA effective January 1, 1995, agencies must submit a Notice of Rulemaking Docket Opening before beginning the formal rulemaking process. Many times an agency may file the Notice of Rulemaking Docket Opening with the Notice of Proposed Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these notices. Questions about the interpretation of this information should be directed to the agency contact person listed in item #4 of this notice.

NOTICE OF RULEMAKING DOCKET OPENING REGISTRAR OF CONTRACTORS

[R16-264]

1. **Title and its heading:** 4, Professions and Occupations
Chapter and its heading: 9, Registrar of Contractors
Section numbers: R4-9-102 (*Sections may be added, deleted or modified, as necessary.*)
2. **The subject matter of the proposed rule:**
This docket opening is being prepared to increase the dollar limit for projects for a contracting license classification to ensure licensees are able to contract for work envisioned by the construction industry and the Agency. This rulemaking docket opening is being submitted following the Agency’s November 30, 2016 receipt of approval for a rulemaking exemption from the Governor’s Office.

The Agency will propose to increase the dollar limit for projects the B-2 General Small Commercial Contractor contracting license classification to not exceed \$2,000,000.00. The limit is currently \$750,000.00. The rulemaking also clarifies the scope of work allowed to be performed by the licensee.
3. **A citation to all published notices relating to the proceeding:**
Notice of Proposed Rulemaking: 22 A.A.R. 3689, December 30, 2016 (*in this issue*).
4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**
Name: Jim Knupp, Legislative Liaison
Address: Registrar of Contractors
1700 W. Washington St., Suite 105
Phoenix, AZ 85007
Telephone: (602) 771-6710
E-mail: jim.knupp@azroc.gov
5. **The time during which the agency will accept written comments and the time and place where oral comments may be made:**
The Agency will accept written comments Monday through Friday, 8 a.m. to 5 p.m., at the address indicated in question #4. E-mail comments will be accepted. The agency does not intend to hold public hearings on this rule, unless a public hearing is requested within 30-days of the publication of this rule.
6. **A timetable for agency decisions or other action on the proceeding, if known:**
The Notice of Proposed Rulemaking is published along with this notice.

NOTICE OF RULEMAKING DOCKET OPENING DEPARTMENT OF INSURANCE

[R16-268]

1. **Title and its heading:** 20, Commerce, Financial Institutions, and Insurance
Chapter and its heading: 6, Department of Insurance
Article and its heading: 10, Long-Term Care Insurance
Section numbers: R20-6-1001 through R20-6-1024, Appendix A through J
(*Sections may be added, deleted or modified, as necessary*)
2. **The subject matter of the proposed rule:**
Chapter 6, Article 10 governs Long-Term Care Insurance, which is insurance designed to cover long-term services and supports including personal and custodial care in a variety of settings. Long-Term care is different from medi-



cal care because it helps individuals live as they are instead of improving or correcting medical problems. Long-term care insurance policies reimburse policyholders a daily amount (up to a pre-selected limit) for services to assist them with activities of daily living (bathing, dressing or eating), home health care, respite care, hospice care or adult day care. Care may be provided in a nursing home, an assisted living facility, a hospice facility, a day care facility or in the person's home. Long-Term care may also include care management services which evaluate a person's needs and coordinates and monitors their long-term care services.

The purpose of this regulation is to make revisions to the existing regulation that implements the Long-Term Care Insurance Act (A.R.S. §§ 20-1691 through 20-1691.12), to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages and to allow innovation in the development of long-term care insurance products.

The current regulation is patterned after the National Association of Insurance Commissioners' (NAIC) Long-Term Care Model Regulation, which the NAIC adopted in 2002. Since that version, the NAIC has updated and improved the Model Regulation. The NAIC adopted the current version of the Long-Term Care Model Regulation in 2014.

SB 1441 (L. 2016, Ch. 280); Long-Term Care; Rates; Premiums, enacted into law under an emergency clause effective May 17, 2016, required the Department to adopt rules relating to long-term care insurance that substantially conform to those adopted in model regulations adopted by the NAIC, including the 2014 revisions. The bill exempted the Department from rulemaking requirements for one year from the effective date of the Act except that the Department is required to provide public notice and an opportunity for public comment on the proposed rules at least 60 days before rule adoption or amendment.

3. A citation to all published notices relating to the proceeding:

None

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

Name: Mary E. Kosinski
Address: Department of Insurance
2910 N. 44th St., Suite 210
Phoenix, AZ 85018
Telephone: (602) 364-3100
Fax: (602) 364-2400
E-mail: mkosinski@azinsurance.gov

5. The time during which the agency will accept written comments and the time and place where oral comments may be made:

The Department will accept written comments during a public comment period that will be noticed in the Notice of Proposed Rulemaking. The Department will schedule an oral proceeding, within the statutorily mandated time-frame, to be noticed in the Notice of Proposed Rulemaking in the *Arizona Administrative Register*.

6. A timetable for agency decisions or other action on the proceeding, if known:

The Department plans to submit a Notice of Final Exempt Rulemaking in the first quarter of 2017.



NOTICES OF PUBLIC INFORMATION

Notices of Public Information contain corrections that agencies wish to make to their notices of rulemaking; miscellaneous rulemaking information that does not fit into any other category of notice; and other types of information required by statute to be published in the Register.

Because of the variety of Notices of Public Information, the Office of the Secretary of State has not established a specific publishing format for these notices. We do however require agencies to use a numbered list of questions and answers and follow our filing requirements by presenting receipts with electronic and paper copies.

**NOTICE OF PUBLIC INFORMATION
STATE RETIREMENT SYSTEM**

[M16-294]

1. Title of the substantive policy statement and the substantive policy statement number by which the substantive policy statement is referenced:

Title: Calculating Benefits for Ex-Spouse Contingent Annuitants

2. The public information relating to the substantive policy statement:

Effective December 3, 2016, the ASRS is rescinding the substantive policy statement identified above. This substantive policy statement is no longer necessary because the ASRS completed a rulemaking effective December 3, 2016 which makes the substantive policy statement obsolete. R2-8-126 now clarifies when the eligibility exceptions contained in subsections (I) and (J) of the rule are applicable.

3. The agency contact person who can answer questions about this notice of public information:

Name: Jessica A.R. Thomas, Rules Writer
Address: Arizona State Retirement System
3300 N. Central Ave., Suite 1400
Phoenix, AZ 85012
Telephone: (602) 240-2039
E-mail: JessicaT@azasrs.gov
Website: www.azasrs.gov



NOTICES OF AGENCY OMBUDSMAN

The Administrative Procedure Act requires the publication of Notices of Agency Ombudsman. Agencies shall publish annually in the *Register* the name or names of those employees who are designated by the agency to

assist members of the public or regulated community in seeking information or assistance from the agency. (A.R.S. § 41-1006)

**NOTICE OF AGENCY OMBUDSMAN
DEPARTMENT OF WATER RESOURCES**

[M16-281]

1. The agency name:

Arizona Department of Water Resources

2. The ombudsman's:

a. Name:

Douglas W. Dunham

b. Title:

Legislative Liaison, Ombudsman, and Special Assistant to the Director

c. Specific agency division, if applicable:

Director's Office

3. The ombudsman's office address to include the city, state and zip code:

Department of Water Resources
1110 W. Washington, Suite 310
Phoenix, AZ 85007

4. The ombudsman's telephone number, fax number and email address, if available:

Phone: (602) 364-2650
Fax: (602) 771-8689
Email: dwdunham@azwater.gov



GOVERNOR EXECUTIVE ORDERS

The Administrative Procedure Act (APA) requires the full-text publication of Governor Executive Orders.

With the exception of egregious errors, content (including spelling, grammar, and punctuation) of these orders has been reproduced as submitted.

In addition, the Register shall include each statement filed by the Governor in granting a commutation, pardon or reprieve, or stay or suspension of execution where a sentence of death is imposed.

EXECUTIVE ORDER 2016-03

Internal Review of Administrative Rules; Moratorium to Promote Job Creation and Customer-Service-Oriented Agencies

Editor's Note: This Executive Order is being reproduced in each issue of the Administrative Register until its expiration on December 31, 2016, as a notice to the public regarding state agencies' rulemaking activities.

[M16-29]

WHEREAS, Arizona is poised to lead the nation in job growth;

WHEREAS, burdensome regulations inhibit job growth and economic development;

WHEREAS, small businesses and startups are especially hurt by regulations;

WHEREAS, each agency of the State of Arizona should promote customer-service-oriented principles for the people that it serves;

WHEREAS, each State agency should undertake a critical and comprehensive review of its administrative rules and take action to reduce the regulatory burden, administrative delay, and legal uncertainty associated with government regulation;

WHEREAS, overly burdensome, antiquated, contradictory, redundant, and nonessential regulations should be repealed;

WHEREAS, Article 5, Section 4 of the Arizona Constitution and Title 41, Chapter 1, Article 1 of the Arizona Revised Statutes vests the executive power of the State of Arizona in the Governor;

NOW, THEREFORE, I, Douglas A. Ducey, by virtue of the authority vested in me by the Constitution and laws of the State of Arizona hereby declare the following:

- 1. A State agency subject to this Order, shall not conduct any rulemaking except as permitted by this Order.
2. A State agency subject to this Order, shall not conduct any rulemaking, whether informal or formal, without the prior written approval of the Office of the Governor. In seeking approval, a State agency shall address one or more of the following as justification for the rulemaking:
a. To fulfill an objective related to job creation, economic development, or economic expansion in this State.
b. To reduce or ameliorate a regulatory burden while achieving the same regulatory objective.
c. To prevent a significant threat to the public health, peace, or safety.
d. To avoid violating a court order or federal law that would result in sanctions by a court or the federal government against an agency for failure to conduct the rulemaking action.
e. To comply with a federal statutory or regulatory requirement if such compliance is related to a condition for the receipt of federal funds or participation in any federal program.
f. To comply with a state statutory requirement.
g. To fulfill an obligation related to fees or any other action necessary to implement the State budget that is certified by the Governor's Office of Strategic Planning and Budgeting.
h. To promulgate a rule or other item that is exempt from Title 41, Chapter 6, Arizona Revised Statutes, pursuant to section 41-1005, Arizona Revised Statutes.
i. To address matters pertaining to the control, mitigation, or eradication of waste, fraud, or abuse within an agency or wasteful, fraudulent, or abusive activities perpetrated against an agency.
j. To eliminates rules that are antiquated, redundant or otherwise no longer necessary for the operation of state government.
3. For the purposes of this Order, the term "State agencies," includes without limitation, all executive departments, agencies, offices, and all state boards and commissions, except for: (a) any State agency that is headed by a single elected State official, (b) the Corporation Commission and (c) any board or commission established by ballot measure during or after the November 1998 general election. Those State agencies, boards and commissions excluded



from this Order are strongly encouraged to voluntarily comply with this Order in the context of their own rulemaking processes.

4. This Order does not confer any legal rights upon any persons and shall not be used as a basis for legal challenges to rules, approvals, permits, licenses or other actions or to any inaction of a State agency. For the purposes of this Order, “person,” “rule,” and “rulemaking” have the same meanings prescribed in Arizona Revised Statutes Section 41-1001.
5. This Executive Order expires on December 31, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey
GOVERNOR

DONE at the Capitol in Phoenix on this Eighth day of February in the Year Two Thousand and Fifteen and of the Independence of the United States of America the Two Hundred and Thirty-Fourth.

ATTEST:

Michele Reagan
Secretary of State



COUNTY NOTICES ACCORDING TO A.R.S. § 49-112

This section of the *Arizona Administrative Register* contains County Notices (according to A.R.S. § 49-112). Each county writes rules and regulations in its own unique style. Although these notices are published in the *Register*, they do not conform to the standards specified in

the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, County Notices (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

**NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 350: STORAGE OF ORGANIC LIQUIDS AT BULK PLANTS AND BULK TERMINALS**

[M16-289]

PREAMBLE

- | <u>1.</u> | <u>Rule affected</u> | <u>Rulemaking action</u> |
|------------------|--|---------------------------------|
| | Rule 350: Storage of Organic Liquids at Bulk Plants and Bulk Terminals | Amended |
| <u>2.</u> | <u>Statutory authority for the rulemaking:</u> | |
| | Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480 | |
| | Implementing Statute: A.R.S. § 49-112 | |
| <u>3.</u> | <u>The effective date of the rule:</u> | |
| | Date of adoption: November 2, 2016 | |
| <u>4.</u> | <u>List of public notices addressing this rulemaking:</u> | |
| | Notice of Briefing to Maricopa County Manager: May 2015 | |
| | Notice of Stakeholder Workshops: June 30, 2015, September 14, 2015, and February 22, 2016 | |
| | Notice of Maricopa County Board of Health Meeting: April 25, 2016 | |
| | Notice of Proposed Rulemaking: 22 A.A.R. 1207, May 13, 2016 | |
| <u>5.</u> | <u>Name and address of department personnel with whom persons may communicate regarding the rulemaking:</u> | |
| | Name: Cheri Dale or Hether Krause | |
| | Maricopa County Air Quality Department | |
| | Planning and Analysis Division | |
| | Address: 1001 N Central Avenue, Suite 125 | |
| | Phoenix, Arizona 85004 | |
| | Telephone: (602) 506-6010 | |
| | Fax: (602) 506-6179 | |
| | E-mail: aqplanning@mail.maricopa.gov | |
| <u>6.</u> | <u>Explanation of the rule, including the department's reasons for initiating the rulemaking:</u> | |
| | Summary: Rule 350 limits the emission of volatile organic compounds (VOCs) from organic liquids under actual storage conditions. The rule is applicable to bulk storage of organic liquids in a bulk plant or bulk terminal stationary storage tank which is used primarily to fill delivery vessels for both the organic liquid (non-gasoline) and the gasoline industries. Rule 350 (Storage of Organic Liquids at Bulk Plants and Terminals) was last revised over twenty-five years ago. Technologies have changed over time. The organic liquid (non-gasoline) and gasoline storage and distribution industries use different terminology, definitions and methods of operation. Rule revisions included the separation of organic liquids (non-gasoline) from the gasoline storage requirements. In addition the rule added the organic liquid transfer requirements to Rule 351. The gasoline storage requirements previously in Rule 350 were moved to Rule 351 (Loading of Organic Liquids). The revisions in Rule 350 updated and clarified the county regulatory requirements and authority for the organic liquid (non-gasoline) industry and the gasoline industry. Revisions to Rule 350 addressed the requirements of the State Implementation Plan (SIP) for “moderate” nonattainment for the 2008 eight-hour ozone national ambient air quality standard (NAAQS). In addition, the amendments corrected typographical or other clerical errors; made minor grammatical changes to improve readability or clarity; modified the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; or made various other minor changes of a purely editorial nature. As these changes did not alter the sense, meaning, or effect of the rules, they are not described in detail here, but can be readily discerned in the “underline/ strikeout” version of the rules contained in Item 17 of this notice. | |
| | Background: As early at the 1960’s, the Maricopa County Health Department (as the department was then called), Air Pollution Control regulations, Section IV, Handling of Materials, Regulation 1, required “Material such as...gasoline or other volatile compounds...be kept, processed, used, and transported in such a manner and by such means that they will not unreasonably leak, escape, evaporate or be | |



otherwise discharged into the ambient air so as to cause or contribute to air pollution...”¹ This early rulemaking established the basis for the current Rule 350. In 1970, the passage of the Clean Air Act established federal air quality standards.

Congress established the basic structure of the Clean Air Act (CAA) in 1970. The CAA requires the U.S. Environmental Protection Agency (EPA) to establish national ambient air quality standards (NAAQS) for common and widespread pollutants based on the most current science available. For areas that were determined to be in nonattainment of the NAAQS, the state was required to adopt federally enforceable state implementation plans (SIP) in order to achieve and maintain air quality and meet the federally established air quality standards (the NAAQS)². The states were responsible for developing and implementing rules that require reasonably available control technology (RACT) for sources of VOCs located in the designated ozone nonattainment areas. Local air agencies were required to establish RACT for source categories not already covered by EPA’s Control Techniques Guidelines (CTGs) as well as tighten RACT for source categories for which RACT had already been defined in the NAAQS³. The EPA defined RACT as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility” (44 FR 53762; September 17, 1979).

In the 1970’s, using the EPA NAAQS and CTGs to identify the established RACT standards, the Maricopa County Bureau of Air Pollution Control (as the department was then called) revised and renumbered the county air pollution rules and regulations. The revised county rules established specific requirements for petroleum products in Regulation III, Rule 33: Storage and Handling of Petroleum Products⁴. This rule established requirements to control vapor loss during storage; submerged filling of tanks; loading dock requirements; and leak proof fill pipe connections.

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act). Maricopa County was included on such list 43 FR 8964, March 3, 1978). On February 24, 1984, the EPA notified the Governor of Arizona, that the Maricopa County Air Pollution Control District’s (MCAPCD), (as the department was then called) portion of the Arizona SIP was inadequate and requested that deficiencies in the existing SIP be corrected (EPA’s SIP-Call, 49 FR 18827, May 3, 1984). The MCAPCD was in the process of revising Rule 33 to create Rules 350, 351, 352, and 353 to address the RACT requirements when the EPA again notified the Governor of Arizona (May 26, 1988) that the MCAPCD’s portion of the Arizona SIP was inadequate and requested that deficiencies relating to VOC controls and the application of RACT in the existing SIP be corrected (EPA’s second SIP-Call, 53 FR 34500, September 7, 1988).

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. In an amended section of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient RACT rules and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. The MCAPCD further revised Rules 350, 351, 352, and 353 to meet the RACT standards. Rule 350 (Storage of Organic Liquids at Bulk Plants), revised July 13, 1988, and April 6, 1992, was approved by the EPA effective October 5, 1995 (60 FR 46024). Rule 351 (Loading Organic Liquids) revised July 13, 1988 and November 16, 1992, was approved effective October 5, 1995 (60 FR 46024). Rule 352 (Gasoline Delivery Vessel Testing and Use), revised July 13, 1988, and November 16, 1992, was approved effective October 5, 1995, (60 FR 46024). Rule 353 (Transfer of Gasoline into Stationary Dispensing Tanks) revised July 13, 1988, and April 6, 1992, was approved effective March 4, 1996 (61 FR 3578).

More recently, the EPA developed national emission standards for hazardous air pollutants (NESHAPS) for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities (73 FR 1933, Jan. 10, 2008); a NESHAP for Gasoline-Dispensing Facilities (73 FR 1945, Jan. 10, 2008); and the NESHAP for Organic Liquid Distribution (non-gasoline) (69 FR 5063, Feb. 3, 2004). These NESHAPS are often referred to as the maximum achievable control technology (MACT) standards since they were developed to reflect the maximum achievable degree of HAP emission reduction. New MACT standards required additional or new emissions testing requirements reflecting the new technologies. New and revised test methods and leak detection methods were required in these MACT standards. Although the MACT standards typically apply to large sources, there are test methods and other good practices that are or may be applicable to small area sources of VOC emissions.

Rule 350 Rulemaking Background: The Maricopa County Air Quality Department (department) originally adopted Rule 350 (Storage of Organic Liquids at Bulk Plants and Terminals) and Rule 351 (Loading of Organic Liquids) to be inclusive of both non-gasoline and gasoline organic liquids. The purpose of the rules was to control the emission of volatile organic compounds (VOCs) from all organic liquids. These rules were required in order for the county to comply with the reasonably available control technology (RACT) documents and other policy statements published by the EPA. Since that time, the organic liquid (non-gasoline) and the gasoline industry have evolved into two distinct industries. The use of different terminology, definitions and methods of operation has created confusion in the applicability of Rule 350 to each industry. In this rulemaking, the department drafted rules specific to the organic liquid (non-gasoline) storage and distribution industry and for the gasoline storage and distribution industry. This rulemaking did not propose new rules for the industries but rather made revisions to current rules that improved the clarity and enforceability of the regulatory requirements for each industry.

The rule revisions included the separation of the organic liquid (non-gasoline) requirements and the gasoline requirements of Rule 350. The organic liquid (non-gasoline) storage requirements in Rule 350 and the organic liquid “loading” requirements Rule 351 (Loading of Organic Liquids) were combined and into one rule, Rule 350. The gasoline storage requirements in Rule 350 were moved into Rule 351. Along with the separation of the two industry requirements, the department renamed each rule to reflect the rule revisions.

On May 19, 1993, the department issued technical guidance #TG-003 to address a Stakeholder concern that Section 301.2 of Rule 350 requiring a tank to have a pressure vacuum valve set to within 10% of the tank’s maximum, safe working pressure. The Stakeholder provided documentation stating the design working pressure should not exceed 1 psig and recommended applying the ½ psia operating pressure as CARB required. Revisions to Rule 350 provided the owner or operator the option of either setting the pressure/vacuum valve on fixed roof tanks within 10% of the tank’s maximum working pressure or at 0.5 psia, as included in revised Section 301.1(c) of Rule 350. The department rescinded #TG-003 (May 19, 1993) with this rule revision.



A second technical guidance was issued on March 11, 1998 #TG98-002, addressing the requirement of pressure/vacuum (P/V) valves on both fixed roof and floating roof tanks. Per the discussion in the technical guidance document:

Both floating-roof tanks and pressure-tanks are designed and engineered to control vapor emissions without the use of pressure/vacuum valves. The use of such a valve would not produce additional emissions control. The rule's authors had no intention of requiring P/V valves on floating roof tanks or pressure tanks, but failed to recognize that the way they constructed the rule would result in this unintended and erroneous interpretation.

The guidance concluded "The subsection 301.2 requirement to have a pressure/vacuum valve does not apply to floating roof tanks or pressure tanks." The department revised Rule 350, Section 301.1(c) to require pressure/vacuum valves on "Each fixed roof stationary storage tank..." This rule revision corrected the omission in the previous rule. The department rescinded #TG98-002 (March 11, 1998) with this rule revision.

In addition, the department revised the rule applicability to include organic liquids (non-gasoline) with a true vapor pressure (TVP) of 0.5 psia. The lowering of the TVP now meets current RACT.

Other revisions included the relocation of any exemptions into Section 100; inclusion of definitions and terms specific to the organic liquid industry; organic liquid regulatory requirements for the transfer of the organic liquid; monthly equipment leak inspection requirement; and the addition of optical gas imaging as an alternative work practice to monitor and identify leaking equipment.

Issues Raised and Discussed During This Rulemaking Process:

The department held three Stakeholder workshops: June 29, 2015, September 14, 2016, and February 22, 2016. Stakeholders included representatives from APS, Caljet, CDM Smith, Cemex, City of Glendale, City of Mesa, City of Phoenix, Coastal Transport, EnCore Consulting, EnviroSure Solutions, Kiewit, Kinder Morgan, Luke Air Force Base, Pinal County, Ping, Polar Services, SRP, Tamura Environmental, Washington Elementary School, and EPA.

During the workshops, Stakeholders expressed concerns that the proposed Rule 350 would include any organic liquid stored at any site. The purpose and applicability were revised to clarify that the rule was applicable to the storage and transfer of organic liquids at a distribution facility and not at a facility that is the end user of the organic liquid. The rule does not apply to the storage and transfer of organic liquids at a facility that does not distribute the organic liquid to be "consumed by other parties." (Rule 350 definition of "Organic Liquid Distribution Facility") The rule title was also revised to clarify the applicability of the rule.

Some definitions pertaining to the gasoline industry were deleted. The definition of GASOLINE was retained in the rule definitions because the exemption section specifically exempts gasoline from the rule. The exemptions were taken from 40 CFR 63.2406, the Organic Liquid Distribution NESHAP. The partial exemptions in Rule 350 were either retained from current Rule 350 or taken from current Rule 351 if they pertained to organic liquid (non-gasoline).

Stakeholders were concerned that the rule would apply to all storage containers used for organic liquids. The department included partial exemptions for organic liquids with a TVP less than 0.5 psia, storage containers with a capacity less than 250 gallons, a pressure tank, a floating roof tank, and gap inspections.

During the workshops, Stakeholders requested the addition or revision of numerous definitions to reflect the rule applicability to the organic liquid industry and not the gasoline industry. The department revised the definitions in the Rule 350 to address this concern.

To further clarify the requirements for organic liquid storage tanks, the department added a table describing tank size and the applicable rule section number that describes the VOC emission control requirements. Stakeholders supported this addition to the rule.

Description of Amendments:

Amended the following throughout the rule:

- Revised the title of the rule to: STORAGE AND TRANSFER OF ORGANIC LIQUIDS (NON-GASOLINE) AT AN ORGANIC LIQUID DISTRIBUTION FACILITY
- Deleted references to gasoline loading and storage
- Changed the word "loading" to "transfer"
- Deleted the word "person" and inserted the words "owner or operator"
- Deleted past compliance dates
- Added or revised specific rule section references

Amended the following in Section 100:

- Revised Section 101 (Purpose) to include the storage and transfer of organic liquid (non-gasoline) at an organic liquid distribution facility
- Revised Section 102 (Applicability) to apply to the bulk storage and transfer of organic liquid (non-gasoline) at an organic liquid distribution facility
- Added Section 103 (Exemptions) to include total exemptions and partial exemptions

Amended the following in Section 200:

- Deleted the definition BULK PLANT
- Deleted the definition BULK TERMINAL
- Deleted the definition DELIVERY VESSEL
- Added the definition CARGO TANK
- Added the definition CONTAINER
- Added the definition EXCESS ORGANIC LIQUID DRAINAGE
- Added the definition EXTERNAL FLOATING ROOF STATIONARY STORAGE TANK
- Deleted the definition GAS TIGHT
- Added the definition INTERNAL FLOATING ROOF STATIONARY STORAGE TANK WITH FIXED COVERING



- Added the definition LEAK FREE
- Deleted the definition LOADING FACILITY
- Revised the definition ORGANIC LIQUID
- Revised the definition SUBMERGED FILL
- Added the definition VAPOR BALANCE SYSTEM
- Added the definition VAPOR COLLECTION/PROCESSING SYSTEM
- Revised the definition VAPOR LOSS CONTROL SYSTEM
- Revised the definition VAPOR TIGHT

Amended the following in Section 300:

- Revised Section 301: Clarified the requirements of an organic liquid stationary storage tank
- Revised Section 301.1: Listed the requirements of a stationary storage tank
- Deleted Section 302: Gasoline Storage Tanks Between 250 and 40,000 Gallons
- Added Section 301.2: Organic Liquid Stationary Storage Tanks with a Capacity of 20,000 Gallons (75,700 l) to less than 40,000 Gallons (151,400 l)
- Renumbered Section 304 to Section 301.3: Listed out requirements of stationary storage tanks with a capacity of 40,000 gallons or more
- Renumbered Section 305 to Section 301.4: Listed out the existing requirements
- Added Table 350-1 Summary of Organic Liquid (Non-Gasoline) Stationary Storage Tank VOC Emission Control Requirements
- Renumbered Section 306 to Section 302: Vapor Loss Control System
- Renumbered Section 307 to Section 302.2: Internal Floating Roof Stationary Storage Tanks with Fixed Covering.
- Renumbered Section 308 to Section 302.4: Vapor Collection/Processing System
- Added Section 303: Equipment Maintenance and Repair
- Added Section 304: General Requirements for the Transfer of Organic Liquid
- Deleted Section 309: Additional Requirements
- Deleted Section 310: Exemptions

Amended the following in Section 400:

- Deleted Section 401: Annual Inspections of External Floating Roof Stationary Storage Tanks
- Deleted Section 402: Annual Inspections of Internal Floating Roof Tanks
- Deleted Section 403: Five-Year, Full Circumference Inspections
- Deleted Section 404: Semi-Annual Inspections by Owner or Operator
- Deleted Section 405: Compliance Schedule
- Added Section 401: Organic Liquid (Non-Gasoline) Storage Tank Inspections
- Added Section 401.1: Semi-annual Inspections by Owner or Operator
- Added Section 401.2: Inspections of External Floating Roof Stationary Storage Tanks
- Added Section 401.3: Inspections of Internal Floating Roof Stationary Storage Tanks with a Fixed Covering
- Added Section 402: Monthly Organic Liquid Transfer Equipment Leak Inspections
- Added Section 403: Organic Liquid (Non-Gasoline) Storage Tank Inspections-Availability to Control Officer
- Added Section 403.1: Annual Inspections of External Floating Roof Tanks
- Added Section 403.2: Annual Inspections of Internal Floating Roof Tanks
- Added Section 403.3: Five-Year, Full Circumference Inspections
- Added Section 404: Other Agencies Requirements

Amended the following in Section 500:

- Deleted Section 501: Vapor Pressure Records
- Deleted Section 502: Compliance Determination Test Methods
- Added Section 501: Monitoring for Leaks
- Added Section 502: Vapor Pressure Records
- Added Section 503: Leak Inspection Records
- Added Section 504: Compliance Inspections
- Added Section 505: Records Retention
- Added Section 506: Compliance Determination-Test Methods

7. Demonstration of compliance with A.R.S. §49-112:

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards
§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or other regulation is either;



- (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or other regulation will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department complies with A.R.S. § 49-112(A) in that Maricopa County fails to meet the National Ambient Air Quality Standards (NAAQS) for both ozone and particulates. The County failed to meet 2008 8-hour ozone standard by the marginal area attainment date of July 20, 2015. The EPA issued a final rule, effective June 3, 2016, reclassifying the Maricopa County area to “moderate” (published at 86 FR 26697, May 4, 2016). Further, a portion of the County was classified as a serious ozone nonattainment area under the previous 1-hour ozone standard requiring the County to continue to maintain the measures and requirements that allowed the County to attain that standard. Currently, a portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM₁₀ 24-hour standard. This is the only serious PM₁₀ nonattainment area in Arizona. Revisions to Rule 350 address the requirements of the State Implementation Plan (SIP) for “moderate” nonattainment for the 2008 eight-hour ozone NAAQS. The amendments in Rule 350 included Reasonably Available Control Technology (RACT).

The department complies with A.R.S. § 49-112(B) in that the amendments to Rule 350 are not more stringent than or in addition to a provision of Title 49 or rule adopted by the director or any board or commission authorized to adopt rules pursuant to Title 49; address the peculiar local conditions in Maricopa County; are authorized under A.R.S. Title 49, Chapter 3, Article 3; and are not in lieu of a state program.

8. Documents or studies referenced and/or reviewed for this rulemaking:

Not applicable

9. 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:

Not applicable

10. Summary of the economic, small business, and consumer impact:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055. The economic summary is based on the number of Title V and Non-Title V permits issued by the Maricopa County Air Quality Department.

An identification of the rulemaking.

This rulemaking revised Rule 350 (Storage of Organic Liquids at Bulk Plants and Bulk Terminals). The revised rule is titled: Storage and Transfer of Organic Liquids (Non-Gasoline) at an Organic Liquid Distribution Facility.

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

The persons who are directly affected by and bear the costs of this rulemaking are facilities in Maricopa County that engage in the bulk storage and transfer of any organic liquid (non-gasoline) with a vapor pressure 0.5 psia or greater at an organic liquid distribution facility. The department has issued permits to 26 facilities subject to Rule 350, prior to revision.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

Because this rulemaking did not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department deemed that none of the revisions have potentially significant economic impacts on permitted sources. It is expected that the department will benefit from the increased clarity of the rule with decreased time to inspect a facility or prepare a permit. In addition, the rulemaking will not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

The assumptions of savings with the rule revisions will be reviewed after rule implementation to confirm their effectiveness.

However, the benefits of the rule revision are anticipated to be a result of the following changes:

- Changing the title of the rule to: STORAGE AND TRANSFER OF ORGANIC LIQUIDS (NON-GASOLINE) AT AN ORGANIC LIQUID DISTRIBUTION FACILITY;
- Requiring standards at organic liquid distribution facilities for stationary storage tanks with a capacity greater than 250 gallons for organic liquids with a TVP of 0.5 psia or more;
- Moving requirements originally in Rule 351 that applied to organic liquid (non-gasoline) storage and transfer to revised Rule 350 to consolidate all of the organic liquid requirements in one rule.
- Allowing partial exemptions for organic liquids with a TVP less than 0.5 psia; storage containers with a capacity less than 250 gallons; a pressure tank; the floating of a floating roof tank; and gap inspections;



- Defining numerous additional and revised definitions to reflect the rule applicability to the organic liquid industry and not the gasoline industry.

The sources subject to revised Rule 350 already have permits in which these requirements are addressed. Therefore, this revised rule did not impose new requirements on the permitted facilities, and no costs will be incurred for compliance with the rule revisions.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking

The rule revisions did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

The department anticipates that increased clarity provided by the Rule 350 revisions will provide a benefit to the regulated community; it will take less time for sources subject to the rule to understand and comply with the rule, which leads to increased compliance, which leads to decreased costs of compliance to the regulated community. The department does not anticipate these rule revisions to have a significant impact on a person's income, revenue, or employment in this state related to this activity. The rule revision did not impose increased monetary or regulatory costs on individuals so regulated.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

The rule revisions did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

A statement of the probable impact of the rulemaking on small businesses.

The rule revisions did not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated.

(a) An identification of the small businesses subject to the rulemaking.

Small businesses subject to this rulemaking are those facilities in Maricopa County that engage in the bulk storage and transfer of any organic liquid (non-gasoline) with a vapor pressure of 0.5 psia or more.

(b) The administrative and other costs required for compliance with the rulemaking.

This rulemaking updated and clarified existing rule provisions and definitions to be consistent with federal performance standards; reduced confusion as to the applicability of the rule; and improved understanding and readability. The department considered the implications of the amendments to the regulated entities and the implementing agency and deemed that none of the rule revisions have potentially significant economic impacts.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

(i) Establishing less costly compliance requirements in the rulemaking for small businesses.

Correcting and clarifying existing rule provisions and definitions in this rulemaking lessens or eases the regulatory burden for small businesses.

(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.

This rulemaking corrected or clarified existing rule provisions and definitions to reduce confusion and improve understanding and readability.

(iii) Exempting small businesses from any or all requirements of the rulemaking.

This rulemaking corrected or clarified existing rule provisions and definitions to reduce confusion and improve understanding and readability.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

This rulemaking did not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements and did not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

A statement of the probable effect on state revenues.

The rule revisions did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

This rulemaking corrected or clarified existing rule provisions and definitions to reduce confusion and improve understanding and readability.

11. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:

Name: Cheri Dale or Hether Krause
 Maricopa County Air Quality Department
 Planning and Analysis Division
 Address: 1001 N Central Avenue, Suite 125
 Phoenix, AZ 85004
 Telephone: (602) 506-6010
 Fax: (602) 506-6179
 E-mail: aqplanning@mail.maricopa.gov

**12. Description of the changes between the proposed rule, including supplemental notices and final rule:**

Since the Notice of Proposed Rulemaking was published on May 13, 2016 (22 A.A.R. 1207), the department made the following additional amendments:

- Throughout the rule, added either English or metric measurements where both units of measure were not included
- Section 103.2(a) removed partial exemption for organic liquids having a true vapor pressure less than 0.5 psia, because such organic liquids are not subject to the rule
- Section 103.2(c)(2) reference to Section 103.2(c)(i) was revised to reference Section 103.3(c)(1) because there is no (i) or (ii)
- Section 301.1(c) reference to Section 301.2(c)(i) and 301.2(c)(ii) was revised to reference Section 301.1(c)(1) and 301.1(c)(2) because there is no (i) or (ii)
- Section 301.2 “true vapor pressure (TVP) of 0.5 psia through 11.0 psia (26 mm - 569 mm Hg)” was revised to read “...true vapor pressure (TVP) equal to or greater than 0.5 psia but less than 11.0 psia ($26 \geq \text{mmHg} < 569$)”
- Sections 301.2 and 301.3 revised the wording “...true vapor pressure (TVP) 0.5 through 11.0 psia (26 mm Hg - 569 mm Hg)...” to “...true vapor pressure (TVP) equal to or greater than 0.5 psia but less than or equal to 11.0 psia ($26 \geq \text{mmHg} \leq 569$)...” to provide a clear measure of vapor pressure
- Table 350-1 added metric measurements for TVP to be consistent with the vapor pressure limits specified in Section 301
- Section 301.4 replaced the words “Exceeding” and “above” with “Greater Than” to provide consistent use of terms throughout rule
- Section 302.1(c)(1) reference to Section 302.1(c)(ii) was revised to reference Section 302.1(c)(2) because there is no (i)
- Moved the second and third sentences in Section 303.1(c)(1) to new Sections 302.1(d)(3) and 302.1(b), respectively
- Revised reference in Section 401.2(b)(1) to reference to Section 401.2(a)
- Section 404 (Other Agencies’ Requirements): Arizona Department of Weights and Measures became Department of Agriculture, Weights and Measures Services Division on July 1, 2016. Revised the rule to reflect the new title of the division
- Included text in Section 506 (Compliance Determination-Test Methods Incorporated By Reference) that allows for the use of alternative test methods to determine compliance with the rule; allows test methods as approved by the Administrator to be used; and clarified the provision regarding when more than one test method is permitted for a compliance determination

13. Summary of the comments made regarding the rule and the department response to them:

Since the Notice of Proposed Rulemaking was published on May 13, 2016 (22 A.A.R. 1207), the department received comments from Kinder Morgan/SFPP. The comments and the department’s responses are provided below.

Comment #1: Section 301.1 (Organic Liquid Stationary Storage Tank Requirements)

SFPP proposed to revise the heading/title of Section 301.1 to “All Stationary Storage Tanks with A Capacity of 250 Gallons (946 L) to less than 20,000 Gallons (75,700 L).”

Response #1: Section 301.1 (Organic Liquid Stationary Storage Tank Requirements)

Section 301.1 does apply to all stationary storage tanks with a capacity of 250 gallons or more with no upper limit for storage capacity. The requirements are not limited to organic liquid storage tanks with a capacity between 250 and 20,000 gallons; therefore, the department did not revise Section 301.1 heading as suggested.

Comment #2: Section 301.2 (Organic Liquid Stationary Storage Tank Requirements)

SFPP proposed to revise the heading/title of Section 301.2 to “Organic Liquid Stationary Storage Tanks With a Capacity of 20,000 Gallons (75,700L) to Less Than 40,000 Gallons (151,400 L)”

Response #2: Section 301.2 (Organic Liquid Stationary Storage Tank Requirements)

The department revised the section heading as SFPP suggested.

Comment #3: Table 350-1

SFPP proposed to revise the first row tank capacity description in Table 350-1 to “All organic (non-gasoline) stationary storage tanks >250 gallons to <20,000 gallons”.

Response #3: Table 350-1

The department revised Table 350-1 as SFPP suggested.

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

Not applicable

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

The following test methods are incorporated by reference in Rule 350, Section 506:

- EPA Method 2A - Direct Measurement of Gas Volume Through Pipes and Small Ducts
- EPA Method 18 - Measurement of Gaseous Organic Compound Emissions by Gas Chromatography
- EPA Method 21 - Determination of Volatile Organic Compound Leaks
- EPA Method 25A - Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer
- EPA Method 25A - Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer
- EPA Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test
- Optical Gas Imaging: Alternative Work Practice for Monitoring Equipment Leaks, 40 CFR 60.18(g)
- California Air Resources Board (CARB) - Test Procedure TP-201.1E Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003
- ASTM D2879-10 Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope
- ASTM D6420-99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry



16. Was this rule previously an emergency rule?

No

17. Full text of the rule follows:

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 350
STORAGE AND TRANSFER OF ORGANIC LIQUIDS (NON-GASOLINE) AT BULK PLANTS AND BULK TERMINALS AN
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Revised 07/13/88
Revised 04/06/92

Revised 07/13/1988; Revised 04/06/1992; **Revised 11/02/2016**

**MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 350**

STORAGE AND TRANSFER OF ORGANIC LIQUIDS (NON-GASOLINE) AT BULK PLANTS AND TERMINALS AN ORGANIC LIQUID DISTRIBUTION FACILITY

SECTION 100 – GENERAL

- 101 PURPOSE:** To limit emissions of volatile organic compounds (VOCs) from organic liquids (non-gasoline) under actual storage and transfer conditions at an organic liquid distribution facility.
- 102 APPLICABILITY:** This rule is applicable to the ~~transfer and bulk storage and transfer~~ of any organic liquid (non-gasoline) with a true vapor pressure (TVP) greater than 0.5 psia ~~in a bulk plant or bulk terminal stationary storage tank which is used primarily to fill delivery vessels~~ at an organic liquid distribution facility. Compliance with the provisions of this rule shall not relieve any owner or operator subject to the requirements of this rule from complying with any other federally enforceable New Sources Performance Standards (NSPS) and National Emissions Standards for Hazardous Air Pollutants (NESHAP). In such cases, the most stringent standard shall apply.
- 103 EXEMPTIONS:**
 - 103.1 Total Exemptions:** For the purposes of this rule, the following are exempt from this rule:
 - a. Gasoline facilities subject to Rule 351 of these rules;
 - b. Gasoline, including aviation gasoline, kerosene, diesel fuel, asphalt and heavier distillate oils and fuel oils;
 - c. Fuel consumed or dispensed at the facility directly to user such as fleet refueling, that support the operation of the facility;
 - d. Hazardous waste;
 - e. Wastewater or ballast water; and
 - f. Any non-crude oil liquid with an annual average TVP less than 0.7 kilopascals (0.1 psia). [40 CFR §63.2406]
 - 103.2 Partial Exemptions:**
 - a. Stationary storage tanks and containers with a capacity of less than 250 gallons (946.35 L) are exempt from Section 301 and 302 of this rule.
 - b. An organic liquid distribution facility built prior to October 2, 1978, is not required to have a vapor loss control system at the transfer rack when all of the following are complied with:
 - (1) The distribution facility transfers less than 120,000 gallons (454,800 l) of organic liquid (non-gasoline) into cargo tanks in any consecutive 30-day period.
 - (2) Any organic liquid distribution facility that becomes subject to all of the provisions of this rule by exceeding the threshold in Section 103.2(b)(1) of this rule, will remain subject to the rule provisions even if its output later falls below the threshold.
 - (3) Keep current records of amount of organic liquid transferred and keep them readily accessible to the Department upon request for at least five (5) years.
 - (4) Transfer organic liquid using submerged fill only.
 - (5) The owner or operator of the organic liquid distribution facility shall observe all parts of the transfer and shall discontinue the transfer if any liquid or vapor leaks are observed.
 - c. **Submerged Fill:** An organic liquid (non-gasoline) storage tank is exempt from the requirement that a submerged fill discharge pipe be fully submerged when:
 - (1) The tank is being drained completely.
 - (2) The tank is being initially filled or filled after being completely drained.
 - d. A stationary pressure tank maintaining working pressure sufficient at all times to prevent organic vapor loss to the atmosphere is exempt from Section 302 of this rule.
 - e. An owner or operator is exempt from the requirement that the roof be floating when the tank is being drained completely and when it is being filled, as long as both processes are accomplished continuously and as rapidly as practicable.
 - f. The owner or operator is exempted from the requirements for secondary seals and the secondary seal gap criteria when performing gap measurements or inspections of the primary seal.
 - g. **Opening of Hatches, Vent Valves or Other Vapor Sealing Devices:**



- (1) A hatch, vent valve or other vapor sealing device may be opened for vacuum relief on a cargo tank or rail car when the organic liquid is in the process of being transferred from the cargo tank or rail car into a storage tank. Reclose hatch, vent valve or other vapor sealing device at the completion of the transfer process.
- (2) When VOC vapors from organic liquids are present within a cargo tank, authorized government agents as well as owners or operators and their contractors may open vapor containment equipment while performing operations required by these Maricopa County Air Pollution Control Regulations or by other statutory entities, but shall be restricted as follows unless otherwise approved in advance by the Control Officer:
 - (a) Wait at least three (3) minutes after transfer is complete or cargo tank has come to a complete stop before opening hatch or other vapor seal.
 - (b) Reclose hatch or other vapor sealing device within 3 minutes of opening.
 - (c) Limit wind speed at opened hatch or other opened sealing device to not more than three (3) mph (1.34 m/sec).

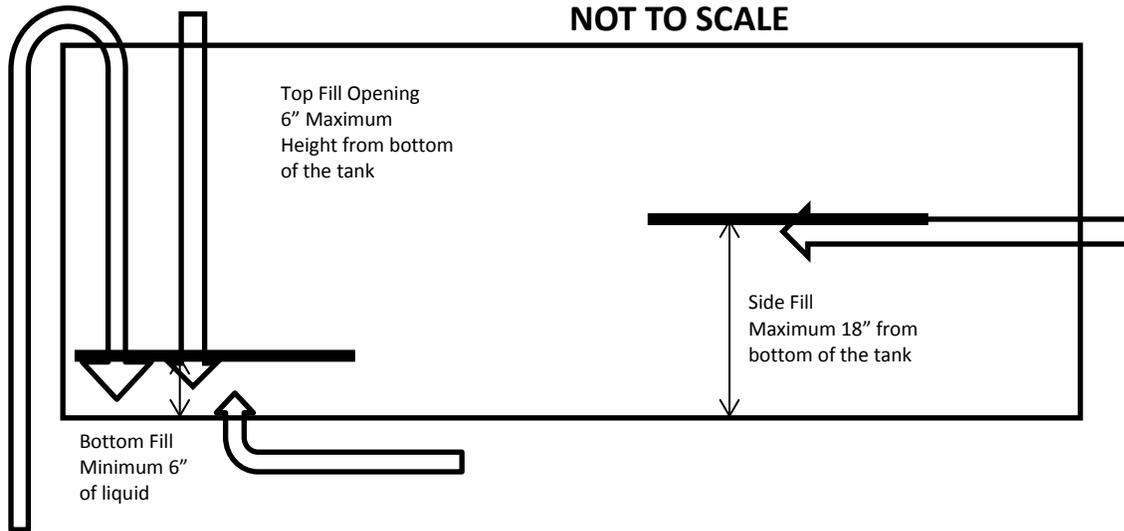
SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply; in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

- ~~201~~ **BULK PLANT**—Any loading facility at which gasoline and/or other organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under any actual storage conditions are received from delivery vessels for storage in on-site stationary tanks, and from which such liquids also are transferred to delivery vessels.
- ~~202~~ **BULK TERMINAL**—Any primary distributing loading facility which has ever received in any consecutive 30-day period over 600,000 gallons (2,271,180 l) of gasoline and/or other organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under actual storage conditions; or any loading facility where delivery of such liquids to the facility is primarily by pipeline.
- ~~203~~ **DELIVERY VESSEL**—Any vehicular mounted container such as a railroad tank car, tanker truck, tank trailer or any other mobile container used to transport organic liquids.
- ~~201~~ **CARGO TANK:** A liquid-carrying tank permanently attached and forming an integral part of a motor vehicle or truck trailer. For the purposes of this rule, vacuum trucks used exclusively for maintenance or spill response are not considered cargo tanks. [40 CFR §63.2406]
- ~~202~~ **CONTAINER:** A portable unit in which a material can be stored, transported, treated, disposed of, or otherwise handled. Examples of containers include, but are not limited to, drums and portable cargo containers known as “portable tanks” or “totes.” [40 CFR §63.2406]
- ~~203~~ **EXCESS ORGANIC LIQUID DRAINAGE:** More than 10 milliliters (0.34 fluid ounces or 2 teaspoonsful) of organic liquid lost from the end of a fill hose (or vapor hose if one is in use) in the process of connecting or disconnecting the hose; or any quantity of organic liquid escaping out the end of such a hose that wets any area(s) on the ground having an aggregate area greater than 113 square inches, or the perimeter of which would encompass a circle of 12 inches (30.5 cm) diameter.
- ~~204~~ **EXTERNAL FLOATING ROOF STATIONARY STORAGE TANK:** An open top storage tank with a floating roof consisting of a double deck or pontoon single deck that rests upon and is supported by the liquid being contained.
- ~~204~~ **GAS TIGHT**—Having no leak of gaseous organic compound(s) exceeding 10,000 ppm above background when measurements are made using EPA Method 21 with a methane calibration standard.
- ~~205~~ **GASOLINE:** Any petroleum distillate, petroleum distillate/alcohol blend, petroleum distillate/organic compound blend, or alcohol having a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under any actual conditions of storage and handling, and which is used as a fuel for internal combustion engines. Any petroleum distillate, petroleum distillate/alcohol blend, petroleum distillate/organic compound blend, or alcohol that meets both of the following conditions:
 - ~~209.1~~ Has a Reid vapor pressure between 4.0 and 14.7 psi (200–760 mm Hg.), as determined by ASTM D323-15a; and
 - ~~209.2~~ Is used as a fuel for internal combustion engines. [40 CFR 63.11100]
- ~~206~~ **INTERNAL FLOATING ROOF STATIONARY STORAGE TANK WITH FIXED COVERING:** A stationary storage tank with a floating cover or roof that rests upon or is floated upon the liquid being contained, and that also has a fixed roof on top of the tank shell. For the purposes of this rule, an external floating roof stationary storage tank that has been retrofitted with a geodesic dome or other fixed roof shall be considered to be an internal floating roof stationary storage tank.
- ~~207~~ **LEAK FREE:** A condition in which there is no organic liquid escape or seepage of more than 3 drops per minute from organic liquid storage, handling, and ancillary equipment, including, but not limited to, seepage and escapes from above ground fittings.
- ~~206~~ **LOADING FACILITY**—Any operation or facility such as a gasoline storage tank farm, pipeline terminal, bulk plant, loading dock or combination thereof, where organic liquids are transferred or loaded into or out of delivery vessels for future distribution. Included are all related pollutant emitting activities which are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control.
- ~~207~~ ~~208~~ **ORGANIC LIQUID:** Any organic compound which exists as a liquid under any actual conditions of use, transport or storage. For the purposes of this rule, gasoline is not considered an organic liquid.
- ~~209~~ **ORGANIC LIQUID DISTRIBUTION FACILITY:** A stationary source that primarily receives and distributes organic liquids that are manufactured and consumed by other parties. This includes the combination of activities and equipment used to store or transfer organic liquids into, out of, or within a plant site regardless of the specific activity being performed. Activities include, but are not limited to, storage, transfer, blending, compounding and packaging. [40 CFR 63.2406]
- ~~208~~ ~~210~~ **STATIONARY STORAGE TANK:** Any tank, reservoir or other container used to store, but not transport, organic liquids.
- ~~209~~ ~~211~~ **SUBMERGED FILL PIPE:** Any organic liquid discharge pipe or nozzle which meets at least one of the applicable specifications; as follows:
 - ~~209.1~~ ~~211.1~~ **Top-Fill or Bottom-Fill Tanks:** The end of the discharge pipe or nozzle is totally submerged when the liquid level is six (6) inches (15 cm) from the bottom of the tank.



- ~~209.2~~ **211.2** **Side-Fill:** At its highest point within the storage tank, the end of the discharge pipe or nozzle is totally submerged when the liquid level is eighteen (18) inches (46 cm) from the bottom of the tank.
- 211.3** **API Standard 650 Compliant:** A floating roof storage tank meets the submerged fill requirements in this rule, if the discharge pipe or nozzle meets both of the following requirements:
 - a.** Is kept completely submerged, including when the roof rests on its legs, except when the tank is being emptied completely and refilled; and
 - b.** Is designed and installed according to the API Standard 650.

**Submerged Fill Diagram
NOT TO SCALE**



- ~~210~~ **212** **TRUE VAPOR PRESSURE (TVP):** Absolute vapor pressure of a liquid at its existing temperature of storage and handling.
- ~~213~~ **213** **VAPOR BALANCE SYSTEM:** A system of vapor tight piping, hoses, equipment and devices which collect and return displaced vapors between a cargo tank and a storage tank.
- ~~214~~ **214** **VAPOR COLLECTION/PROCESSING SYSTEM:** A vapor loss control system consisting of a vapor gathering subsystem capable of collecting the organic vapors and organic gases plus a second subsystem capable of processing such vapors and gases, preventing at least 95 percent of the volatile organic compounds entering it from entering the atmosphere.
- ~~214~~ **215** **VAPOR LOSS CONTROL DEVICE SYSTEM:** Any piping, hoses, equipment, and devices which are used to collect, store and/or process organic vapors at a bulk terminal, bulk plant, service station or other operation handling gasoline and/or other organic liquids. A system for reducing emissions to the atmosphere, consisting of an abatement device and a collection system, which achieves the abatement efficiency or emission limit during the transfer operation at an organic liquid distribution facility.
- ~~212~~ **216** **VAPOR TIGHT:** A condition where no organic vapor leak reaches or exceeds 100 percent of the lower explosive limit at a distance of one inch (2.5 cm) from a leak when measured with a combustible gas detector or an organic vapor analyzer, both calibrated with propane in which a suitable detector at the site of (potential) leakage of vapor shows less than 10,000 ppmv when calibrated with methane or the detector shows less than 1/5 lower explosive limit (LEL) when calibrated with a gas specified by the manufacturer and used according to the manufacturer's instructions.

SECTION 300 – STANDARDS

301 ORGANIC LIQUID STATIONARY STORAGE TANK REQUIREMENTS:

- 301.1** **All Stationary Storage Tanks with a Capacity Greater than 250 Gallons (946 L):** No person shall install or use a stationary storage tank with a capacity greater than 250 gallons (946 l) for storing organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or more unless such a tank meets the following requirements: An owner or operator of a stationary storage tank with a capacity greater than 250 gallons (946 l) shall store organic liquid with a TVP of 0.5 psia (26 mm Hg) or more in a stationary storage tank meeting all of the following:
 - a.** Each stationary storage tank has a fill pipe that is maintained leak free and vapor tight when organic liquid is not in the process of being transferred.
 - ~~301.1~~ **b.** The Each stationary storage tank has a permanently installed submerged fill pipe. Where because of government regulation, including, but not limited to, Fire Department codes, such submerged fill pipe cannot be installed, a nozzle extension that reaches within six (6) inches (15 cm) of the tank bottom shall be used to fill the tank.
- Note⁺

⁺This note is not part of Rule 350, but is provided for the reader's convenience. The requirement of subsection 301.2 for a pressure/vacuum valve is not applicable to floating roof tanks.



301.2 c. Each fixed roof stationary storage tank has a pressure/vacuum valve that complies with both Section 301.1(c)(1) and 301.1(c)(2) of this rule, which is set within ten percent of the tank's maximum, safe working pressure. An owner or operator shall:

(1) Install a pressure/vacuum vent valve that is either:

(a) Set within ten percent (10%) of the tank's maximum, safe working-pressure; or

(b) Set at least at 0.5 psia (25.9 mm Hg) or per manufacturer's recommendation.

(2) Maintain the pressure/vacuum vent in good working order.

302 GASOLINE STORAGE TANKS BETWEEN 250 AND 40,000 GALLONS (946 – 151,400 L): No person shall store gasoline in a stationary storage tank with a capacity less than 40,000 gallons (151,400 l) but greater than 250 gallons (946 l) unless the tank is equipped with a vapor recovery system which collects and returns displaced vapors to the delivery vessel using vapor tight fittings and lines; or such tank uses at least one of the vapor loss control methods in Sections 306, 307, or 308 of this rule.

303 301.2 Organic Liquid Stationary Storage Tanks with a Capacity of 20,000 Gallons (75,700L) Through 39,999 Gallons Capacity (946 L-151,396L) to Less Than 40,000 Gallons (151,400 L): No person shall store organic liquids with a true vapor pressure (TVP) of 1.5 psia through 11.0 psia (77.5 mm 569 mm Hg) in a stationary tank with a capacity from 20,000 through 39,999 gallons (75,700 – 151,396 l) unless the tank is equipped with a vapor recovery system which collects and returns displaced vapors to the delivery vessel using vapor tight fittings and lines; or such tank uses at least one of the vapor loss control methods specified in Sections 306, 307, or 308 of this rule. An owner or operator of an organic liquid stationary storage tank with a capacity between 20,000 gallons (75,700 l) but less than 40,000 gallons (151,400 l), shall store organic liquids with a TVP equal to or greater than 0.5 psia but less than or equal to 11.0 psia (26 ≥ mmHg ≤ 569) in a stationary storage tank meeting all of the following requirements:

a. The stationary storage tank shall:

(1) Be maintained leak free.

(2) Be maintained vapor tight.

(3) Be equipped with at least one of the vapor loss control systems specified in Section 301.2(b) of this rule.

b. An owner or operator shall install and maintain at least one of the following vapor loss control systems as described in Section 302 of this rule:

(1) Install and maintain a vapor recovery system which collects and returns displaced vapors to the cargo tank using vapor-tight fittings and lines; or

(2) Install and maintain an external floating roof stationary storage tank; or

(3) Install and maintain an internal floating roof stationary storage tank with a fixed cover; or

(4) Install and maintain a vapor collection/processing system.

304 301.3 Organic Liquid Stationary Storage Tanks with a Capacity Equal to or Greater than Of 40,000 Gallons (151,400 L) or More: No person shall place, store or hold in any stationary storage tank having a capacity of 40,000 gallons (151,400 L) or more, any gasoline or organic liquid having a true vapor pressure of 1.5 or greater 1.5 through 11.0 psia (77.5 mm Hg – 569 mm Hg) under actual storage conditions, unless such storage tank is equipped with at least one of the vapor loss control devices specified in Sections 306, 307, or 308. An owner or operator of an organic liquid stationary storage tank with a capacity equal to or greater than 40,000 gallons (151,400 l) shall store organic liquids with a TVP equal to or greater than 0.5 psia but equal to or less than 11.0 psia (26 ≥ mmHg ≤ 569) in a stationary storage tank meeting all of the following requirements, unless such stationary storage tank is equipped with at least one of the vapor loss control systems described in Section 302 of this rule:

a. Install and maintain an external floating roof stationary storage tank; or

b. Install and maintain an internal floating roof stationary storage tank with a fixed cover; or

c. Equip the stationary storage tank with a vapor collection/processing system as described in Section 302 of this rule.

305 301.4 Organic Liquid Stationary Storage Tanks Storing Liquids Having Vapor Pressures a TVP Exceeding Greater Than 11 PSIA: No person shall place, store, or hold in a stationary tank having a capacity over 250 gallons (946 l) organic liquid(s) with a true vapor pressure above 11.0 psia (569 mm Hg) unless such a tank is either a pressure tank maintaining working pressure sufficient at all times to prevent organic vapor/gas loss to the atmosphere or is equipped with a vapor collection/processing system specified in Section 308 of this rule. An owner or operator shall place, store, or hold organic liquid with a TVP greater than 11.0 psia (569 mm Hg) in a stationary storage tank that meets at least one of the vapor loss control methods specified below:

a. Maintain a working pressure in the stationary storage tank that is sufficient at all times to prevent organic vapor loss to the atmosphere.

b. Equip the stationary storage tank with a vapor collection/processing system as described in Section 302 of this rule.

Table 350-1

Summary of Organic Liquid (Non-Gasoline) Stationary Storage Tank VOC Emission Control Requirements

<u>Tank Capacity</u>	<u>True Vapor Pressure of Organic Liquid in Tank</u>		
	<u>0.5 ≥ psia <1.5 (26 ≥ mm Hg <77.5)</u>	<u>1.5 ≥ psia <11.0 (77.5 ≥ mm Hg <569)</u>	<u>>11.0 psia (>569 mm Hg)</u>
<u>All organic liquid (non-gasoline) stationary storage tanks >250 gallons</u>	<u>Applicable Rule 350 Section: Section 301.1</u>	<u>Applicable Rule 350 Section: Section 301.1</u>	<u>Applicable Rule 350 Section: Section 301.4</u>



True Vapor Pressure of Organic Liquid in Tank			
All organic liquid (non-gasoline) storage tanks 20,000 gallons to <40,000 gallons	Section 301.1	Section 301.1 and Section 301.2	Section 301.4
All organic liquid (non-gasoline) storage tanks >40,000 gallons	Section 301.1	Sections 301.1 and Section 301.3	Section 301.4

302 VAPOR LOSS CONTROL SYSTEM:

306 302.1 External Floating Roof Stationary Storage Tanks: This vapor loss control device is an uncovered floating roof consisting of either a pontoon type or a double deck type roof. It must rest on and be supported by the surface of the liquid contents, be equipped with a continuous primary seal to close the space between the roof eave and tank wall, except as provided in subsection 309.1 and have a continuous secondary seal which is of a design that is in accordance with accepted standards of the petroleum industry. The secondary seal shall meet the following requirements: An external floating roof stationary storage tank must meet the following requirements:

- a. The owner or operator of an external floating roof stationary storage tank and vapor balance system, or vapor collection/processing system, or vapor loss control system shall properly install, properly maintain and properly operate the equipment.
- b. The owner or operator of an external floating roof stationary storage tank shall operate an external floating roof tank subject to the provisions of this rule, except for tanks having metallic shoe primary seals onto which secondary seals were installed prior to July 13, 1988, and unless a secondary seal extends from the roof to the tank shell (a rim-mounted seal) and is not attached to the primary seal.
- c. **External Floating Roof Requirements:**
 - (1) The floating roof shall rest on and be supported by the surface of the liquid contents.
 - (2) The floating roof shall be equipped with a continuous primary seal to close the space between the roof eave and tank wall, except as provided in Section 103.2 of this rule.
 - (3) The floating roof shall have a continuous secondary seal which is of a design that is in accordance with accepted standards of the organic liquids industry. The secondary seal shall meet the requirements of Section 302.1(d) of this rule.

d. Secondary Seal Requirements:

- 306.1 (1) The secondary seal is to be installed above the primary seal so that it completely covers the space between the roof edge or primary seal and the tank wall, except as provided in ~~subsection 306.2~~ Section 302.1(d)(2) of this rule. Storage tanks constructed after July 13, 1988, shall have a secondary seal that is rim-mounted. Except for tanks having metallic shoe primary seals onto which secondary seals were installed prior to July 13, 1988, by October 6, 1993 no person shall operate an external floating roof tank subject to the provisions of this rule unless a secondary seal extends from the roof to the tank shell (a rim-mounted seal) and is not attached to the primary seal.
- 306.2 (2) The accumulated area of gaps between the tank wall and the secondary seal shall not exceed 1.0 square inch per foot (21.2 cm² per meter) of tank diameter. Determinations of gap area shall only be made at the point(s) where the gaps exceed ~~1/8~~ one eighth (1/8) inch (3 mm). The width of any portion of any gap shall not exceed ~~1/2~~ one half (1/2) inch (1.27 cm).
- (3) Stationary storage tanks constructed after July 13, 1988, shall have a secondary seal that is rim-mounted.
- 306.3 The owner or operator is exempted from the requirements for secondary seals and the secondary seal gap criteria when performing gap measurements or inspections of the primary seal.

e. External Floating Roof Openings:

- (1) Floating roof tanks subject to the provisions of Section 302.1 of this rule shall have no visible holes, tears or other openings in the seal or in any seal fabric.
- (2) The accumulated area of gaps between a tank's wall and primary seal shall not exceed ten (10) square inches per foot of tank diameter (212 cm² per meter).
- (3) The width of any portion of any gap shall not exceed one and one half (1½) inches (3.8 cm).
- (4) Where applicable, all openings except drains shall be equipped with a cover seal or lid.
- (5) Where applicable, the cover seal or lid shall be in a closed position at all times, except when the system is in actual use.
- (6) Automatic bleeder vents shall be closed at all times, except when the roof is floated off or landed on the roof leg supports.
- (7) Rim vents, if provided, shall be set to open only when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

307 302.2 Internal Floating Roof Stationary Storage Tanks with Fixed Covering: This vapor loss control device is a covered tank with an internal floating roof resting on the contained liquid. This An internal floating roof stationary storage tank and its appurtenances shall meet the applicable requirements as follows:

- a. The owner or operator of an internal floating roof stationary storage tank and associated emission control equipment shall properly install, maintain and operate the equipment.
- 307.1 b. Bulk terminal tanks Organic liquid stationary storage tanks for which construction, reconstruction or modification commenced after July 23, 1984, must comply with all applicable requirements of the EPA New Source Performance Standard (NSPS), 40 CFR Part 60, Subpart Kb- Standards of Performance for Volatile Organic Liquid Storage Vessels



(Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984. This federal standard is adopted and incorporated by reference in Rule 360 and Rule 370 of these rules.

- 307.2 **c.** All stationary storage tanks not subject to ~~subsection 307.1~~ Section 302.2(b) of this rule must comply with one of the following:
 - (1) ~~Comply with Sections of 40 CFR Part 60, Subpart Kb, notwithstanding the type of facility and the date of tank construction, reconstruction or modification that are not addressed in Section 302.2(b) of this rule;~~ or
 - (2) Have at least one continuous seal which completely covers the space between the roof edge and tank wall, except as provided in ~~subsection 309.1~~ Section 302.2(d) of this rule, and meet at least one of the following requirements:
 - (a) Have a contact-type roof resting completely on the liquid surface.
 - (b) Have a liquid mounted seal.
 - (c) Have two seals, a primary and a secondary.

d. Internal Floating Roof Openings:

- (1) Floating roof tanks subject to the provisions of Section 302.2 of this rule shall have no visible holes, tears or other openings in the seal or in any seal fabric.
- (2) The accumulated area of gaps between a tank's wall and primary seal shall not exceed ten (10) square inches per foot of tank diameter (212 cm² per meter).
- (3) The width of any portion of any gap shall not exceed one and one half (1½) inches (3.8 cm).
- (4) Where applicable, all openings except drains shall be equipped with a cover seal or lid.
- (5) Where applicable, the cover seal or lid shall be in a closed position at all times, except when the system is in actual use.
- (6) Automatic bleeder vents shall be closed at all times, except when the roof is floated off or landed on the roof leg supports.
- (7) Rim vents, if provided, shall be set to open only when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

308 **302.3 Vapor Collection/Processing System:** This vapor loss control ~~device~~ system consists of a vapor gathering subsystem capable of collecting the organic vapors and organic gases plus a second subsystem capable of processing such vapors and gases, preventing at least 95 percent by weight of the volatile organic compounds entering it from escaping to the atmosphere.

- 308.1 **a.** An owner or operator of an organic liquid distribution facility that has an organic liquid throughput greater than 600,000 gallons (2,271,247 l) in any consecutive 30-day period, shall install, operate and maintain a vapor loss control system.
- 308.1 **b.** The vapor processing subsystem shall be ~~gas-tight~~ vapor-tight except for the designated exhaust.
- 308.2 **c.** Any tank gauging or sampling device on a tank, vented to such a vapor ~~collection/processing loss control~~ system, shall be equipped with a ~~gas-tight~~ vapor-tight cover which shall be closed at all times except during gauging or sampling procedures.
- 308.3 **d.** All pressure-vacuum vent valves shall be constructed and maintained in a ~~gas-tight~~ vapor-tight condition except when the operating pressure exceeds the valve release setting.

303 EQUIPMENT MAINTENANCE AND REPAIR: The owner or operator of an organic liquid distribution facility shall:

- 303.1** Maintain the equipment associated with the storage and transfer of organic liquid to be all of the following:
 - a.** Leak free;
 - b.** Vapor tight; and
 - c.** In good working order.
- 303.2** Repair and Retest: The owner or operator of a vapor loss control system that exceeds the standards of this rule shall notify the Control Officer immediately and observe the following time schedule for corrective action:
 - a.** Concentrations at or above the lower explosive limit must be brought into compliance within 24 hours of detection.
 - b.** For vapor collection/processing equipment subject to gas-tight standard, leak concentrations exceeding 10,000 ppm but less than 50,000 ppm as methane shall be brought into compliance within 5 days of detection.
 - c.** Except as the Control Officer otherwise specifies, a leak source must be tested after presumed leak-correction within fifteen (15) minutes of recommencing use. If leak standards are exceeded in this test, the use of the leak-correction equipment shall be discontinued until correction is verified by retesting.

304 GENERAL REQUIREMENTS FOR THE TRANSFER OF ORGANIC LIQUID: The owner or operator of an organic liquid distribution facility shall comply with the following:

- 304.1** Transfer of Organic Liquid into Stationary Storage Tanks:
 - a.** Comply with Section 303.1 of this rule.
 - b.** Verify the proper connection to a vapor balance system or other vapor loss control systems prior to an organic liquid transfer at facilities that utilize a vapor balance system.
 - c.** Verify the proper disconnection from a vapor balance system or other vapor loss control systems at the completion of an organic liquid transfer at facilities that utilize a vapor balance system.
 - d.** Minimize spills during storage and transfer of organic liquids.
 - e.** Clean up spills as expeditiously as practicable.
 - f.** Cover all open organic liquid containers when not in use.
 - g.** Minimize organic liquid sent to open waste collection systems that collect and transport organic liquid to reclamation and recycling devices, such as oil/water separators.
- 304.2** Transfer of Organic Liquids into Cargo Tanks:



- a. Verify that the cargo tank has been demonstrated to be vapor tight.
- b. Verify the proper connection to a vapor balance system or other vapor loss control systems prior to an organic liquid transfer.
- c. Verify the proper disconnection from a vapor balance system or other vapor loss control systems at the completion of an organic liquid transfer.
- d. Minimize spills during storage and transfer of organic liquids.
- e. Clean up spills as expeditiously as practicable.
- f. Cover all open organic liquid containers when not in use.
- g. Minimize organic liquid sent to open waste collection systems that collect and transport organic liquid to reclamation and recycling devices, such as oil/water separators.

309 **ADDITIONAL REQUIREMENTS:**

309.1 **Prohibition—Floating Roof Openings:** Floating roof tanks subject to the provisions of Section 306 or 307 of this rule shall have no visible holes, tears or other openings in the seal or in any seal fabric. The accumulated area of gaps between a tank's wall and primary seal shall not exceed 10 square inches per foot of tank diameter (212 cm² per meter) and the width of any portion of any gap shall not exceed 1½ inches (3.8 cm). Where applicable, all openings except drains shall be equipped with a cover seal or lid. The cover seal or lid shall be in a closed position at all times, except when the device is in actual use. Automatic bleeder vents shall be closed at all times, except when the roof is floated off or landed on the roof leg supports. Rim vents, if provided, shall be set to open only when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

309.2 Tanks and all required emission control equipment shall be properly installed, properly maintained and be properly operating.

310 **EXEMPTIONS:**

310.1 A pressure tank maintaining working pressure sufficient at all times to prevent organic vapor or gas loss to the atmosphere is exempt from Sections 301, 302, 303, and 304 of this rule.

310.2 During the following periods a floating roof is exempt from the requirement that its roof be floating: when the tank is being drained completely and when it is being filled, as long as both processes are accomplished continuously and as rapidly as practicable.

310.3 A horizontal filling nozzle at its highest point within a floating roof tank exceeding 2,000,000 gallons (7,580,000 l) capacity may be up to 39.4 inches (1 meter) above the tank bottom if: except when the tank is emptied completely, the nozzle is kept completely submerged, including when the roof rests on its legs.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 **ANNUAL INSPECTIONS OF EXTERNAL FLOATING ROOF STATIONARY STORAGE TANKS:** The owner or operator of any tank which uses an external floating roof to meet the vapor loss control requirements of this rule shall make the primary seal envelope and the secondary seal available for unobstructed inspection by the Control Officer on an annual basis. The primary seal envelope shall be made available for inspection at a minimum of four locations selected along its circumference at random by the Control Officer. If the Control Officer detects a violation as a result of any such inspection, the Control Officer may require such further unobstructed inspection of the seals as may be necessary to determine the seal condition for its entire circumference.

402 **ANNUAL INSPECTIONS OF INTERNAL FLOATING ROOF TANKS:** The owner or operator of any tank which uses an internal floating roof to meet the vapor loss control requirements of this rule shall make the entire tank including the internal floating roof available for inspection prior to filling. It shall be made available for visual inspection through the manholes or roof hatches on the fixed covering on an annual basis.

403 **FIVE-YEAR, FULL CIRCUMFERENCE INSPECTIONS:** As of July 13, 1988, the owner or operator of a floating roof tank of 20,000 gallons (75,700 l) or more storing an organic liquid with a TVP of 1.5 psia (77.5 mm Hg) or greater shall make the primary seal envelope available for inspection by the Control Officer for its full length every five years. However, if prior thereto the secondary seal is removed or if the tank is drained and cleaned by the owner or operator for any reason, it shall be made available for such inspection at that time. The owner or operator shall provide notification to the Control Officer no less than seven working days prior to removal of the secondary seal. The owner or operator shall perform a complete inspection of the primary seal and floating roof, including measurement of gap area and maximum gap, whenever the tank is emptied for non-operational reasons or at least every five years, whichever is more frequent.

404 **SEMI-ANNUAL INSPECTIONS BY OWNER OR OPERATOR:** The owner or operator of any floating roof tank subject to this rule shall inspect the tank and seals at least once every six months to determine ongoing compliance with both the applicable standards of this rule and any permit conditions pertaining to the tank. Determinations of secondary seal gap area on external floating roofs need be made only once per year. Records of these inspections shall be maintained and shall be made available to the Control Officer upon request.

405 **COMPLIANCE SCHEDULE:** By October 6, 1992, any person subject to Section 300 who does not comply with all its provisions shall submit to the Control Officer for approval an emission control plan describing the method(s) to be used to achieve full compliance by October 6, 1993. This plan shall specify dates for completing increments of progress, such as the contractual arrival date of new control equipment. The Control Officer may require a person submitting such an emission control plan to submit subsequent reports on progress in achieving compliance.

401 ORGANIC LIQUID (NON-GASOLINE) STATIONARY STORAGE TANK INSPECTIONS

401.1 Inspections of External Floating Roof Stationary Storage Tanks:

- a. The owner or operator of any external floating roof stationary storage tank subject to this rule shall visually inspect the tank and seals at least once every six (6) months to determine ongoing compliance with the applicable standards of this rule pertaining to the tank. Determinations of secondary seal gap area on external floating roof stationary storage tanks



shall be made only once per year. Records of these inspections shall be maintained and shall be made available to the Control Officer upon request.

- b. Annual and Empty Tank Inspection:** The owner or operator of any stationary storage tank which uses an external floating roof to meet the vapor loss control system requirements of this rule shall conduct a visual inspection each time the external floating roof stationary storage tank is emptied and degassed or at least once a year. The visual inspection shall include all of the following:
 - (1) Verify the secondary seal covers the space between the roof edge and the tank.
 - (2) Measure the gaps between the tank wall and the secondary seal. The accumulated area of gaps between the tank wall and the secondary seal shall not exceed 21.2 cm² (3.29 square inches) per meter of tank diameter and the width of any portion of any gap shall not exceed 1.27 cm (0.2 inch).
 - (3) Verify there are no holes, tears, or other openings in the seal or seal fabric.
- c. Five-Year, Full Circumference Inspections of External Floating Roof Stationary Storage Tanks:** The owner or operator of any external floating roof stationary storage tank of 20,000 gallons (75,700 l) or more storing organic liquids (non-gasoline) shall conduct a complete inspection of the external floating roof tank each time the tank is emptied and degassed or at least once every five (5) years. This inspection can be performed while the tank is in service. The inspection shall include all of the following:
 - (1) Perform a complete inspection of the organic liquid (non-gasoline) storage tank as described in Section 401.1(a) of this rule.
 - (2) Perform a complete inspection of the primary seal and floating roof.
 - (3) Measure gap areas and maximum gap. The accumulated area of gaps between the tank wall and the mechanical shoe or liquid-mounted primary seal shall not exceed 21.2 cm² (39.9 square inches) per meter of tank diameter and the width of any portion of any gap shall not exceed 3.81 cm (0.59 inch).

401.2 Inspections of Internal Floating Roof Stationary Storage Tanks with a Fixed Covering:

- a.** The owner or operator of any internal floating roof stationary storage tank subject to this rule shall visually inspect the tank and seals at least once every six (6) months to determine ongoing compliance with the applicable standards of this rule pertaining to the tank. Records of these inspections shall be maintained and shall be made available to the Control Officer upon request.
- b.** The owner or operator of any stationary storage tank which uses an internal floating roof to meet the vapor loss control system requirements of this rule shall conduct a visual inspection each time the internal floating roof stationary storage tank is emptied and degassed or at least once a year. The visual inspection can be made through manholes or rood hatches and shall include all of the following:
 - (1) The internal floating roof shall not have an accumulation of liquid on the roof.
 - (2) The seal shall be attached.
 - (3) The seal shall not have any holes or tears.

401.3 Five Year Inspection and Empty Tank Inspection: The owner or operator of any stationary storage tank which uses an internal floating roof to meet the vapor loss control system requirements of this rule shall conduct a visual inspection each time the internal floating roof stationary storage tank is emptied and degassed or at least once every five (5) years. The visual inspection shall include all of the following:

- a.** The internal floating roof shall be free of any defects.
- b.** The primary seal shall not have any holes, tears or other openings.
- c.** The secondary seal if one is in service, shall not have any holes, tears or other openings.
- d.** Gaskets shall prevent liquid surfaces from exposure to atmosphere.
- e.** The slotted membrane shall not have more than a ten percent (10%) open area.

402 MONTHLY ORGANIC LIQUID TRANSFER EQUIPMENT LEAK INSPECTIONS: The owner or operator shall perform monthly inspections, while organic liquid is being transferred, for liquid and vapor leaks and for faulty equipment. Monthly inspections leak detection methods can include one or more of the following methods:

- 402.1** Incorporation of sight, sound, smell and/or touch.
- 402.2** Use of a combustible gas detector (CGD) or organic vapor analyzer (OVA) pursuant to Section 501 of this rule.
- 402.3** Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3, use of a soap solution pursuant to Section 501 of this rule.
- 402.4** Use of an optical gas imaging instrument calibrated according to manufacturing specifications and used according to Section 501 of this rule.

403 ORGANIC LIQUID (NON-GASOLINE) STORAGE TANK INSPECTIONS-AVAILABILITY TO CONTROL OFFICER:

403.1 Annual Inspections of External Floating Roof Tanks: The owner or operator of any stationary storage tank which uses an external floating roof to meet the vapor loss control system requirements of this rule shall make the primary seal envelope and the secondary seal available for unobstructed inspection by the Control Officer on an annual basis. The primary seal envelope shall be made available for inspection at a minimum of four (4) locations selected along its circumference at random by the Control Officer. If the Control Officer detects a violation as a result of any such inspection, the Control Officer may require such further unobstructed inspection of the seals as may be necessary to determine the seal condition for its entire circumference.

403.2 Annual Inspections of Internal Floating Roof Tanks: The owner or operator of any stationary storage tank which uses an internal floating roof to meet the vapor loss control system requirements of this rule shall make the entire tank including the



internal floating roof available for inspection prior to filling. The internal floating roof shall be made available for visual inspection through the manholes or roof hatches on the fixed covering on an annual basis.

403.3 **Five-Year, Full Circumference Inspections:** The owner or operator of a floating roof stationary storage tank of 20,000 gallons (75,700 l) or more storing organic liquids (non-gasoline) shall make the primary seal envelope available for inspection by the Control Officer for its full length every five (5) years. This inspection can be performed while the tank is in-service. However, if the secondary seal is removed or if the tank is drained and cleaned by the owner or operator for any reason, it shall be made available for such inspection at that time. The owner or operator shall provide notification to the Control Officer no less than seven (7) working days prior to removal of the secondary seal.

404 **OTHER AGENCIES' REQUIREMENTS:** Compliance with this rule does not relieve or otherwise affect the owner's or operator's obligation to comply with any other applicable federal, state, or local legal requirement including, but not limited to, rules promulgated by Arizona Department of Agriculture – Weights and Measures Services Division, local fire department codes, and local zoning ordinances.

SECTION 500 – MONITORING AND RECORDS

501 **VAPOR PRESSURE RECORDS:** A person whose tanks are subject to the provisions of this rule shall keep accurate records of liquids stored in such tanks including either the true or the Reid vapor pressure ranges of each such liquid. The temperature of the contents of each affected tank located at bulk terminals shall be recorded at least weekly and the true vapor pressure of each shall be recorded at least once each month. These records shall be kept a minimum of three years.

502 **COMPLIANCE DETERMINATION – TEST METHODS:** When more than one test method is permitted for a determination, an exceedance of the limits established in this rule determined by any of the applicable test methods constitutes a violation of this rule.

502.1 Determination Of Vapor Tight Condition: Applicable procedures of Rule 351, Section 501.

502.2 Emission Rates And Control Device Efficiency: EPA Reference Methods 2A, 2B, 18 and 25A.

502.3 Gaseous Leak Detection And Determination Of Gas Tight Condition: EPA Method 21.

502.4 Reid Vapor Pressure: Reid vapor pressure shall be determined by ASTM Method D323-82 or by ASTM Method D-5191.

502.5 True Vapor Pressure: True vapor pressure shall be determined by ASTM Method 2879-83 and by temperature measurement under actual conditions using an instrument accurate to within ± 1 degree Fahrenheit or ± 0.5 degree Celsius. For purposes of recording and reporting, the Reid vapor pressure and the foregoing temperature determination may be used in conjunction with the method of American Petroleum Institute Bulletin 2517, February, 1980, to determine true vapor pressure, unless the Control Officer specifies ASTM Method 2879-83.

501 **MONITORING FOR LEAKS**

501.1 **Combustible Gas Detector (CGD) or Organic Vapor Analyzer (OVA) – Test Procedure:** During the transfer of organic liquids into a cargo tank, the peripheries of all potential sources of leakage at the organic liquid distribution facility are checked with a CGD or OVA as follows:

- a.** **Calibration:** Within four (4) hours prior to monitoring, the CGD or OVA shall be properly calibrated for a 20 percent lower explosive limit (LEL) response or to 10,000 ppm with methane.
- b.** **Probe Distance:** The probe inlet shall be one (1) inch (2.5 cm) or less from the potential leak source when searching for leaks. The probe inlet shall be one (1) inch (2.5 cm) from the leak source when the highest detector reading is being determined for a discovered leak. When the probe is obstructed from moving within one (1) inch (2.5 cm) of an actual or potential leak source, the closest practicable probe distance shall be used.
- c.** **Probe Movement:** The probe shall be moved slowly, not faster than 1.6 inches per second (4 centimeters per second). If there is any meter deflection at an actual or potential leak source, the probe shall be positioned to locate the point of highest meter response.
- d.** **Probe Position:** The probe inlet shall be positioned in the path of the vapor flow from an actual or potential leak such that the central axis of the probe-tube inlet shall be positioned coaxially with the path of the most concentrated vapors.
- e.** **Wind:** Wind shall be blocked as much as possible from the space being monitored. The monthly inspections leak detection tests required by Section 402 of this rule shall be valid only when wind speed in the space being monitored is five (5) mph or less.
- f.** **Data Recording:** The highest detector reading and location for each incidence of detected leakage shall be recorded along with the date and time. If no organic liquid vapor is detected, that fact shall be entered into the record.

501.2 **Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3:**

- a.** Spray a soap solution over all potential leak sources. The soap solution may be a commercially available leak detection solution or may be prepared using concentrated detergent and water. A pressure sprayer or squeeze bottle may be used to dispense the solution.
- b.** Observe the potential leak sites to determine if any bubbles are formed.
 - (1)** If no bubbles are observed, the source is presumed to have no detectable vapor leaks.
 - (2)** If any bubbles are observed, the instrument techniques of Section 501.1 of this rule shall be used to determine if a vapor leak exists.

501.3 **Optical Gas Imaging:** A certified operator of a calibrated optical gas imaging device may use an optical gas imaging instrument to identify vapor leaks. If a vapor leak is detected, the instrument techniques listed in Section 501.1 of this rule shall be used to determine if a vapor leak exists.

501.4 Any instrument used for the measurement of organic compound concentration shall be calibrated according to manufacturer's instructions or in accordance with EPA Reference Method 21 as incorporated by reference in Maricopa County Air Pollution Control Regulations, Appendix G, Incorporated Materials.



- 502** **TVP RECORDS:** The owner or operator of an organic liquid distribution facility shall keep accurate records listed in Section 502 of this rule.
 - 502.1** An owner or operator shall keep accurate records of organic liquids stored in each stationary storage tank subject to this rule.
 - 502.2** The temperature of the contents of each stationary storage tank subject to this rule shall be determined and recorded using at least one of the following methods:
 - a.** Take the actual temperature of the contents of the stationary storage tank each week and record the weekly temperature of the contents of each stationary storage tank.
 - b.** Obtain the maximum local monthly average ambient temperature as reported by the National Weather Service and record monthly for each stationary storage tank.
 - c.** Record monthly AP 42, Section 7.1 emission estimation procedures for each stationary storage tank.
 - 502.3** The TVP of each organic liquid in each stationary storage tank subject to this rule shall be recorded at least once each month.
- 503** **LEAK INSPECTION RECORDS:** The owner or operator of an organic liquid distribution facility shall keep a log documenting each leak inspection. The log shall include the items listed below:
 - 503.1** The owner or operator shall sign the log at the completion of each monthly inspection for equipment leaks.
 - 503.2** Each monthly inspection log shall contain a list, summary description or diagram(s) showing the location of all equipment at the organic liquid distribution facility.
 - 503.3** Each monthly inspection log shall include any maintenance that occurred.
 - 503.4** Each annual inspection log shall include any maintenance that occurred.
 - 503.5** These records shall be kept a minimum of five (5) years.
 - 503.6** Additional Record Requirements for Use of Optical Gas Imaging Instruments: An owner or operator using an optical gas imaging instrument for leak inspections shall date and time stamp the video records of every monitoring event where an optical gas imaging instrument was used.
- 504** **COMPLIANCE INSPECTIONS:** The Control Officer, at any time, may monitor a cargo tank’s vapor collection/processing system, an organic liquid transfer rack’s vapor loss control system, an organic liquid distribution facility, or a vapor collection/processing system for vapor leaks by the test methods described in Section 506 of this rule.
- 505** **RECORDS RETENTION:** Records and information required by this rule shall be retained for at least five (5) years.
- 506** **COMPLIANCE DETERMINATION - TEST METHODS INCORPORATED BY REFERENCE:** The following test methods are approved for use for the purpose of determining compliance with this rule. The test methods are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations. Alternative test methods as approved by the Administrator or other EPA-approved test methods may be used upon prior written approval from the Control Officer. When more than one test method is permitted for the same determination, an exceedance under any method will constitute a violation. Copies of test methods referenced in this section are available at the Maricopa County Air Quality Department, 1001 N. Central Avenue, Suite 125, Phoenix, AZ 85004-1942.
 - 506.1** **EPA Test Methods:**
 - a.** EPA Method 2A - Direct Measurement of Gas Volume through Pipes and Small Ducts.
 - b.** EPA Method 18 - Measurement of Gaseous Organic Compound Emissions by Gas Chromatography.
 - c.** EPA Method 21 - Determination of Volatile Organic Compound Leaks.
 - d.** EPA Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3
 - e.** EPA Method 25A - Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer.
 - f.** EPA Method 25B - Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer.
 - g.** EPA Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test.
 - h.** Optical Gas Imaging: Alternative Work Practice for Monitoring Equipment Leaks, 40 CFR 60.18(g). An owner or operator may use an Optical Gas Imaging instrument to comply with the alternative work practice requirements in 40 CFR 40.18(g) instead of using the 40 CFR 60, Appendix A-7, Method 21 monitor to identify leaking equipment.
 - i.** AP 42, Fifth Edition, Volume I, Chapter 7: Liquid Storage Tanks, November 2006, errata August 2012.
 - 506.2** **California Air Resources Board (CARB) - Test Procedure:**
 - a.** TP-201.1E Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003.
 - 506.3** **ASTM**
 - a.** ASTM D2879-10 Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope.
 - b.** ASTM D6420-99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry.
 - 506.4** **American Petroleum Institute:** API STD 650 Welded Tanks for Oil Storage, Twelfth Edition. Includes Errata 1 (2013), Errata 2 (2014), and Addendum 1 (2014).

Last Formatted—Fall 1997



**NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 351: LOADING OF ORGANIC LIQUIDS**

[M16-290]

PREAMBLE

- | | | |
|-----------|--|--|
| 1. | <u>Rule affected</u>
Rule 351: Loading of Organic Liquids | <u>Rulemaking action</u>
Amended |
| 2. | <u>Statutory authority for the rulemaking:</u>
Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480
Implementing Statute: A.R.S. § 49-112 | |
| 3. | <u>The effective date of the rule:</u>
Date of adoption: November 2, 2016 | |
| 4. | <u>List of public notices addressing this rulemaking:</u>
Notice of Briefing to Maricopa County Manager: May 2015
Notice of Stakeholder Workshops: June 30, 2015, September 14, 2015, and February 22, 2016
Notice of Maricopa County Board of Health Meeting: April 25, 2016
Notice of Proposed Rulemaking: 22 A.A.R. 1224, May 13, 2016 | |
| 5. | <u>Name and address of department personnel with whom persons may communicate regarding the rulemaking:</u>
Name: Cheri Dale or Hether Krause
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 1001 N Central Avenue, Suite 125
Phoenix, Arizona 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179
E-mail: aqplanning@mail.maricopa.gov | |
| 6. | <u>Explanation of the rule, including the department's reasons for initiating the rulemaking:</u>
Summary: Rule 351 limits the emission of volatile organic compounds (VOCs) from organic liquids under actual loading conditions. The rule is applicable to the transfer of organic liquids having a true vapor pressure of 1.5 psia or greater under actual loading conditions. The rule regulates the transfer of organic liquids from a stationary storage tank located at a bulk plant or bulk terminal into and out of delivery vessels. Rule 351 applies to both the organic liquid (non-gasoline) and the gasoline industries. Rule 351 was last revised over twenty-five years ago. Technologies have changed over time. The gasoline industry and the organic liquid (non-gasoline) industry and use different terminology, definitions and methods of operation. Revisions in Rule 351 included the separation of gasoline requirements from the organic liquids (non-gasoline). The organic liquid (non-gasoline) transfer requirements are included in Rule 350 (Storage of Organic Liquids at Bulk Plants and Bulk Terminals). The gasoline storage requirements currently in Rule 350 were moved to Rule 351. These rule revisions updated and clarified the county regulatory requirements and authority for the both the gasoline industry and the organic liquid (non-gasoline) industry. In addition, the revisions to Rule 351 addressed the requirements of the State Implementation Plan (SIP) for “moderate” nonattainment for the 2008 eight-hour ozone national ambient air quality standard (NAAQS).
In addition, the amendments corrected typographical or other clerical errors; made minor grammatical changes to improve readability or clarity; modified the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; or made various other minor changes of a purely editorial nature. As these changes did not alter the sense, meaning, or effect of the rules, they are not described in detail here, but can be readily discerned in the “underline/ strikeout” version of the rules contained in Item 17 of this notice.
Background: As early at the 1960’s, the Maricopa County Health Department (as the department was then called), Air Pollution Control regulations, Section IV, Handling of Materials, Regulation 1, required “Material such as...gasoline or other volatile compounds...be kept, processed, used, and transported in such a manner and by such means that they will not unreasonably leak, escape, evaporate or be otherwise discharged into the ambient air so as to cause or contribute to air pollution...” ¹ This early rulemaking established the basis for the current Rule 351. In 1970, the passage of the Clean Air Act established federal air quality standards. Congress established the basic structure of the Clean Air Act (CAA) in 1970. The CAA requires the U.S. Environment Protection Agency (EPA) to establish national ambient air quality standards (NAAQS) for common and widespread pollutants based on the most current science available. For areas that were determined to be in nonattainment of the NAAQS, the state was required to adopt federally enforceable state implementation plans (SIP) in order to achieve and maintain air quality and meet the federally established air quality standards (the NAAQS) ² . The states were responsible for developing and implementing rules that require reasonably available control technology (RACT) for sources of VOCs located in the designated ozone nonattainment areas. Local air agencies were required to establish RACT for source categories not already covered by EPA’s Control Techniques Guidelines (CTGs) as well as tighten RACT for source categories for which RACT had already been defined in the NAAQS ³ . EPA defined RACT as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility” (44 FR 53762; September 17, 1979). | |



In the 1970's, using the EPA NAAQS and CTGs to identify the established RACT standards, the Maricopa County Bureau of Air Pollution Control (as the department was then called) revised and renumbered the county air pollution rules and regulations. The revised county rules established specific requirements for petroleum products in Regulation III, Rule 33: Storage and Handling of Petroleum Products⁴. This rule established requirements to control vapor loss during storage; submerged filling of tanks; loading dock requirements; and leak proof fill pipe connections.

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 CAA or pre-amended Act). Maricopa County was included on such list 43 FR 8964, March 3, 1978). On February 24, 1984, EPA notified the Governor of Arizona, that the Maricopa County Air Pollution Control District's ((MCAPCD), as the department was then called) portion of the Arizona SIP was inadequate and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call, 49 FR 18827, May 3, 1984). The department was in the process of revising Rule 33 to create Rules 350, 351, 352, and 353 to address the RACT requirements when EPA again notified the Governor of Arizona (May 26, 1988) that MCAPCD's portion of the Arizona SIP was inadequate and requested that deficiencies relating to VOC controls and the application of RACT in the existing SIP be corrected (EPA's second SIP-Call, 53 FR 34500, September 7, 1988).

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. In an amended section of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient RACT rules and established a deadline of May 15, 1991 for states to submit corrections of those deficiencies. The department further revised Rules 350, 351, 352, and 353 to meet the RACT standards. Rule 350 (Storage of Organic Liquids at Bulk Plants), revised July 13, 1988, and April 6, 1992, was approved by the EPA effective October 5, 1995 (60 FR 46024). Rule 351 (Loading Organic Liquids) revised July 13, 1988 and November 16, 1992, was approved effective October 5, 1995 (60 FR 46024). Rule 352 (Gasoline Delivery Vessel Testing and Use), revised July 13, 1988, and November 16, 1992, was approved effective October 5, 1995, (60 FR 46024). Rule 353 (Transfer of Gasoline into Stationary Dispensing Tanks) revised July 13, 1988, and April 6, 1992, was approved effective March 4, 1996 (61 FR 3578).

More recently, EPA developed national emission standards for hazardous air pollutants (NESHAPS) for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities (73 FR 1933, Jan. 10, 2008); a NESHAP for Gasoline-Dispensing Facilities (73 FR 1945, Jan. 10, 2008); and the NESHAP for Organic Liquid Distribution (non-gasoline) (69 FR 5063, Feb. 3, 2004). These NESHAPS are often referred to as the maximum achievable control technology (MACT) standards since they were developed to reflect the maximum achievable degree of hazardous air pollutant (HAP) emission reduction. New MACT standards required additional or new emissions testing requirements reflecting the new technologies. New and revised test methods and leak detection methods were required in these MACT standards. Although the MACT standards typically apply to large sources, there are test methods and other good practices that are or may be applicable to small area sources of VOC emissions.

Rule 351 Background: The department originally adopted Rule 351 (Loading of Organic Liquids) and Rule 350 (Storage of Organic Liquids at Bulk Plants and Terminals) to be inclusive of both gasoline and non-gasoline organic liquids. The purpose of the rules was to control the emission of volatile organic compounds (VOCs) from all organic liquids. These rules were required in order for the county to comply with the reasonably available control technology (RACT) documents and other policy statements published by the U.S.

Environmental Protection Agency (EPA). Since that time, the gasoline industry and the organic liquid (non-gasoline) have evolved into two distinct industries. The use of different terminology, definitions and methods of operation have created confusion in the applicability of Rule 351 to each industry. In this rulemaking, the department drafted rules specific to the gasoline storage and distribution industry and for the organic liquid (non-gasoline) storage and distribution industry. This rulemaking did not propose new rules for the industries but rather revisions to current rules that improved the clarity and enforceability of the regulatory requirements for each industry.

The revisions included the separation of the gasoline requirements and the organic liquid (non-gasoline) requirements in Rule 351. The gasoline storage requirements from Rule 350 and the gasoline loading requirements in Rule 351 were combined and included into one rule, Rule 351. The organic liquid (non-gasoline) loading requirements in Rule 351 were moved into Rule 350. Along with separation of the two industry requirements, the department retitled the rule to reflect the rule revisions.

On May 19, 1993, the department issued technical guidance #TG-003 to address a Stakeholder concern that Section 301.2 of Rule 350 requiring a tank to have a pressure vacuum valve set to within 10% of the tank's maximum, safe working pressure. The Stakeholder provided documentation stating the design working pressure should not exceed 1 psig and recommended applying the ½ psia operating pressure as CARB required. Revisions to Rule 351 provided the owner or operator the option of either setting the pressure/vacuum valve on fixed roof tanks within 10% of the tank's maximum working pressure or at 0.5 psia, as included in revised Section 302(c) of Rule 351. The department rescinded #TG-003 (May 19, 1993) with this rule revision.

A second technical guidance, #TG98-002, was issued on March 11, 1998, addressing the requirement of pressure/vacuum (P/V) valves on both fixed roof and floating roof tanks. Per the discussion in the document:

Both floating-roof tanks and pressure-tanks are designed and engineered to control vapor emissions without the use of pressure/vacuum valves. The use of such a valve would not produce additional emissions control. The rule's authors had no intention of requiring P/V valves on floating roof tanks or pressure tanks, but failed to recognize that the way they constructed the rule would result in this unintended and erroneous interpretation.

The guidance concluded "The subsection 301.2 requirement to have a pressure/vacuum valve does not apply to floating roof tanks or pressure tanks." The department revised Rule 351, Section 302.2(c) to require pressure/vacuum valves on "Each fixed roof stationary storage tank..." This rule revision corrected the error in the previous rule. The department rescinded #TG98-002 with this rule revision. Other revisions included the relocation of any exemptions to Section 100; the deletion of definitions and terms specific to the organic liquid (non-gasoline) industry; the inclusion of definitions specific to the gasoline industry and in line with terms defined in 40 CFR 63.11100 (Gasoline Distribution Bulk Terminal, Bulk Plants and Pipeline Facilities NESHAP); clarified the regulatory requirements for storing and loading gasoline at bulk plants and bulk terminals; added monthly equipment leak inspection requirement; and added optical gas imaging as an alternative work practice to monitor and identify leaking equipment.



The department also included the recommendations set forth in the Maricopa Environmental Quality, Air Pollution Control Division, Technical Guidance #TG-003 and TG-003, to clarify the vapor vent/vacuum valve requirements at bulk plants and bulk terminals.

Issues Raised and Discussed During This Rulemaking Process:

The department held three Stakeholder workshops: June 29, 2015, September 14, 2016, and February 22, 2016. Stakeholders included representatives from APS, Caljet, CDM Smith, Cemex, City of Glendale, City of Mesa, City of Phoenix, Coastal Transport, EnCore Consulting, Envirosure Solutions, Kiewit, Kinder Morgan, Luke Air Force Base, Pinal County, Ping, Polar Services, SRP, Tamura Environmental, Washington Elementary School, and EPA.

Rule 351 is applicable to the storage of gasoline and the loading of gasoline at bulk plants and bulk terminals. Stakeholders questioned if the rule was only applicable to gasoline. Per one Stakeholder the proposed rule does not take into account other petroleum products such as denatured ethanol and transmix, a mixture of refined petroleum products such as gasoline, diesel, and/or jet fuel. There is a wide variety of other petroleum products. The department defined gasoline in the rule as having a Reid vapor pressure between 4.0 and 14.7 psi and used as a fuel for internal combustion engines. If a petroleum product meets the definition of gasoline as defined in the rule, then the rule is applicable.

The terms VAPOR COLLECTION/PROCESSING SYSTEM and VAPOR LOSS CONTROL DEVICE were used inconsistently within the rule. A vapor balance system is different than a vapor loss control system. A vapor balance system is a system that is designed to capture the VOC emissions that occur during the loading of gasoline cargo tanks. No destruction of the VOC emissions occurs during this type of loading process. A vapor loss control system is a system that collects the VOC emissions and uses an abatement device to reduce the VOC emissions. The department deleted the definitions of VAPOR COLLECTION/PROCESSING SYSTEM and VAPOR LOSS CONTROL DEVICE; added the definitions of VAPOR BALANCE SYSTEM and VAPOR LOSS CONTROL SYSTEM; and revised sections throughout the rule that referred to VAPOR COLLECTION/PROCESSING SYSTEM and VAPOR LOSS CONTROL DEVICE.

The current definitions of BULK TANK and BULK TERMINAL were confusing. Stakeholders recommended clarification and applicability of terms to be consistent throughout the department's rules pertaining to gasoline. The department revised the terms to be consistent with other department rules pertaining to gasoline.

Stakeholders requested the addition or revision of numerous definitions to reflect the rule applicability to the gasoline industry, specifically to include definitions for LEAK or LEAK FREE and PURGING. A request was made to clarify the definitions VAPOR TIGHT and GAS TIGHT. The department revised the definitions in the rule.

In Section 400, the owner or operator "shall make the primary seal envelope available for inspection by the Control Officer for its full length every five years." Stakeholders questioned if it was Maricopa County's intention to perform the inspection when the tank is in service or out of service? Did this requirement apply to internal floating roof tanks as well? Per discussions with the Stakeholder, the primary seal envelope can be inspected when the tank is "in-service." The department will not require the floating roof tank to be emptied prior to each five-year inspection if the primary seal envelope is available for inspection by the Control Officer. The department clarified the section to reflect the requested requirements.

Stakeholders questioned the intent of the weekly monitoring requirement under vapor pressure records. Monitoring the product temperature on a weekly basis for a facility that has more than 70 tanks requires a great deal of manpower and coordination. TVP of products stored in storage tanks operated at ambient temperature are typically calculated using meteorological data provided in the EPA TANKS 4.0 database. Stakeholders requested that the department reduce the monitoring requirement from weekly to monthly. The requirement for weekly monitoring of temperature came from Rule 350, Section 501. Reducing the temperature monitoring to once a month may be considered a relaxation of current rule; therefore, the department did not reduce the frequency of the current weekly requirement. The department did add an option to use the maximum local monthly average ambient temperature as reported by the National Weather Service and record monthly for each storage tank in Section 503.1.b(2).

The department originally proposed to remove the "horizontal fill" pipe maximum height of 39" from the rule. Per Stakeholder comment, at least one terminal has multiple bulk gasoline storage tanks with side fill pipes that would exceed the originally proposed maximum height of 18". These tanks were built between the 1950's and the 1990's. The Stakeholder suggested referencing the American Petroleum Institute storage tank design specifications API Standard 650, Welded Tanks for Oil Storage, 12th Edition, 2013. The department deleted the "horizontal fill pipe" requirements and wording from the rule. To accommodate fill pipes that are over 18" from the bottom of the tank, the department added an option for the gasoline storage tank to be API Standard 650 Compliant.

Description of Amendments:

Amended the following throughout the rule:

- Revised the title of the rule to: STORAGE AND LOADING OF GASOLINE AT BULK GASOLINE PLANTS AND BULK GASOLINE TERMINALS
- Deleted references to organic liquid loading and storage
- Deleted the term "transfer" and replaced with the term "loading"
- Changed the term "delivery vessel" to "gasoline cargo tank"
- Deleted the word "person" and inserted the words "owner or operator"
- Deleted past compliance dates
- Added or revised specific rule section references

Amended the following in Section 100:

- Revised Section 101 (Purpose) to include the storage and loading of gasoline
- Revised Section 102 (Applicability) to apply to the bulk storage and loading of gasoline
- Added Section 103 (Exemptions)

Amended the following in Section 200:



- Deleted the definition BULK PLANT
- Added the definition AVIATION GASOLINE (AV_{gas})
- Added the definition BULK GASOLINE PLANT
- Revised the definition BULK TANK
- Revised the definition BULK TERMINAL
- Deleted the definition DELIVERY VESSEL
- Revised the definition DISPENSING TANK
- Revised the definition EXCESS ORGANIC LIQUID DRAINAGE
- Added the definition EXTERNAL FLOATING ROOF STATIONARY STORAGE TANK
- Deleted the definition FUGITIVE LIQUID LEAK
- Revised the definition GASOLINE
- Added the definition GASOLINE CARGO TANK
- Revised the definition GASOLINE DISPENSING OPERATION
- Revised the definition LOADING FACILITY
- Added the definition INTERNAL FLOATING ROOF STATIONARY STORAGE TANK WITH FIXED ROOF COVERING
- Added the definition LEAK FREE
- Deleted the definition OFFSET FILL LINE
- Added the definition PURGING
- Revised the definition STATIONARY STORAGE TANK
- Revised the definition SUBMERGED FILL PIPE
- Revised the definition SWITCH LOADING
- Deleted the definition TRUE VAPOR PRESSURE
- Added the definition VAPOR BALANCE SYSTEM
- Deleted the definition VAPOR COLLECTION/PROCESSING SYSTEM
- Deleted the definition VAPOR LOSS CONTROL DEVICE
- Added the definition VAPOR LOSS CONTROL SYSTEM
- Revised the definition VAPOR TIGHT

Amended the following in Section 300:

- Deleted Section 301: General Requirements for Loading Facilities
- Deleted Section 302: Operating Requirements for Vapor Loss Control Devices
- Deleted Section 303: Repair and Retesting Requirement
- Deleted Section 304: Equipment Maintenance and Operating Practices
- Deleted Section 305: Exemptions
- Added Section 301: Federal Standards of Performance for Bulk Gasoline Plants and Bulk Gasoline Terminals
- Added Section 302: Gasoline Stationary Storage Tank Standards
- Added Section 302.1: Submerged Fill
- Added Section 302.2: Gasoline Stationary Storage Tanks with a Capacity Between 250 Gallons (946 l) and 40,000 Gallons (151,400 L)
- Added Section 302.3: Gasoline Storage Tanks with a Capacity Equal to or Greater than 40,000 Gallons (151,400 L)
- Added Section 303: Vapor Loss Control
- Added Section 303.1: External Floating Roof Storage Tanks
- Added Section 303.2: Internal Floating Roof Stationary Storage Tank with Fixed Roof Covering
- Added Section 303.3: Vapor Balance System
- Added Section 303.4: Vapor Loss Control System
- Added Section 303.5: Equipment Maintenance, Operation and Repair
- Added Section 304: General Requirements for The Loading of Gasoline
- Added Section 304: General Requirements for the Loading of Gasoline
- Added Section 304.1: Loading of Gasoline into Stationary Storage Tank
- Added Section 304.2: Loading of Gasoline into Cargo Tankers
- Added Section 304.3: Loading of Gasoline at a Bulk Gasoline Plant
- Added Section 304.4: Loading of Gasoline at Bulk Gasoline Terminal
- Added Section 305: Operating Requirements for Vapor Loss Control Devices

Amended the following in Section 400:

- Revised Section 401: Equipment Leaks
- Deleted Section 402: Compliance Schedule
- Added Section 402: Gasoline Storage Tank Inspections
- Added Section 402.1: Semi-Annual Inspection by an Owner or Operator
- Added Section 402.2: Inspection of External Floating Roof Stationary Storage Tank
- Added Section 402.3: Inspection of Internal Floating Roof Stationary Storage Tanks with a Fixed Roof Covering
- Added Section 403: Performance Testing
- Added Section 404: Gasoline Storage Tank Inspections-Availability to Control Officer
- Added Section 404.1 Annual Inspections of External Floating Roof Tanks



- Added Section 404.2 Annual Inspections of Internal Floating Roof Stationary Storage Tanks with a Fixed Roof Covering
- Added Section 404.3 Five-Year, Full Circumference Inspections
- Added Section 405: Other Agency's Requirements

Amended the following in Section 500:

- Revised Section 500: Monitoring and Records
- Deleted Section 501: Leak Detection-Test Procedure
- Deleted Section 501.1: Pressure
- Added Section 501: Monitoring for Leaks
- Added Section 501.1: Combustible Gas Detector or Organic Vapor Analyzer (OVA) –Test Procedure
- Renumbered Section 501.2: Calibration to Section 501.1(a)
- Renumbered Section 501.3: Probe Distance to Section 501.1(b)
- Renumbered Section 501.4: Probe Movement to Section 501.1(c)
- Renumbered Section 501.5: Probe Positions to Section 501.1(d)
- Renumbered Section 501.6: Wind to Section 501.1(e)
- Renumbered Section 501.2: Data Recording to Section 501.1(f)
- Added Section 501.2: Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3
- Added Section 501.3: Optical Gas Imaging
- Revised Section 502: Compliance Inspections
- Revised Section 503: Record Retention
- Added Section 503.1: Vapor Pressure Records
- Added Section 503.2: Leak Inspection Records
- Revised Section 504: Compliance Determination-Test Methods
- Deleted Section 504.1: Vapor Collection/Processing System
- Deleted Section 504.2: Vapor Balance and Loading Systems
- Deleted Section 504.3: True Vapor Pressure
- Deleted Section 504.4: Reid Vapor Pressure
- Added Section 504.1 EPA Test Methods
- Added Section 504.2 California Air Resources Board (CARB) Test Procedures:
- Added Section 504.3 ASTM Standards
- Added Section 504.4 American Petroleum Institute Standard API STD 650 Welded Tanks for Oil Storage

6. Demonstration of compliance with A.R.S. §49-112:

Under A.R.S. § 49-479(C), a county may not adopt a rule or ordinance that is more stringent than the rules adopted by the Director of the Arizona Department of Environmental Quality (ADEQ) for similar sources unless it demonstrates compliance with the applicable requirements of A.R.S. §49-112.

§ 49-112 County regulation; standards

§ 49-112(A)

When authorized by law, a county may adopt a rule, ordinance or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all of the following conditions are met:

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or other regulation is either:
 - (a) Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.
 - (b) Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulation.
3. Any fee or tax adopted under the rule, ordinance or other regulation will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

§ 49-112(B)

When authorized by law, a county may adopt rules, ordinances or other regulations in lieu of a state program that are as stringent as a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if the county demonstrates that the cost of obtaining permits or other approvals from the county will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under this title or any rule adopted pursuant to this title. If the state has not adopted a fee or tax for similar permits or approvals, the county may adopt a fee when authorized by law in the rule, ordinance or other regulation that does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

The department complies with A.R.S. § 49-112(A) in that Maricopa County fails to meet the National Ambient Air Quality Standards for both ozone and particulates. The County failed to meet 2008 8-hour ozone standard by the marginal area attainment date of July 20, 2015. The EPA issued a final rule, effective June 3, 2016, reclassifying the Maricopa County area to “moderate” (published at 86 FR 26697, May 4, 2016). Further, a portion of the County was classified as a serious ozone nonattainment area under the previous 1-hour ozone standard requiring the County to continue to maintain the measures and requirements that allowed the county to attain that standard. Currently, a portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM₁₀ 24-hour standard. This is the only serious PM₁₀ nonattainment area in Arizona. Revisions to Rule 350 addressed the requirements



of the State Implementation Plan (SIP) for “moderate” nonattainment for the 2008 eight-hour ozone national ambient air quality standard (NAAQS). The amendments in Rule 351 included Reasonably Available Control Technology (RACT).

The department complies with A.R.S. § 49-112(B) in that the amendments to Rule 351 are not more stringent than or in addition to a provision of Title 49 or rule adopted by the director or any board or commission authorized to adopt rules pursuant to Title 49; addressed the peculiar local conditions in Maricopa County; are authorized under A.R.S. Title 49, Chapter 3, Article 3; and are not in lieu of a state program.

8. Documents or studies referenced and/or reviewed for this rulemaking:

Not applicable

9. 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:

Not applicable

10. Summary of the economic, small business, and consumer impact:

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. § 41-1055. The economic summary is based on the number of Title V and Non-Title V permits issued by the Maricopa County Air Quality Department.

An identification of the rulemaking.

This rulemaking revised Rule 351 (Loading of Organic Liquids). The revised Rule will be titled: Storage and Loading of Gasoline at Bulk Gasoline Plants and Bulk Gasoline Terminals.

An identification of the persons who will be directly affected by, bear the costs of or directly benefit from the rulemaking.

The persons who are directly affected by and bear the costs of this rulemaking to revised Rule 351 are facilities in Maricopa County that engage in the storage of gasoline in a stationary storage tank at a bulk gasoline plant or bulk gasoline terminal, and the loading of gasoline from a gasoline cargo tank, railroad tank car or pipeline into or out of a stationary storage tank at a bulk gasoline plant or bulk gasoline terminal. The department has issued permits to 27 facilities subject to Rule 351, prior to this rule revision.

A cost benefit analysis of the following:

(a) The probable costs and benefits to the implementing agency and other agencies directly affected by the implementation and enforcement of the rulemaking.

Because this rulemaking did not impose any new compliance burdens on permitted regulated entities or introduce additional regulatory requirements, the department deemed that none of the revisions have potentially significant economic impacts on permitted sources. It is expected that the department will benefit from the increased clarity of the rule with decreased time to inspect a facility or prepare a permit. In addition, the rulemaking did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

The benefits of the rule revision are anticipated to be a result of the following changes:

- Consolidation of the gasoline requirements in Rule 351 while moving the organic liquid loading requirements to Rule 350.
- Deletion of some definitions and the addition of new definitions specific to the gasoline industry and in line with terms defined in 40 CFR 63.11100, the Gasoline Distribution Bulk Terminal, Bulk Plants and Pipeline Facilities NESHAP;
- Clarification of the regulatory requirements for storing and loading gasoline at bulk plants and bulk terminals;
- Addition of monthly equipment leak inspection requirement;
- Addition of optical gas imaging as an alternative work practice to monitor and identify leaking equipment;
- Clarification of the vapor vent/vacuum valve requirements at bulk plants and bulk terminals pursuant to the Maricopa Environmental Quality, Air Pollution Control Division, Technical Guidance TG-003 (May 19, 1993) and TG98-002 (March 11, 1998) addressing the requirement of pressure/vacuum (P/V) valves on both fixed roof and floating roof tanks.

The permitted sources subject to revised Rule 351 already have permits in which these requirements are addressed. Therefore, this revised rule did not impose new requirements on the permitted facilities, and no costs would be incurred for compliance with the rule revisions.

(b) The probable costs and benefits to a political subdivision of this state directly affected by the implementation and enforcement of the rulemaking

The rule revisions did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

(c) The probable costs and benefits to businesses directly affected by the rulemaking, including any anticipated effect on the revenues or payroll expenditures of employers who are subject to the rulemaking.

The department anticipates that increased clarity provided by the Rule 351 revisions will provide a benefit to the regulated community; it will take less time for sources subject to the rule to understand and comply with the rule, which leads to increased compliance, which leads to decreased costs of compliance to the regulated community. The department does not anticipate these rule revisions to have a significant impact on a person's income, revenue, or employment in this state related to this activity. The rule revision did not impose increased monetary or regulatory costs on individuals so regulated.

A general description of the probable impact on private and public employment in businesses, agencies and political subdivisions of this state directly affected by the rulemaking.

The rule revisions did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated.

A statement of the probable impact of the rulemaking on small businesses.

The rule revisions did not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated.

(a) An identification of the small businesses subject to the rulemaking.



Small businesses subject to this rulemaking are those facilities in Maricopa County that engage in the storage of gasoline in a stationary storage tank at a bulk gasoline plant or bulk gasoline terminal, and the loading of gasoline from a gasoline cargo tank, railroad tank car or pipeline into or out of a stationary storage tank at a bulk gasoline plant or bulk gasoline terminal.

(b) The administrative and other costs required for compliance with the rulemaking.

This rulemaking updated and clarified existing rule provisions and definitions to be consistent with federal performance standards; and to reduce confusion and improve understanding and readability. The department considered the implications of the amendments to the regulated entities and the implementing agency and deemed that none of the rule revisions have potentially significant economic impacts.

(c) A description of the methods that the agency may use to reduce the impact on small businesses.

(i) Establishing less costly compliance requirements in the rulemaking for small businesses.

By correcting and clarifying existing rule provisions and definitions, this rulemaking lessens or eases the regulatory burden for small businesses.

(ii) Establishing less costly schedules or less stringent deadlines for compliance in the rulemaking.

This rulemaking corrected or clarified existing rule provisions and definitions to reduce confusion and improve understanding and readability.

(iii) Exempting small businesses from any or all requirements of the rulemaking.

This rulemaking corrected or clarified existing rule provisions and definitions to reduce confusion and improve understanding and readability.

(d) The probable cost and benefit to private persons and consumers who are directly affected by the rulemaking.

This rulemaking did not impose any new compliance burdens on regulated entities that are permitted or introduce additional regulatory requirements and did not impose increased monetary or regulatory costs on any permitted business, persons, or individuals so regulated. As such, there are no costs to pass through to consumers, which means there are no impacts on consumers.

A statement of the probable effect on state revenues.

The rule revisions did not impose increased monetary or regulatory costs on other state agencies, political subdivisions of this state, persons, or individuals so regulated. Without costs to pass through to customers, there is no projected change in consumer purchase patterns and, thus, no impact on state revenues from sales taxes.

A description of any less intrusive or less costly alternative methods of achieving the purpose of the rulemaking.

This rulemaking corrected or clarified existing rule provisions and definitions to reduce confusion and improve understanding and readability.

11. Name and address of department personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact:

Name: Cheri Dale or Hether Krause
Maricopa County Air Quality Department
Planning and Analysis Division
Address: 1001 N Central Avenue, Suite 125
Phoenix, AZ 85004
Telephone: (602) 506-6010
Fax: (602) 506-6179
E-mail: aqplanning@mail.maricopa.gov

12. Description of the changes between the proposed rule, including supplemental notices and final rule:

Since the Notice of Proposed Rulemaking was published on May 13, 2016 (22 A.A.R 1224), the department made the following amendments:

- Deleted the term “transfer” and inserted the term “loading” in the following sections:
 - Section 103.1
 - Section 303.4(d)
 - Section 303.4(e)
- Deleted the term “person” and inserted the term “owner or operator” in the following sections:
 - Section 211
 - Section 212
 - Section 304.3(a)
 - Section 304.3(b)
 - Section 405
- Deleted proposed new text “under actual storage and loading conditions” from the end-of the sentence in Section 101 (Purpose)
- Added the term “gasoline” to definition in Section 203
- Changed the term “Gasoline Dispensing Operation” to “Gasoline Dispensing Facility” in Section 211
- Deleted the term “organic liquid” and inserted the term “gasoline” in Section 218.3
- Deleted the term “pipe” in Section 302.1 section title
- Revised the title of Section 302.2 per Stakeholder comment
- Moved the second and third sentences in Section 303.1(c)(1) to new Sections 303.1(c)(3) and 303.1(b), respectively
- Clarified, in Section 303.4(d) (Vapor Loss Control System-Bulk Gasoline Terminal), that vapor loss control system must prevent at least 95% by weight of the VOCs escaping into the atmosphere and must reduce emissions of VOC to not more than 0.08 pounds per 1000 gallons of gasoline transferred. The “0.08 pound per 1000 gallons” standard is original text from Section 301.1 (General



- Requirements for Loading Facilities-Bulk Terminals); standard is a California Air Resources Board (CARB) standard for vapor recovery systems
- Added the term “stationary” to Section 304.1
- Deleted the wording “volatile organic compounds” and inserted “VOC” in Sections 304.3(a) and (b)
- Clarified, in Sections 304.3(a) and (b) (General Requirements for The Loading of Gasoline-Loading of Gasoline At A Bulk Gasoline Plant), that if using a vapor loss control system, then such system must reduce emissions of VOC to not more than 0.6 pounds per 1000 gallons of gasoline transferred. The “0.6 pound per 1000 gallons” standard is original text from Sections 301.2(a) and (b) (General Requirements for Loading Facilities-Bulk Plant Tanks Over 250 Gallons-Transfer To Bulk Plant Tanks and Loading from Bulk Plant Tanks)
- Clarified, in Section 304.4 (General Requirements for The Loading of Gasoline-Loading of Gasoline At A Bulk Gasoline Terminal), that vapor loss control system must prevent at least 95% by weight of the VOCs escaping into the atmosphere and must reduce emissions of VOC to not more than 0.08 pounds per 1000 gallons of gasoline transferred. The “0.08 pound per 1000 gallons” standard is original text from Section 301.1 (General Requirements for Loading Facilities-Bulk Terminals)); standard is a California Air Resources Board (CARB) standard for vapor recovery systems
- Deleted the term “vapor collection/processing unit” and inserted “vapor loss control system” in Section 401.3
- Deleted the wording “or his representative” in Section 401.3
- Moved Section 403 to new Section 501.4 and changed the requirement that pressure be recorded at least once every one (1) minute to every five (5) minutes while a gasoline cargo tank is being loaded during performance testing and added the requirement that the highest instantaneous pressure that occurs during each loading shall be recorded per Stakeholder comment
- Added the acronym “OVA” in Section 501.1
- Underlined the new language where it was not previously identified as new language in the following sections:
 - Section 214
 - Section 500
- Section 501: Changed the title of the section from “Monitoring for Leaks” to “Determining Vapor Tight Status”. Changing the title of the section from “Monitoring for Leaks” to “Determining Vapor Tight Status” clarifies the intent of the section. The department deems the phrase “If a determination of vapor tight status is to be made...” to set the parameters as to when a vapor tight status is to be determined.
- Section 504 (Compliance Determination-Test Methods Incorporated By Reference): Included text that allows for the use of alternative test methods to determine compliance with the rule and that allows test methods as approved by the Administrator to be used and clarified the provision regarding when more than one test method is permitted for a compliance determination.

13. Summary of the comments made regarding the rule and the department response to them:

Since the Notice of Proposed Rulemaking was published on May 13, 2016 (22 A.A.R. 1224), the department received comments from Kinder Morgan/SFPP. The comments and the department’s responses are provided below.

Comment #1: Section 403 (Administrative Requirements-Performance Testing)

What is the basis for the every minute pressure recording? Per 40 CFR Subpart XX, Section 60.503(d)(2), during the performance test the pressure shall be recorded every 5 minutes while a gasoline truck is being loaded and the highest instantaneous pressure that occurs during each loading shall also be recorded. SFPP proposes to revise the section to delete “The pressure shall be recorded periodically during performance testing at least once every minute” and to add “The pressure shall be recorded every 5 minutes while a gasoline truck is being loaded; the highest instantaneous pressure that occurs during each loading shall be recorded”. A pressure measurement device capable of measuring 20 inches (50.8 cm) of water pressure with a precision of 0.1 (2.5 mm) inch of water shall be calibrated. This device shall fit the tap and shall either be permanently installed or shall be kept available at all times at the facility.

Response #1: Section 403 (Administrative Requirements-Performance Testing)

The department moved Section 403 (Performance Testing) to new Section 501.4 (Determining Vapor Tight Status-Gasoline Cargo Tank Loading Pressure) and changed the requirement for recording pressure every one (1) minute while a gasoline cargo tank is being loaded during performance testing to every five (5) minutes. The five (5) minute requirement is consistent with 40 CFR Subpart XX, Section 60.503(d)(2). The department discussed the comment with Kinder Morgan/SFPP and the U.S. Environmental Protection Agency (EPA) and reviewed the federal requirements. Kinder Morgan/SFPP stated that the back pressure is continuously monitored by the source test contractor while a gasoline truck is being loaded during performance testing and that the instantaneous reading at the five (5)-minute mark and the maximum instantaneous reading during the last five (5) minutes are recorded. The federal requirements (40 CFR Subpart XX Section 60.503(d)(2)) state that during the performance test, the pressure shall be recorded every five (5) minutes while a gasoline truck is being loaded and the highest instantaneous pressure that occurs during each loading shall be recorded. After considering the comments, reviewing the federal requirements, and reviewing the text as proposed in draft Rule 351, the department changed the requirement for recording pressure every one (1) minute while a gasoline cargo tank is being loaded during performance testing to every five (5) minutes to be consistent with the federal requirement in 40 CFR Subpart XX, Section 60.503(d)(2). With this change, the department has determined that Rule 351 is no less stringent than the SIP-approved rule. Rule 351 is clarified to match federal requirements.

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

Not applicable

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

The following test methods are incorporated by reference in Rule 351, Section 504:

EPA Method 2A - Direct Measurement of Gas Volume through Pipes and Small Ducts



EPA Method 2B- Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators
 EPA Method 18 - Measurement of Gaseous Organic Compound Emissions by Gas Chromatography
 EPA Method 21 - Determination of Volatile Organic Compound Leaks
 EPA Method 25A - Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer
 EPA Method 25B - Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer
 EPA Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test
 California Air Resources Board (CARB) Test Procedures TP-201.1E Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003.
 ASTM D323-15a "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)
 ASTM D2879-10 Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope
 ASTM D4953-15 "Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)
 ASTM D5191-15 "Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method)"
 ASTM D6420-99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry
 American Petroleum Institute: API STD 650 Welded Tanks for Oil Storage, Twelfth Edition, Includes Errata 1 (2013), Errata 2 (2014), and Addendum 1 (2014)

16. Was this rule previously an emergency rule?

No

17. Full text of the rule follows:

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III - CONTROL OF AIR CONTAMINANTS

RULE 351

STORAGE AND LOADING OF ORGANIC LIQUIDS GASOLINE AT BULK GASOLINE PLANTS AND BULK GASOLINE

TERMINALS

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Revised 07/13/88
 Revised 04/06/92
 Revised 02/15/95

Revised 07/13/1988; Revised 04/06/1992; Revised 02/15/1995; and **11/02/2016**

**MARICOPA COUNTY
 AIR POLLUTION CONTROL REGULATIONS
 REGULATION III - CONTROL OF AIR CONTAMINANTS
 RULE 351**

STORAGE AND LOADING OF ORGANIC LIQUIDS GASOLINE AT BULK GASOLINE PLANTS AND BULK GASOLINE TERMINALS

SECTION 100 - GENERAL

- 101** **PURPOSE:** To limit emissions of volatile organic compounds (VOCs) ~~from~~ emitted during the storage and the loading of ~~organic liquids~~ gasoline at bulk gasoline plants and bulk gasoline terminals.
- 102** **APPLICABILITY:** This rule is applicable to; ~~the transfer of organic liquids having a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under actual loading conditions. It regulates transfers at bulk terminals and bulk plants from stationary storage tanks to delivery vessels and from delivery vessels to stationary storage tanks.~~
- 102.1** The storage of gasoline in a stationary storage tank at a bulk gasoline plant or bulk gasoline terminal.
- 102.2** The loading of gasoline from a gasoline cargo tank, railroad tank car or pipeline into or out of a stationary storage tank at a bulk gasoline plant or bulk gasoline terminal.
- 103** **EXEMPTIONS:**
- 103.1** **Aviation Gasoline:** The loading of aviation gasoline into stationary storage tanks at airports, and the subsequent loading of aviation gasoline within the airport, is exempt from Section 304 of this rule. The storage of aviation gasoline at airports is subject to this rule.
- 103.2** **Seal Gap:** The owner or operator is exempted from the requirements for secondary seals and the secondary seal gap criteria when performing gap measurements or inspections of the primary seal.
- 103.3** **Submerged Fill:** A gasoline stationary storage tank is exempt from the requirement that a submerged fill discharge pipe be fully submerged when:
 - a.** The tank is being drained completely.
 - b.** The tank is being initially filled or filled after being completely drained.
- 103.4** **Floating Roof:** As long as either of the following processes is accomplished continuously and as rapidly as practicable, a floating roof is exempt from the requirement that its roof be floating when:
 - a.** The tank is being drained completely.
 - b.** The tank is being filled.
- 103.5** **Bulk Gasoline Plants with a Throughput of Less than 120,000 Gallons Per 30-Day Period:** At a bulk gasoline plant built before October 2, 1978, vapor loss control specified in Section 303 of this rule is not required at the loading rack when all of the following conditions are met:
 - a.** The bulk gasoline plant loads less than 120,000 gallons (454,800 l) of gasoline into gasoline cargo tanks in any consecutive 30-day period. Any bulk gasoline plant that becomes subject to all of the provisions of Section 303 of this rule by exceeding the throughput threshold of 120,000 gallons of gasoline in any consecutive 30-day period will remain subject to these provisions even if its throughput later falls below the threshold.
 - b.** Keep current records of amount of gasoline loaded and keep them readily accessible to the Control Officer upon request for at least five (5) years.
 - c.** Load gasoline using submerged fill only.



- d.** The owner or operator of the bulk gasoline plant shall observe all parts of the gasoline loading process and shall discontinue the gasoline loading if any leaks are observed.
- e.** **Opening of Hatches, Vent Valves or Other Vapor Sealing Devices:**
- (1)** A hatch, vent valve or other vapor sealing device may be opened for vacuum relief on a gasoline cargo tank or rail car when the gasoline is in the process of being loaded from the gasoline cargo tank or rail car into a stationary storage tank. The owner or operator shall reclose the hatch, vent valve or other vapor sealing device at the completion of the loading process.
- (2)** When VOC vapors from gasoline are present within a gasoline cargo tank, authorized government agents, as well as the owner or operator and their contractors may open vapor containment equipment while performing operations required by this rule or by other statutory entities, but shall be restricted as follows, unless approved in advance by the Control Officer:
- (a)** Wait at least 3 minutes after the loading of gasoline is complete or gasoline cargo tank has come to a complete stop before opening hatch or other vapor seal.
- (b)** Reclose hatch or other vapor sealing device within 3 minutes of opening.
- (c)** Limit wind speed at opened hatch or other opened sealing device to not more than 3 mph (1.34 m/sec).

SECTION 200 - DEFINITIONS: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

~~201~~ **BULK PLANT**—Any loading facility at which gasoline and/or other organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under any actual storage conditions are received from delivery vessels for storage in on-site stationary tanks, and from which such liquids also are transferred to delivery vessels.

201 **AVIATION GASOLINE (AVgas):** A type of gasoline used to fuel a piston engine aircraft.

202 **BULK GASOLINE PLANT:** Any gasoline storage and distribution facility that meets all of the following:

201.1 Loads gasoline from a pipeline, rail, or gasoline cargo tank into a stationary storage tank;

201.2 Loads gasoline from the stationary storage tank into a gasoline cargo tank for transport to a gasoline dispensing facility or a bulk gasoline plant; and

201.3 Has a gasoline throughput of less than 20,000 gallons per day. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law, and discoverable by the Control Officer.

~~202~~ **203** **BULK GASOLINE TANK:** Any stationary storage tank serving a loading rack which loads ~~delivery vessels~~ gasoline cargo tanks with organic liquids gasoline.

~~203~~ **204** **BULK GASOLINE TERMINAL:** Any ~~primary distributing~~ gasoline storage and gasoline loading facility that meets all of the following: which has ever received in any consecutive 30-day period over 600,000 gallons (2,271,180 l) of gasoline and/or other organic liquids with a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under actual storage conditions; or any loading facility where delivery of such liquids to the facility is primarily by pipeline.

204.1 Loads gasoline from a pipeline, rail, or gasoline cargo tank into a stationary storage tank;

204.2 Loads gasoline from the stationary storage tank into a gasoline cargo tank for transport to a gasoline dispensing facility or a bulk gasoline plant; and

204.3 Has a gasoline throughput of 20,000 gallons per day or greater. Gasoline throughput shall be the maximum calculated design throughput as may be limited by compliance with an enforceable condition under Federal, State, or local law, and discoverable by the Administrator and any other person.

~~204~~ **DELIVERY VESSEL**—Any vehicular mounted container such as a railroad tank car, tanker truck, tank trailer or any other mobile container used to transport organic liquids.

~~205~~ **205** **DISPENSING TANK:** Any stationary tank which dispenses ~~organic liquid fuel~~ gasoline directly into the fuel tanks of motor vehicles including aircraft, a motorized vehicle's fuel tank, dispenses gasoline into an aircraft's fuel tank, or dispenses gasoline into a watercraft's fuel tank that directly fuels its engine(s). ~~This includes aircraft.~~

~~206~~ **206** **EXCESS ORGANIC LIQUID GASOLINE DRAINAGE:** More than 10 milliliters (0.34 fluid ounces or 2 teaspoonsful) ~~per disconnect~~ of liquid gasoline lost from the end of a fill hose or vapor recovery hose in the process of connecting or disconnecting the hose; or any quantity of gasoline escaping out the end of such a hose that wets any area(s) on the ground having an aggregate area greater than 113 square inches, or the perimeter of which would encompass a circle of 12 inches (30.5 cm) diameter. This does not include drainage into a fill pipe's spill containment receptacle.

207 **EXTERNAL FLOATING ROOF STATIONARY STORAGE TANK:** An open top stationary storage tank with a floating roof consisting of a double deck or pontoon single deck that rests upon and is supported by the liquid being contained.

~~207~~ **FUGITIVE LIQUID LEAK:** An organic liquid leak of more than three drops per minute from any single leak source other than the disconnect operation of liquid fill line and vapor line.

208 **GAS TIGHT:** Having no leak of gaseous organic compound(s) exceeding 10,000 ppm above background when measurements are made using EPA Method 21 with a methane calibration standard.

209 **GASOLINE:** Any petroleum distillate, petroleum distillate/alcohol blend, petroleum distillate/organic compound blend, or alcohol ~~having a true vapor pressure of 1.5 psia (77.5 mm Hg) or greater under any actual conditions of storage and handling, and which is that~~ meets both of the following conditions:

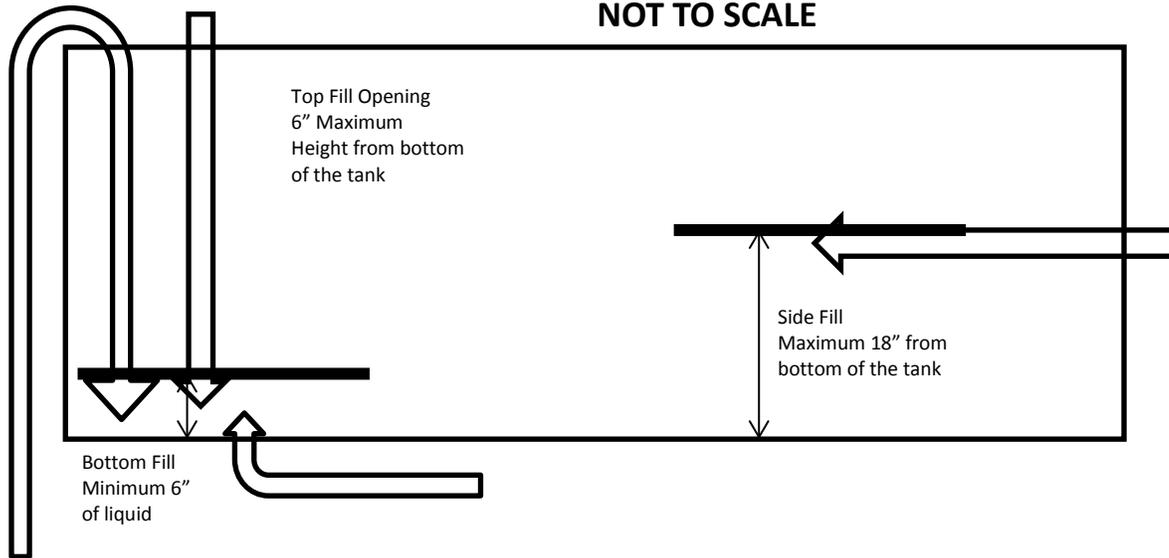
209.1 Has a Reid vapor pressure between 4.0 and 14.7 psi (200–760 mm Hg.), as determined by ASTM D323-15a; and

209.2 Is and which is used as a fuel for internal combustion engines.



- 210** **GASOLINE CARGO TANK:** A delivery tank truck or railcar which is loading gasoline or which has loaded gasoline on the immediately previous load.
- 210** **211** **GASOLINE DISPENSING OPERATION FACILITY:** All gasoline dispensing tanks and associated equipment located on one or more contiguous or adjacent properties under the control of the same ~~person or persons~~ owner or operator under common control.
- 214** **212** **GASOLINE LOADING FACILITY:** Any gasoline operation or facility such as a gasoline storage tank farm, pipeline terminal, bulk gasoline plant, bulk gasoline terminal loading dock or combination thereof, where ~~organic liquids are transferred or~~ gasoline is loaded into or out of ~~delivery vessels~~ gasoline cargo tanks for future distribution. Included are all related pollutant-emitting activities which are located on one or more contiguous or adjacent properties, and are under the control of the same ~~person or persons~~ owner or operator under common control.
- 213** **INTERNAL FLOATING ROOF STATIONARY STORAGE TANK WITH FIXED ROOF COVERING:** A stationary storage tank with a floating cover or roof that rests upon or is floated upon the liquid being contained, and that also has a fixed roof on top of the tank shell. An external floating roof tank that has been retrofitted with a geodesic dome or other fixed roof shall be considered to be an internal floating roof tank for the purposes of this rule.
- 214** **LEAK FREE:** A condition in which there is no liquid gasoline escape or seepage of more than 3 drops per minute from gasoline storage, handling, and ancillary equipment, including, but not limited to, seepage and escapes from above ground fittings.
- 212** **OFFSET FILL LINE:** Any organic liquid fill line (piping and fittings) which contains one or more bends.
- 213** **215** **ORGANIC LIQUID:** Any organic compound which exists as a liquid under any actual conditions of use, transport or storage.
- 216** **PURGING:** Removing, cleaning, or scouring out gasoline vapors from all or a portion of a gasoline cargo tank by active or passive means and emitting the vapors into the atmosphere.
- 214** **217** **STATIONARY STORAGE TANK:** Any tank, reservoir or other container used to store, but not transport, ~~organic liquids~~ gasoline.
- 215** **218** **SUBMERGED FILL PIPE:** Any discharge pipe or nozzle which meets the applicable specification as follows: Any gasoline discharge pipe or nozzle which meets at least one of the applicable specifications:
 - 215.1** **218.1** **Top-Filled Fill or Bottom-Filled Fill Tanks:** The end of the discharge pipe or nozzle is totally submerged when the liquid level is six inches (15 cm) from the bottom of the tank, unless exempted by Section 103.3 of this rule.
 - 215.2** **218.2** **Side-Filled Fill:** The end of the discharge pipe or nozzle is totally submerged when the liquid level is 18 inches (46 cm) from the bottom of the tank, unless exempted by Section 103.3 of this rule.

**Submerged Fill Diagram
NOT TO SCALE**



- 216** **219** **SWITCH LOADING:** Loading diesel fuel into a ~~delivery vessel~~ gasoline cargo tank whose previous load was gasoline; or loading any organic liquid not subject to this rule into a ~~delivery vessel~~ gasoline cargo tank whose previous load was ~~an organic liquid~~ gasoline and subject to this rule.
- 210** **TRUE VAPOR PRESSURE (TVP):** Absolute vapor pressure of a liquid at its existing temperature of storage and handling.
- 220** **VAPOR BALANCE SYSTEM:** A piping system that is designed to collect gasoline vapors displaced from the loading of gasoline, and to route the collected vapors to the gasoline cargo tank from which the gasoline is being loaded.
- 218** **VAPOR COLLECTION/PROCESSING SYSTEM:** A vapor loss control device consisting of a vapor gathering subsystem capable of collecting the organic vapors and organic gases plus a second subsystem capable of processing such vapors and gases, preventing at least 95 percent of the volatile organic compounds entering it from entering the atmosphere.
- 219** **VAPOR LOSS CONTROL DEVICE:** Any piping, hoses, equipment, and devices which are used to collect, store and/or process organic vapors at a bulk terminal, bulk plant, service station or other operation handling gasoline and/or other organic liquids.
- 221** **VAPOR LOSS CONTROL SYSTEM:** A system for reducing emissions to the atmosphere, consisting of an abatement device and a collection system, which achieves the abatement efficiency or emission limit during the loading of gasoline.



- 220 222 **VAPOR TIGHT:** A condition where no organic vapor leak reaches or exceeds 100 percent of the lower explosive limit at a distance of one inch (2.5 cm) from a leak when measured with a combustible gas detector or an organic vapor analyzer, both calibrated with propane. in which a suitable detector at the site of (potential) leakage of vapor shows less than 10,000 ppmv when calibrated with methane or the detector shows less than 1/5 lower explosive limit (LEL) when calibrated with a gas specified by the manufacturer and used according to the manufacturer's instructions.

SECTION 300 – STANDARDS

- 301 **GENERAL REQUIREMENTS FOR LOADING FACILITIES:** All bulk terminals and plants must have submerged fill pipes in all tanks over 250 gallons (946 l) storing organic liquids, observe designated procedures and be equipped with applicable equipment as follows:
- 301.1 **Bulk Terminals:** No person shall load organic liquids having a TVP of 1.5 psia (77.5 mm Hg) or greater into any delivery vessel from a stationary storage tank at a bulk terminal unless the vessel bears a current pressure test decal issued by the Control Officer and the terminal uses a vapor collection/processing system which reduces the emissions of volatile organic compounds to not more than .08 pounds per 1000 gallons of such liquids transferred (10 grams per 1000 liters). Switch loading shall be subject to this standard. The terminal owner or operator and the operator of the receiving vessel shall act to ensure that the vapor line is connected before such liquids are transferred.
- 301.2 **Bulk Plant Tanks Over 250 Gallons (>946 L):**
- a. **Transfer To Bulk Plant Tanks:** No person shall transfer gasoline from a delivery vessel into a bulk plant tank exceeding 250 gallons (946 l) capacity unless the delivery vessel bears a current county pressure test decal and uses a vapor balance system equipped with fittings which are vapor tight; or, alternatively, a vapor loss control system is used which emits to atmosphere less than 0.6 pound of volatile organic compounds per 1000 gallons transferred (72 grams per 1000 liters).
- b. **Loading From Bulk Plant Tanks:** No person shall transfer gasoline from a bulk plant tank exceeding 250 gallons (946 l) into a delivery vessel unless both the loading rack and delivery vessel use a vapor balance system equipped with fittings which are vapor tight; or, alternatively, a vapor loss control system is used which emits to atmosphere less than 0.6 pounds of volatile organic compounds per 1000 gallons loaded (72 grams per 1000 liters).
- 302 **OPERATING REQUIREMENTS FOR VAPOR LOSS CONTROL DEVICES:** The owner or operator of a vapor loss control device subject to this rule shall operate the device and organic liquid transfer equipment as follows:
- 302.1 Loading shall be accomplished in a manner that prevents gauge pressure from exceeding 18 inches of water (33.6 mm Hg) and vacuum from exceeding six inches of water (11.2 mm Hg) in the tank truck. Each owner or operator of a facility shall act to ensure that any vapor recovery system required by this Rule 351 is connected between the delivery vessel and the storage tank during all organic liquid transfers.
- 302.2 Loading shall be accomplished in a manner that prevents overfills, fugitive liquid leaks or excess organic liquid drainage. Owners or operators of bulk plants or operators of delivery vessels shall observe all parts of the transfer and shall discontinue transfer if any leaks are observed. Measures shall be taken to prevent liquid leaks from the loading device when it is not in use, and to complete drainage before the loading device is disconnected. During loading or unloading operations, potential leak sources shall be vapor tight as demonstrated by the test procedure described in Section 501 of this rule.
- 302.3 Loading operations which use vapor collection/processing equipment shall be accomplished in such a manner that the displaced vapor and air will be vented only to the vapor collection/processing system, which shall be operated gas tight and in a manner such that the vapor processing capacity is not exceeded. Diaphragms used in vapor storage tanks shall be maintained gas tight.
- 302.4 Vapor transfer lines shall be equipped with fittings that are vapor tight and that automatically and immediately close upon disconnection. Vapor balance systems shall be designed to prevent any vapors collected at one loading rack from passing to another loading rack.
- 303 **REPAIR AND RETESTING REQUIREMENT:** Except as superseded by Division actions pursuant to the procedures of Rule 100, Section 501 ("Malfunctions"), the owner/operator of a vapor loss control device that exceeds the standards of this rule shall notify the Control Officer and observe the following time schedule in ending such exceedances:
- 303.1 Concentrations at or above the lower explosive limit must be brought into compliance within 24 hours of detection.
- 303.2 Leak concentrations exceeding 10,000 ppm but less than 50,000 ppm as methane for vapor collection/processing equipment subject to gas tight standard shall be brought into compliance within 5 days of detection.
- 303.3 Except as the Control Officer otherwise specifies, a leak source subject to Sections 303.1 or 303.2 must be tested after presumed leak correction within 15 minutes of recommencing use; if leak standards are exceeded in this test, the use of the faulty equipment shall be discontinued within 15 minutes until correction is verified by retesting.
- 304 **EQUIPMENT MAINTENANCE AND OPERATING PRACTICES:** All equipment associated with delivery and loading operations shall be maintained to be leak free, vapor tight and in good working order. Gasoline shall not be spilled, discarded in sewers, stored in open containers, or handled in any other manner that would result in evaporation to the atmosphere. Purging of gasoline vapors and of JP 4 (jet petrol) vapors is prohibited.
- 305 **EXEMPTIONS:**
- 305.1 **Less Than 120,000 Gallons Per 30 Day Period:** At bulk plants built before October 2, 1978, vapor loss control specified in Section 301.2b is not required at the outloading rack when all of the following are complied with:
- a. After April 6, 1992, the bulk plant loads less than 120,000 gallons (454,800l) of gasoline into delivery vessels in any consecutive 30 day period. Any plant that becomes subject to all of the provisions of Section 301.2b by exceeding this threshold will remain subject to these provisions even if its output later falls below the threshold.
- b. Keep current records of amount of gasoline loaded and keep them readily accessible to the Division upon request for at least three (3) years.



- e. Load outgoing gasoline using submerged fill only.
- d. The owners or operators of the bulk plant or the owners or operators of the delivery vessel shall observe all parts of the transfer and shall discontinue the transfer if any leaks are observed.

- 305.2 Opening Hatches: When VOC vapors from organic liquids are present within a non-exempt delivery vessel, authorized government agents as well as owners/operators and their contractors may open vapor containment equipment while performing operations required by Division rules or by other statutory entities, but shall be restricted as follows unless approved in advance by the Control Officer:
- a. Wait at least 3 minutes after onloading is complete or delivery vessel has stopped before opening hatch or other vapor seal.
 - b. Reclose hatch or other sealing device within 3 minutes of opening.
 - e. Limit windspeed at opened hatch or other opened sealing device to not more than 3 mph (1.34 m/sec).

301 FEDERAL STANDARDS OF PERFORMANCE FOR BULK GASOLINE PLANTS AND BULK GASOLINE TERMINALS:

An owner or operator of a bulk gasoline plant or bulk gasoline terminal must meet the applicable federal standards of performance set forth in new source performance standards (NSPS) set forth in 40 CFR Part 60, Subparts K-Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced after June 11, 1973, and Prior to May 19, 1978; Ka-Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction, or Modification Commenced After May 18, 1978, and Prior to July 23, 1984; Kb- Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced after July 23, 1984; Subpart XX-Standard of Performance for Bulk Gasoline Terminals; and the national emission standards for hazardous air pollutants (NESHAP) set forth in 40 CFR Part 63, Subpart BBBBBB- NESHAP Gasoline Distribution Bulk Terminals, Bulk Plants and Pipeline Facilities, and all accompanying appendices, excluding the authorities that cannot be delegated to the department. These federal standards are adopted and incorporated by reference in Rule 360 and Rule 370 in these rules.

302 GASOLINE STATIONARY STORAGE TANK STANDARDS:

302.1 Submerged Fill: The owner or operator of a gasoline stationary storage tank with a capacity more than 250 gallons (946 l) shall only allow the loading of gasoline into a stationary storage tank or a gasoline cargo tank using submerged fill.

302.2 Gasoline Stationary Storage Tanks with a Capacity Between 250 Gallons (946 l) and 40,000 Gallons (151,400 L): For gasoline stationary storage tanks with a capacity more than 250 gallons (946 l) but less than 40,000 gallons (151,400 l), an owner or operator shall store gasoline in a stationary storage tank that meets all of the following requirements:

- a. Each tank has a fill pipe that is maintained leak free and vapor tight.
- b. Each tank has a permanently installed submerged fill pipe. Where, because of government regulation including, but not limited to, Fire Department codes, such a fill pipe cannot be installed, a nozzle extension that reaches within 6 inches of the tank bottom shall be used to fill the tank.
- c. Each fixed roof tank has a pressure/vacuum valve that is maintained in good working order and that is installed with a pressure/vacuum vent valve that is either set within ten percent of the tank's maximum, safe working-pressure or is set at least at 0.5 psia (25.8 mm Hg).
- d. The tank is equipped with a vapor balance system which collects and returns displaced vapors to the gasoline cargo tank using vapor tight fittings and lines; or such tank uses at least one of the vapor loss control methods in Sections 303 of this rule.

302.3 Gasoline Storage Tanks with a Capacity Equal to or Greater than 40,000 Gallons (151,400 L): An owner or operator of a gasoline stationary storage tank with a capacity equal to or greater than 40,000 gallons (151,400 l), shall store gasoline in a stationary storage tank that is equipped with at least one of the following:

- a. An external floating roof storage tank; or
- b. An internal floating roof storage tank with a fixed cover; or
- c. A vapor loss control system.

303 VAPOR LOSS CONTROL:

303.1 External Floating Roof Stationary Storage Tanks: An external floating roof stationary storage tank must meet the following requirements:

- a. The owner or operator of an external floating roof stationary storage tank and a vapor balance system or vapor loss control system shall properly install, properly maintain and properly operate the equipment.
- b. An owner or operator shall operate an external floating roof stationary storage tank subject to the provisions of this rule, except for tanks having metallic shoe primary seals onto which secondary seals were installed prior to July 13, 1988 and unless a secondary seal extends from the roof to the tank shell (a rim-mounted seal) and is not attached to the primary seal.
- c. **Floating Roof Requirements:**
 - (1) The floating roof shall rest on and be supported by the surface of the liquid contents.
 - (2) The floating roof shall be equipped with a continuous primary seal to close the space between the roof eave and tank wall, except as provided in Section 103.4 of this rule.
 - (3) The floating roof shall have a continuous secondary seal which is of a design that is in accordance with accepted standards of the petroleum industry. The secondary seal shall meet the requirements of Section 303.1(d) of this rule.
- d. **Secondary Seal Requirements:**
 - (1) The secondary seal is to be installed above the primary seal so that it completely covers the space between the roof edge or primary seal and the tank wall, except as provided in Section 303.1(d)(2) of this rule.



- 303.5** **Equipment Maintenance, Operation and Repair:** The owner or operator of a bulk gasoline plant or bulk gasoline terminal shall:

 - a.** Maintain the equipment associated with the storage and loading of gasoline as follows:

 - (1)** Leak free;
 - (2)** Vapor tight; and
 - (3)** In good working order.
 - b.** Repair and Retest: The owner or operator of a vapor balance system or vapor loss control system that exceeds the standards of this rule shall notify the Control Officer immediately and observe the following time schedule for corrective action:

 - (1)** Concentrations at or above the lower explosive limit must be brought into compliance within 24 hours of detection.
 - (2)** For vapor collection/processing equipment subject to gas-tight standard, vapor leak concentrations exceeding 10,000 ppmv but less than 50,000 ppmv as methane shall be brought into compliance within five (5) days of detection.
 - (3)** Except as the Control Officer otherwise specifies, a leak source must be tested after presumed leak-correction within fifteen (15) minutes of recommencing use. If leak standards are exceeded in this test, the use of the leak-correction equipment shall be discontinued until correction is verified by retesting.
- 304** **GENERAL REQUIREMENTS FOR THE LOADING OF GASOLINE:** The owner or operator of a bulk gasoline plant or a bulk gasoline terminal shall comply with the following:

 - 304.1** **Loading of Gasoline into Stationary Storage Tanks:**

 - a.** Comply with Section 302.1 of this rule.
 - b.** Verify the proper connection to a vapor balance system or a vapor loss control system prior to loading gasoline at facilities.
 - c.** Verify the proper disconnection from a vapor balance system or a vapor loss control system at the completion of loading gasoline at facilities.
 - d.** Minimize spills during storage and loading of gasoline.
 - e.** Clean up spills as expeditiously as practicable.
 - f.** Cover all open containers of gasoline or gasoline soaked material when not in use.
 - g.** Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.
 - 304.2** **Loading of Gasoline into Gasoline Cargo Tanks:**

 - a.** Verify that the gasoline cargo tank displays a valid Maricopa County Vapor Tightness Certification decal or a signed affidavit indicating an exemption from vapor tightness testing.
 - b.** Verify the proper connection to a vapor balance system or a vapor loss control system prior to the loading of gasoline.
 - c.** Verify the proper disconnection from a vapor balance system or a vapor loss control system at the completion of loading gasoline.
 - d.** Minimize spills during storage and loading of gasoline.
 - e.** Clean up spills as expeditiously as practicable.
 - f.** Cover all open containers of gasoline and gasoline soaked material when not in use.
 - g.** Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling devices, such as oil/water separators.
 - h.** Purging of gasoline vapors is prohibited.
 - 304.3** **Loading of Gasoline at a Bulk Gasoline Plant:**

 - a.** **Loading of Gasoline into Gasoline Cargo Tanks:** An owner or operator shall not load gasoline from a gasoline cargo tank into a stationary storage tank at a bulk gasoline plant if the stationary storage tank has a capacity of more than 250 gallons (946 l), unless the gasoline cargo tank displays a valid Maricopa County Vapor Tightness Certification decal and uses a vapor balance system equipped with fittings which are vapor tight or, alternatively, uses a vapor loss control system that reduces emissions of VOC to not more than 0.6 pounds per 1000 gallons of gasoline transferred.
 - b.** **Loading from Stationary Storage Tanks at Bulk Gasoline Plants:** An owner or operator shall not load gasoline from a stationary storage tank at a bulk gasoline plant if the stationary storage tank has a capacity of more than 250 gallons (946 l) into a gasoline cargo tank unless both the loading rack and gasoline cargo tank use a vapor balance system equipped with fittings which are vapor tight or, alternatively, use a vapor loss control system that reduces emissions of VOC to not more than 0.6 pounds per 1000 gallons of gasoline transferred.
 - 304.4** **Loading of Gasoline at a Bulk Gasoline Terminal:** An owner or operator of a bulk gasoline terminal shall load gasoline from a stationary storage tank, if the owner or operator meets all the conditions of Sections 303.4 and 304.2 of this rule and uses a vapor loss control system that is capable of preventing at least 95% by weight of the VOCs escaping into the atmosphere and reduces emissions of VOC to not more than 0.08 pounds per 1000 gallons of gasoline transferred.
- 305** **OPERATING REQUIREMENTS FOR A VAPOR LOSS CONTROL SYSTEM:** The owner or operator of a vapor loss control system subject to this rule shall operate the system and gasoline loading equipment as follows:

 - 305.1** Loading shall be accomplished in a manner that prevents gauge pressure from exceeding 18 inches of water (33.6 mm Hg) and vacuum from exceeding six inches of water (11.2 mm Hg) in the gasoline cargo tank. Each owner or operator shall ensure that a vapor loss control system is connected between the gasoline cargo tank and the gasoline storage tank during the loading of gasoline.
 - 305.2** Loading shall be accomplished in a manner that prevents leaks, overfills, and excess gasoline drainage. An owner or operator of a bulk gasoline plant or bulk gasoline terminal and the operator of a gasoline cargo tank shall observe all parts of the loading and shall



discontinue loading if any leaks are observed. All appropriate measures shall be taken to prevent liquid leaks from the loading device when it is not in use, and to complete drainage before the loading device is disconnected. During the loading of gasoline, potential leak sources shall be vapor tight as demonstrated by the test procedure described in Section 501 of this rule.

305.3 During the loading of gasoline, an owner or operator shall operate the vapor loss control system in such a manner that the displaced vapor and air will be vented only to the vapor loss control system, which shall be operated gas-tight and in a manner such that the vapor processing capacity is not exceeded. Diaphragms used in vapor storage tanks shall be maintained gas-tight.

305.4 Vapor recovery hoses shall be equipped with fittings that are vapor tight and that automatically and immediately close upon disconnection. Vapor balance systems shall be designed to prevent any vapors collected at one loading rack from passing to another loading rack.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 EQUIPMENT LEAKS:

401.1 The owner or operator shall perform monthly inspections, while vapor gasoline is being transferred, for liquid and vapor leaks and for faulty equipment. In these monthly inspections, detection methods incorporating sight, sound, smell and/or touch may be used. Monthly inspection leak detection methods can include one or more of the following methods:

- a.** Incorporation of sight, sound, smell and/or touch.
- b.** Use of a combustible gas detector (CGD) or organic vapor analyzer (OVA) pursuant to Section 501 of this rule.
- c.** Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3, use of a soap solution pursuant to Section 501 of this rule.
- d.** Use of an optical gas imaging instrument calibrated according to manufacturing specifications and used according to Section 501 of this rule.

401.2 A log book shall be used and signed by the owner or operator at the completion of each monthly inspection for equipment leaks. A section of the log book shall contain a list, summary description, or diagram(s) showing the location of all equipment in gasoline service at the facility.

401.3 Leak detection tests shall be conducted annually by the owner or operator of each bulk loading facility or by a consultant, at the expense of the owner, gasoline plant or bulk gasoline terminal. Testing shall be done according to procedures in Section 504 of this rule, except that EPA Method 21 shall be used to test for leaks from a vapor collection/processing unit vapor loss control system and its associated piping outside the loading area. Equipment shall conform to the specifications of those test methods cited in Section 504-2 504 of this rule. Prior to testing, the owner or operator shall notify the Control Officer of the date, time and location of the testing. The Control Officer or his representatives shall at their discretion observe the tests.

402 COMPLIANCE SCHEDULE: By September 30, 1995, the owner or operator of any loading facility which requires modification subject to a requirement of Section 300 of this rule shall submit to the Control Officer for approval an emission control plan and a schedule for achieving compliance with all requirements by April 30, 1996. The plan shall specify the date of completion of each major step leading to compliance.

402 GASOLINE STORAGE TANK INSPECTIONS:

402.1 Inspection of an External Floating Roof Stationary Storage Tank:

- a.** The owner or operator of any external floating roof stationary storage tank subject to this rule shall visually inspect the tank and seals at least once every six (6) months to determine ongoing compliance with the applicable standards of this rule pertaining to the tank. Determinations of secondary seal gap area on external floating roof stationary storage tanks shall be made only once per year. Records of these inspections shall be maintained and shall be made available to the Control Officer upon request.
- b.** Annual and Empty Tank Inspection: The owner or operator of any stationary storage tank which uses an external floating roof to meet the vapor loss control system requirements of this rule shall conduct a visual inspection each time the external floating roof stationary storage tank is emptied and degassed or at least once a year. The visual inspection shall include all of the following:
 - (1)** Verify the secondary seal covers the space between the roof edge and the tank.
 - (2)** Measure the gaps between the tank wall and the secondary seal. The accumulated area of gaps between the tank wall and the secondary seal shall not exceed 21.2 cm² (3.29 square inches) per meter of tank diameter and the width of any portion of any gap shall not exceed 1.27 cm (0.2 inch).
 - (3)** Verify there are no holes, tears, or other openings in the seal or seal fabric.
- c.** Five-Year, Full Circumference Inspections of External Floating Roof Stationary Storage Tanks: The owner or operator of a floating roof tank of 20,000 gallons (75,700 l) or more storing gasoline shall conduct a complete inspection of the external floating roof tank each time the tank is emptied and degassed or at least once every five (5) years. This inspection can be performed while the tank is in service. The inspection shall include all of the following:
 - (1)** Perform a complete inspection of the gasoline storage tank as described in Section 402.1(a) of this rule.
 - (2)** Perform a complete inspection of the primary seal and floating roof.
 - (3)** Measure gap areas and maximum gap. The accumulated area of gaps between the tank wall and the mechanical shoe or liquid-mounted primary seal shall not exceed 21.2 cm² per meter of tank diameter, and the width of any portion of any gap shall not exceed 3.81 cm.

402.2 Inspection of Internal Floating Roof Stationary Storage Tanks with a Fixed Roof Covering:

- a.** The owner or operator of any internal floating roof stationary storage tank subject to this rule shall visually inspect the tank and seals at least once every six (6) months to determine ongoing compliance with the applicable standards of this rule pertaining to the tank. Records of these inspections shall be maintained and shall be made available to the Control Officer upon request.



- b. The owner or operator of any stationary storage tank which uses an internal floating roof to meet the vapor loss control system requirements of this rule shall conduct a visual inspection each time the internal floating roof stationary storage tank is emptied and degassed or at least once a year. The visual inspection can be made through manholes or rood hatches and shall include all of the following:
 - (1) The internal floating roof shall not have an accumulation of liquid on the roof.
 - (2) The seal shall be attached.
 - (3) The seal shall not have any holes or tears.

402.3 **Five Year Inspection and Empty Tank Inspection:** The owner or operator of any stationary storage tank which uses an internal floating roof to meet the vapor loss control system requirements of this rule shall conduct a visual inspection each time the internal floating roof stationary storage tank is emptied and degassed or at least once every five (5) years. The visual inspection shall include all of the following:

- a. The internal floating roof shall be free of any defects.
- b. The primary seal shall not have any holes, tears or other openings.
- c. The secondary seal if one is in service, shall not have any holes, tears or other openings.
- d. Gaskets shall prevent liquid surfaces from exposure to atmosphere.
- e. The slotted membrane shall not have more than a ten percent (10%) open area.

403 **GASOLINE STORAGE TANK INSPECTIONS-AVAILABILITY TO CONTROL OFFICER:**

403.1 **Annual Inspections of External Floating Roof Tanks:** The owner or operator of any stationary storage tank which uses an external floating roof to meet the vapor loss control system requirements of this rule shall make the primary seal envelope and the secondary seal available for unobstructed inspection by the Control Officer on an annual basis. The primary seal envelope shall be made available for inspection at a minimum of four (4) locations selected along its circumference at random by the Control Officer. If the Control Officer detects a violation as a result of any such inspection, the Control Officer may require such further unobstructed inspection of the seals as may be necessary to determine the seal condition for its entire circumference.

403.2 **Annual Inspections of Internal Floating Roof Tanks:** The owner or operator of any stationary storage tank which uses an internal floating roof to meet the vapor loss control system requirements of this rule shall make the entire tank including the internal floating roof available for inspection prior to filling. The internal floating roof shall be made available for visual inspection through the manholes or roof hatches on the fixed covering on an annual basis.

403.3 **Five-Year, Full Circumference Inspections:** The owner or operator of a floating roof stationary storage tank of 20,000 gallons (75,700 l) or more storing gasoline shall make the primary seal envelope available for inspection by the Control Officer for its full length every five (5) years. This inspection can be performed while the tank is in-service. However, if the secondary seal is removed or if the tank is drained and cleaned by the owner or operator for any reason, it shall be made available for such inspection at that time. The owner or operator shall provide notification to the Control Officer no less than seven (7) working days prior to removal of the secondary seal.

403 **404** **OTHER AGENCIES' REQUIREMENTS:** Compliance with this rule does not relieve or otherwise affect the owner's or operator's obligation to comply with any other applicable federal, state, or local legal requirement including, but not limited to, rules promulgated by Arizona Department of Agriculture, Weights and Measures Services Division, local fire department codes, and local zoning ordinances.

SECTION 500 - MONITORING AND RECORDS: In addition to any federal testing, monitoring and recording requirements, an owner or operator of a bulk gasoline plant or bulk gasoline terminal shall comply with the following:

501 LEAK DETECTION - TEST PROCEDURE: During loading into or unloading out of delivery vessels, the peripheries of all potential sources of leakage at the loading facility are checked with a combustible gas detector or organic vapor analyzer (OVA) as follows:

501.1 Pressure: A pressure tap shall be placed in the loading facility's vapor control system, as close as possible to the delivery vessel's tank. The pressure shall be recorded periodically during testing, at least once every minute. Instantaneous maximum pressure shall be recorded either automatically or by visual observation. A pressure measurement device capable of measuring 20 inches (50.8 cm) of water pressure with a precision of 0.1 (2.5 mm) inch of water shall be calibrated. This device shall fit the tap and shall either be permanently installed or shall be kept available at all times at the facility.

501 **DETERMINING VAPOR TIGHT STATUS:** If a determination of vapor tight status is to be made during the loading of a gasoline cargo tank, an owner or operator or Control Officer shall use one or more of the methods listed in Section 501 of this rule.

501.1 **Combustible Gas Detector (CGD) or Organic Vapor Analyzer (OVA) - Test Procedure:** During loading of gasoline cargo tanks, the peripheries of all potential sources of leakage at the gasoline loading facility are checked with a CGD or OVA as follows:

- 501.2** a. **Calibration:** Within four (4) hours prior to monitoring, the combustible gas detector CGD or OVA shall be properly calibrated with 10,600 ppm propane by volume in air for a 50 percent lower explosive limit (LEL) response. for a 20 percent lower explosive limit (LEL) response or to 10,000 ppm with methane.
- 501.3** b. **Probe Distance:** The probe inlet shall be one (1) inch (2.5 cm) or less from the potential leak source when searching for leaks. The probe inlet shall be one (1) inch (2.5 cm) from the leak source when the highest detector reading is being determined for a discovered leak. When the probe is obstructed from moving within one (1) inch (2.5 cm) of an actual or potential leak source, the closest practicable probe distance shall be used.
- 501.4** c. **Probe Movement:** The probe shall be moved slowly, not faster than 1.6 inches per second (4 centimeters per second). If there is any meter deflection at a potential or actual an actual or potential leak source, the probe shall be positioned to locate the point of highest meter response.



- 501-5 **d. Probe Position:** The probe inlet shall be positioned in the path of the vapor flow from a an actual or potential leak such that the central axis of the probe-tube inlet shall be positioned coaxial with the path of the most concentrated vapors.
- 501-6 **e. Wind:** Wind shall be blocked as much as possible from the space being monitored. The annual leak detection test required by Section 401 of this rule shall be valid only when wind speed in the space being monitored is five (5) mph or less.
- 501-7 **f. Data Recording:** The highest detector reading and location for each incidence of detected leakage shall be recorded along with the date and time. If no gasoline vapor is detected, that fact shall be entered into the record.
- 501.2 Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3:**
- a.** Spray a soap solution over all potential leak sources. The soap solution may be a commercially available leak detection solution or may be prepared using concentrated detergent and water. A pressure sprayer or squeeze bottle may be used to dispense the solution.
- b.** Observe the potential leak sites to determine if any bubbles are formed.
- (1)** If no bubbles are observed, the source is presumed to have no detectable vapor leaks.
- (2)** If any bubbles are observed, the instrument techniques of Section 501.1 of this rule shall be used to determine if a vapor leak exists.
- 501.3 Optical Gas Imaging:** A certified operator of a calibrated optical gas imaging instrument may use an optical gas imaging instrument to identify vapor leaks. If a vapor leak is detected, the instrument techniques listed in Section 501.1 of this rule shall be used to determine if a vapor leak exists.
- 501.4 Gasoline Cargo Tank Loading Pressure:** During a performance test, a pressure tap shall be placed in the gasoline loading facility's vapor loss control system, as close as possible to the gasoline cargo tank. The pressure shall be recorded every five (5) minutes while a gasoline cargo tank is being loaded. The highest instantaneous pressure that occurs during each loading shall be recorded. A pressure measurement device capable of measuring 20 inches (50.8 cm) of water pressure with a precision of 0.1 (2.5 mm) inch of water shall be calibrated. This device shall fit the tap and shall either be permanently installed or shall be kept available at all times at the facility.
- 502 COMPLIANCE INSPECTIONS:** The Control Officer, at any time, may monitor a delivery vessel gasoline cargo tank vapor collection system, a loading rack's vapor loss control devices, a gasoline loading facility, or a vapor collection/processing loss control system for vapor leaks by the methods described in Section 501 of this rule or by applicable EPA Reference Methods specified in Section 504 of this rule.
- 503 RECORDS RETENTION:** Records and information required by this rule shall be retained for at least three five (5) years.
- 503.1 Vapor Pressure Records:**
- a. Bulk Gasoline Plant:** An owner or operator of a stationary storage tank located at a bulk gasoline plant shall keep accurate records of the following:
- (1)** The amount of gasoline stored in each tank.
- (2)** The Reid vapor pressure ranges of each such liquid.
- (3)** These records shall be kept for a minimum of five (5) years.
- b. Bulk Gasoline Terminal:** An owner or operator of a stationary storage tank located at a bulk gasoline terminal shall keep accurate records of the following:
- (1)** The amount of gasoline stored in each tank.
- (2)** The temperature of the contents of each stationary storage tank subject to this rule, shall be determined and recorded using at least one of the following methods:
- (a)** Take the actual temperature of the contents of the stationary storage tank each week and record the weekly temperature of the contents of each stationary storage tank.
- (b)** Obtain the maximum local monthly average ambient temperature as reported by the National Weather Service and record monthly for each stationary storage tank.
- (c)** Record monthly AP 42, Section 7.1 emission estimation procedures for each storage tank.
- (3)** The Reid vapor pressure of the contents of each stationary storage tank shall be recorded at least once each month.
- (4)** These records shall be kept for a minimum of five (5) years.
- 503.2 Leak Inspection Records:** The owner or operator of a bulk gasoline plant or bulk gasoline terminal shall keep a log book documenting each leak inspection. The log book shall include the items listed below:
- a.** The owner or operator shall sign the log book at the completion of each monthly inspection for equipment leaks.
- b.** Each monthly inspection log shall contain a list, summary description or diagram(s) showing the location of all equipment at the bulk gasoline plant or bulk gasoline terminal.
- c.** Each monthly inspection log shall include any maintenance that occurred.
- d.** Each annual inspection log shall include any maintenance that occurred.
- e.** For an external floating roof, record the seal gap measurements, including the raw data obtained and any calculations performed.
- f.** The date the stationary storage tank was removed from service, if applicable.
- g.** These records shall be kept for a minimum of five (5) years.
- h.** Additional recordkeeping requirements for use of optical gas imaging instruments: An owner or operator using an optical gas imaging instrument for leak inspections shall date and time stamp the video records of every monitoring event where an optical gas imaging instrument was used.
- 504 COMPLIANCE DETERMINATION - TEST METHODS INCORPORATED BY REFERENCE:** When more than one test method is permitted for a determination, an exceedance of the limits established in this rule determined by any of the applicable test methods constitutes a violation of this rule. The following test methods are approved for use for the purpose of determining compliance with this rule. The test



methods are incorporated by reference in Appendix G of the Maricopa County Air Pollution Control Regulations. Alternative test methods as approved by the Administrator or other EPA-approved test methods may be used upon prior written approval from the Control Officer. When more than one test method is permitted for the same determination, an exceedance under any method will constitute a violation. Copies of test methods referenced in this section are available at the Maricopa County Air Quality Department, 1001 N. Central Avenue, Suite 125, Phoenix, AZ 85004-1942.

504.1 EPA Test Methods:

- a. EPA Method 2A - Direct Measurement of Gas Volume Through Pipes and Small Ducts.
- b. EPA Method 2B—Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators.
- c. EPA Method 18 - Measurement of Gaseous Organic Compound Emissions by Gas Chromatography.
- d. EPA Method 21 - Determination of Volatile Organic Compound Leaks.
- e. EPA Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3
- f. EPA Method 25A - Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer.
- g. EPA Method 25B- Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer.
- h. EPA Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test.
- i. Optical Gas Imaging: Alternative Work Practice for Monitoring Equipment Leaks, 40 CFR 60.18(g). An owner or operator may use an Optical Gas Imaging instrument to comply with the alternative work practice requirements in 40 CFR 40.18(g) instead of using the 40 CFR 60, Appendix A-7, Method 21 monitor to identify leaking equipment.
- j. AP 42, Fifth Edition, Volume I, Chapter 7: Liquid Storage Tanks, November 2006, errata August 2012.

504.2 California Air Resources Board (CARB) Test Procedures:

- a. TP-201.1E Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003.

504.3 ASTM Standards

- a. ASTM D323-15a “Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).
- b. ASTM D2879-10 Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope.
- c. ASTM D4953-15 “Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method).
- d. ASTM D5191-15 “Standard Test Method for Vapor Pressure of Petroleum Products (Mini Method).”
- e. ASTM D6420-99 (Reapproved 2004), Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry.

504.4 American Petroleum Institute Standard API STD 650 Welded Tanks for Oil Storage, Twelfth Edition, Includes Errata 1 (2013), Errata 2 (2014), and Addendum 1 (2014).

- 504.1 Vapor Collection/Processing System: Control efficiency of a vapor collection/processing system shall be determined according to EPA Reference Method 25A or Method 25B subsequent to the Control Officer’s approval of the test protocol. Leak tests to verify a gas tight state of the equipment associated with the vapor collection/processing device, including the piping outside of the loading area, shall be conducted according to EPA Reference Method 21. Gas volume flow rates shall be determined by Method 2B for a thermal oxidizer; otherwise, by Method 2A.
- 504.2 Vapor Balance And Loading Systems: Vapor tightness shall be determined using the method described in Section 501 of this rule.
- 504.3 True Vapor Pressure shall be determined by ASTM Method 2879-83 and by temperature measurement under actual conditions using an instrument accurate to within ±1 degree Fahrenheit or ±0.5 degree Celsius. For purposes of recording and reporting, the Reid vapor pressure and the foregoing temperature determination may be used in conjunction with the method of American Petroleum Institute Bulletin 2517, February, 1980, to determine true vapor pressure, unless the Control Officer specifies ASTM Method 2879-83.
- 504.4 Reid Vapor Pressure shall be determined by ASTM Method D 323-82 or by ASTM Method D 5191

**PINAL COUNTY AIR QUALITY CONTROL DISTRICT
NOTICE OF FINAL RULEMAKING
PURSUANT TO A.R.S. §49-471.01 et seq.**

[M16-295]

1. Preamble

- A. The Pinal County Air Quality Control District (PCAQCD), an operating division of Pinal County, proposed that the Board of Supervisors (BOS) adopt or amend certain rules under authority of A.R.S. §§49-479 and 49-480, which respectively authorize the board to adopt rules to control air pollution.

The Clean Air Act Amendments (CAAA) of 1990 required ozone nonattainment areas to implement Reasonably Available Control Technology (RACT) to control Volatile Organic Compounds (VOC) emissions. Pinal County has a small portion in/around the Apache Junction area that’s incorporated into the Phoenix metro ozone nonattainment area for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Phoenix metro was originally designated a ‘Marginal’ nonattainment area for the 2008 8-hour ozone NAAQS on July 20, 2012 and was required to attain the standard by July 20, 2015. A marginal ozone nonattainment area isn’t required to submit an all-encompassing State Implementation Plan (SIP) that higher nonattainment designations carry (i.e. moderate, serious, severe) which include RACT requirements.



Unfortunately the nonattainment area didn't attain the ozone NAAQS by the July 20, 2015 deadline and was recently redesignated to a moderate 8-hour ozone nonattainment area (81 FR 26697, May 2016). Thus requiring the nonattainment area to complete a SIP by January 1, 2017 that includes RACT rules.

Pinal County Air Quality evaluated permitted sources within the Pinal County portion of the 8-hour ozone nonattainment area to determine what, if any source categories would require RACT. The two source categories in the ozone nonattainment area that were found to require RACT rules are gasoline service stations and surface coating operations. This particular rulemaking addresses surface coating operations.

The adopted amended and new rules are identifies below and include an amendment to §1-1-105 with the ultimate purpose of this rulemaking being the submittal of the adopted rules in Chapter 5, Article 13, Sections 100, 200, 300, 400 and 500 through ADEQ to EPA, for inclusion as elements of the Arizona State Implementation Plan (SIP) as required under the Clean Air Act (CAA).

B. All of the adopted corresponding changes are discussed in subsection E of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§1-1-105. SIP List.....	Amend
§5-13-100. General.....	New
§5-13-200. Definitions.....	New
§5-13-300. Standards.....	New
§5-13-400. Administrative Requirements.....	New
§5-13-500. Monitoring and Records.....	New

C. Those wishing further information regarding any aspect of this rulemaking may contact Scott DiBiase, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona 85132, 520-866-6929, scott.dibiase@pinalcountyz.gov.

D. The rulemaking process consisted of the initial administrative rule development process, including the combined notice of proposed rulemaking and oral proceeding, a 30 day public comment period, two stakeholder meetings and an oral proceeding before the Control Officer or his designee on September 27, 2016. Written comments were due prior to the close of the comment period, which was the close-of-business on the day of the oral proceeding. The final step in the rule adoption process was a public hearing before the Board of Supervisors on November 30, 2016.

E. The adopted additions include the following:

- 1) §1-1-105 – Addition of Chapter 5, Article 13, sections 100, 200, 300, 400 and 500 and their adoption dates in Section 1-1-105 which is a list designating which Board approved rules (and their corresponding adoption dates) that are to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP.
- 2) Addition of Chapter 5, Article 13, §100. General
 - i. Purposed of the rule – To limit VOC emissions from surface coating operations in the Pinal County portion of the Phoenix metro-8hr ozone nonattainment area.
 - ii. Applicability – Applies to surface coating operations in the Pinal County portion of the Phoenix metro-8hr ozone nonattainment area where the total actual VOC emissions from all operations (including cleaning activities) are equal to or greater than 15 lbs/day or an equivalent 2.7 tons per year, before consideration of controls. Additional applicability includes,
 1. Surface coating activities including application of coating, coating preparation/mixing at the facility applying the coatings and the cleanup of coating application equipment.
 2. In addition to this rule, facilities may be subject to New Source Performance Standards (NSPS) in Chapter 6 and National Emission Standards for Hazardous Air Pollutants (NESHAP) in Chapter 7.
 - iii. Partial exemptions
 1. Qualifies materials exemption include,
 - a. Leak prevention materials (i.e. sealants, caulking, etc.) used on non-metallic substrates and post manufacture such as old joints and seals on pipe and valve assemblies.
 - b. Certain joint fillers (i.e. caulking and beaded sealants) used to fill gaps or joints between surfaces except for those used in manufacturing other metal parts and products or in the manufacturing of cans which are still subject to this rules.
 2. Extreme performance coatings are exempt from the VOC limits in this rule but not from other requirements of this rule when,



- a. Used on internal combustion engine components that are normally above 250 degrees F during use or
 - b. Used at temperatures above 250 degrees F on items that are both included under several North American Industry Classifications System (NAICS) codes and are electronic products in space vehicles and/or communications equipment.
 - 3. Application methods exemption for metal part texture coating and metal part touch-up and repair coatings. However these coating are subject to the remaining provisions of this rule.
 - 4. Listing of six surface coating operations and their subsets that are exempt from the surface coating standards, application methods and emission control system requirements but are to comply with the cleanup of application equipment, work practices-handling, disposal and storage of VOC-containing material and monitoring and records.
 - 5. A listing of limited conditions in which low usage is allowed for restricted spray guns.
 - iv. Total categorical exemptions
 - 1. Solvent cleaning
 - 3) Addition of Chapter 5, Article 13, §200. Definitions. Fifty seven definitions of terms used in this rules.
 - 4) Addition of Chapter 5, Article 13, §300. Standards.
 - i. Surface coating standards – An owner or operator shall comply with one of the following for all applications of surface coatings,
 - 1. Coating limits by coating category (in tabular format)
 - 2. Operate an emission control system (ECS) when applying a coating that exceeds the VOC limits in the coating limits table.
 - 3. Qualify for an exemption.
 - ii. Application methods for surface coatings: a listing of methods that an owner or operator can use for all applications of surface coating containing more than 2 pounds of VOC per gallon (minus exempt compounds).
 - iii. Cleanup of application equipment – requirements for cleaning of spray-guns with both a machine and manually.
 - iv. Work practices-handling, disposal, and storage of VOC-containing material. Standards for use, storage, movement and disposal of VOC-containing materials along with the requirement to minimize spills of VOC-containing material (i.e. coatings, thinners, waste, etc.).
- F. 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 (See contact information in subsection C above), all data underlying each study, and any analysis of each study and other supporting material:

Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings, EPA-453/R-08-003, September 2008.

G. Economic, small business and consumer impact statement

The following discussion addresses each of the elements required for an economic, small business and consumer impact statement under A.R.S. §41-1055.

This rulemaking adopted Chapter 5, Article 13. Surface coating operations in the Pinal County portion of the Phoenix-Mesa 8-hour ozone nonattainment area.

One surface coating operation will be affected by this rulemaking. The department has issued permits to this source since 2003 and the facility will be subject to the newly adopted Chapter 5, Article 13. Since the source has been located in the ozone nonattainment area for over a decade, the permit requirements have been rather restrictive and the equipment and business practices are similar in nature to the adopted RACT rules. Therefore minimal impacts are expected.

The probable costs to the implementing agency (Pinal County Air Quality) will be minimal since the department already conducts regular inspection of the affected source in order to verify compliance with their permit requirements.

H. The adopted changes take effect on January 1, 2017.

I. Compliance with the Fee-limitations of A.R.S. §49-112 (A) or (B).

Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County’s air quality program do not now equal the cost of the program administration. To the extent that both the County and ADEQ impose parallel fees, the County’s fees are capped by rule at ADEQ’s rates, which implicitly affirms that the County’s fees are reasonable. To the extent the County’s program affects certain sources that ADEQ either does not regulate or does not charge, these rule changes do not impose any additional fees on those sources at this time.



J. Persons may obtain a full copy of the adopted rule or existing rules at:

Pinal County Air Quality Control District
 31 North Pinal St., Building F.
 P.O. Box 987
 Florence, AZ. 85132
<http://www.pinalcountyaz.gov/AirQuality/Pages/home.aspx>

K. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 22 A.A.R. 35 2253, August 26, 2016.
 Combines Notice of Proposed Rulemaking and Notice of Oral Proceeding: 22 A.A.R. 35 2254, August 26, 2016.

2. The full text of the adopted changes are below:

1-1-105. SIP List

A. As declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1

- a. Article 1. (As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
- b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
- c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, 07/23/14, except for §1-3-130 and the definition in §1-3-140.82 (10/12/95) of “maximum achievable control technology.”)

2. Chapter 2

- a. Article 1. (As amended 10/12/95).
- b. Article 2. (As amended 5/14/97), excluding:
 - i. §2-2-090 (as amended 5/14/97)
- c. Article 3. (As amended 10/12/95).
- d. Article 4. (As amended 10/12/95).
- e. Article 5. (As amended 10/12/95).
- f. Article 6. (As amended 10/12/95).
- g. Article 7. (As amended 10/12/95).
- h. Article 8. (As amended 5/18/05, as amended 1/7/09).

3. Chapter 3

- a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100
 - v. §3-1-150 (as amended 5/14/97)
 - vi. §3-1-160 (as amended 5/14/97)
 - vii. §3-1-170 (as amended 5/14/97)
 - viii. §3-1-173 (as amended 5/14/97)
- b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
- c. Article 3. (As amended 10/12/95, 5/27/15).
- d. Article 8. (As amended 10/12/95 and 10/27/04).

4. Chapter 4

- a. Article 1. (As amended 2/22/95).
- b. Article 2. (As amended 5/14/97, 7/12/00, 12/4/02 and 10/27/04).
- c. Article 3, limited to:
 - i. §4-3-160 (As amended 10/28/15)
 - ii. §4-3-170 (As amended 10/28/15)
 - iii. §4-3-180 (As amended 10/28/15)
 - iv. §4-3-190 (As amended 10/28/15)
- d. Article 4 (As amended 6/3/09).
- e. Article 5 (As amended 6/3/09).
- f. Reserved.



- g. Article 7 (As amended 6/3/09)
 - h. Reserved.
 - i. Article 9, limited to:
 - i. §4-9-320 (As amended 6/3/09)
 - ii. §4-9-340 (As amended 6/3/09)
5. Chapter 5
- a. Article 13. (as amended 11/30/16), excluding
 - i. §5-13-390 (as amended 10/12/95)
 - A. Article 20. (as amended 11/30/16)
- B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:
1. “construction,” as defined in Nov. ’93 Code §1-3-140.28; or
 2. “modification,” as defined in Nov. ’93 Code §1-3-140.85; and
- C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:
1. Operate as elements of the SIP insofar as they pertain to other than “conventional pollutants,” as defined in §1-3-140.33;
 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
 3. Operate as an element of the SIP, at least insofar as they impose a “fee”;
 4. Operate as an element of the SIP, at least insofar as they require a “certification”;
 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to “renewals”;
 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding “excess emissions”;
 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding “compliance plans.”
- D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:
1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
 2. Chapter 2, Article 8 (As amended 1/7/09) *Visibility Limiting Standard*
 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
 4. [Reserved]
 5. [Reserved]
 6. [Reserved]
 7. [Reserved]
 8. [Reserved]
 9. [Reserved]
 10. [Reserved]
 11. [Reserved]
 12. §5-18-740 (2/22/95) *Storage of Organic Compounds – Organic Compound Emissions*
 13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds – Organic Compound Emissions*
 16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
 17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
 18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance – Organic Compound Emissions*
 19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance – Carbon Monoxide*
 20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance – Process Particulate Emissions*
 21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions – Industrial Processes*
 22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills – Sulfur Compound Emissions*
 23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions – Default Limitation*
 24. §5-24-1055 (2/22/95) *Pumps and Compressors – Organic Compound Emissions*



CHAPTER 5, ARTICLE 13
ARTICLE 13 – SURFACE COATING OPERATIONS

5-13-100 – GENERAL

1. **PURPOSE:** To limit the emission of volatile organic compounds (VOCs) from surface coating operations in the Pinal County portion of the Phoenix metro 8-hour ozone nonattainment area (2008 ozone National Ambient Air Quality Standard (NAAQS)), defined in 40 CFR 81.303.
2. **APPLICABILITY:** This rule applies to surface coating operations in the Pinal County portion of the Phoenix metro 8-hour ozone nonattainment area for the 2008 ozone NAAQS, namely T1N, R8E; T1S, R8E (Sections 1 through 12) where the total actual VOC emissions from all operations, including related cleaning activities, at the facility are equal to or exceed 15 lbs/day or an equivalent 2.7 tons per year, before consideration of controls.

Additionally:

- i. Surface-coating activities regulated under this rule include, but are not limited to, the application of coating, coating preparation/mixing at the facility applying the coating, and the cleanup of coating application equipment.
 - ii. §5-13-100.3 sets forth partial exemptions for certain materials or uses employed by a surface coating operation subject to this rule.
 - iii. In addition to this rule, facilities may be subject to New Source Performance Standards (NSPS) in Chapter 6 and/or to National Emission Standards for Hazardous Air Pollutants (NESHAP) in Chapter 7 of these regulations.
3. **PARTIAL EXEMPTIONS:**
- i. **Qualified Materials Exemption:**
 - a. Leak-Preventing Materials: Sealants, caulking, and similar materials used on the following substrates for the primary purpose of leak prevention are exempt from this rule:
 - (1) Non-metallic substrates; and
 - (2) Post manufacture, such as, but not limited to, old joints and seals on pipe and valve assemblies.
 - b. Certain Joint Fillers: Caulking and beaded sealants used to fill gaps or to fill joints between surfaces are exempt from this rule, except those used in manufacturing other metal parts and products or in the manufacturing of cans.
 - ii. **Extreme Performance Coatings:** Extreme performance coatings are exempt from the VOC limits in Table 1 of this rule but not from any other sections of this rule when used under the following conditions:
 - a. Used on internal combustion engine components that are normally above 250°F (121°C) during use; or
 - b. Used at temperatures above 250°F (121°C) on items that are both included under the North American Industry Classifications System (NAICS) codes 334210, 334220, 334290, 334416, 334417, 334418, 334419, 334310 or 336419 and are electronic products in space vehicles and/or are communications equipment.
 - iii. **Application Methods Exemptions:** The following coatings are exempt from application methods in §5-13-300.2 of this rule but are subject to the remaining provisions of this rule:
 - a. Metal part texture coatings;
 - b. Metal part touch-up and repair coatings;
 - iv. **Application Methods and VOC-Limit Exemptions:** The following surface coating operations are exempt from §§5-13-300.1(surface coating standards),5-13-300.2 (Application methods), and 5-13-300.5 (Emission control system requirements) of this rule but shall comply with §§5-13-300.3 (Cleanup of application equipment), 5-13-300.4 (Work practices-handling, disposal and storage of VOC-Containing material), and 5-13-500 (Monitoring & Records) of this rule.
 - a. Aerosol can spray coating from a non-refillable container that is less than 22 fluid ounces (0.66 liter) capacity without exceeding 2 ton/yr VOC usage or purchase, facility wide threshold.
 - b. Low usage of VOC coatings which exceed thresholds for coating categories listed in Table 1 of this Rule, which in aggregate of all formulations do not exceed 55 gal/yr (208 liters) facility-wide. The operator shall update usage records of these coatings at the end of each month or their use, pursuant to §5-13-500(1)(ii) of this rule.
 - c. A Small Surface-Coating Source
 - d. This rule is not applicable to coatings or solvents having a VOC content, minus exempt compounds, of less than 0.15 lb VOC/gal (18g/L).
 - e. A tactical military-equipment coating that is approved in a Pinal County Air Pollution Permit subsequent to a sufficient demonstration by the user that no compliant substitute exists.
 - f. **Metal Parts Coating:**
 - (1) Stencil coatings.
 - (2) Safety-indicating coatings.
 - (3) Solid-film lubricants.
 - (4) Electric-insulating and thermal conducting coatings.
 - (5) Magnetic data storage disk coatings.



- (6) Plastic extruded onto metal parts to form a coating.
- v. Low Usage Allowance for Restricted Spray Guns: Spray guns otherwise prohibited by §5-13-300.2 of this rule for use with coatings over 2 lbs VOC/gal minus exempt compounds, are exempt from this rule under the following limited conditions:
 - a. If VOC emissions from the finishing application are captured and directed to an ECS complying with the provisions of §5-13-300.5 of this rule; or
 - b. To coat the inside of pipes and tubes with a wand-style applicator; or
 - c. Using an airbrush or other small gun that has a reservoir capacity not exceeding 250 cc (8.8 fl. oz) and is used solely for detailing, lettering, touchup, and/or repair.
- 4. TOTAL CATEGORICAL EXEMPTIONS: This rule does not apply to the following operations:
 - i. Solvent cleaning (Chapter 5, Article 15).

5-13-200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in §1-3-140 (Definitions) of these rules. In the event of any inconsistency between any of the Pinal County Air Quality Control District Code of Regulations, the definitions in this rule take precedence.

1. ADHESIVE: A material used for the primary purpose of bonding two or more surfaces together.
2. ADHESIVE PRIMER: A coating applied to a substrate, prior to the application of an adhesive, to provide a bonding surface.
3. AEROSOL CAN-SPRAY COATING: A coating sold in a hand-held, pressurized, non-refillable container, of less than 22 fluid ounces (0.66 liter) capacity, and that is expelled from the container in a finely divided form when a valve on the container is depressed.
4. AIR-DRIED COATING: A coating dried by the use of air or forces warm air at temperatures up to and including 200°F (93.3°C).
5. BAKED COATING: A coating that is dried or cured in an oven in which the oven temperature exceeds 200°F (93.3°C).
6. CAMOUFLAGE: A coating used, principally by the military, to conceal equipment from detection.
7. CAULKING: A semisolid material that is used to aerodynamically smooth surfaces or fill cavities.
8. CLEAR COAT: A coating that lacks color or opacity or is transparent.
9. COATING APPLICATION EQUIPMENT: Any spray gun, wand, rollers, brushes or any other means used to apply or cover a surface with a coating for either beauty, protection or other purpose.
10. DAY: A period of 24 consecutive hours beginning at midnight.
11. DRUM COATING: Coating of cylindrical metal shipping container larger than 12 gallons capacity but no larger than 110 gallons capacity.
12. ELECTRICAL INSULATING VARNISH: A non-convertible-type coating applied to electric motors, components of electric motors, or power transformers, to provide electrical, mechanical, and environmental protection or resistance.
13. ELECTROSTATIC SYSTEM: A method applying atomized paint by electrically charging the coating and the object being coated with opposing charges. A higher proportion of the coating reaches and coats the object than would occur in the absence of a charge.
14. EMISSION CONTROL SYSTEM (ECS): A system, approved in writing by the Control Officer, designed and operated in accordance with the equipment manufacturer’s specifications, to reduce emissions of volatile organic compounds. Such system consists of an emissions collection subsystem and an emissions processing subsystem.
15. ETCHING FILLER: A coating that contains less than 23 percent solids by weight and at least ½ percent acid by weight, and is used instead of applying a pretreatment coating followed by a primer.
16. EXTREME HIGH-GLOSS COATING: A coating when tested by the ASTM D-523 adopted in 1980 shows reflectance of 75 or more on a 60° meter.
17. EXEMPT ORGANIC COMPOUNDS: The federally listed non-precursor organic compounds, organic compounds which have been determined to have negligible photochemical reactivity as listed in 40 CFR 51.100(s).
18. EXTREME-PERFORMANCE COATING: A coating used on a surface where the coated surface in its intended use is at temperatures consistently in excess of 250°F (121°C). Extreme-performance coatings include but are not limited to, coatings applied to locomotives, railroads cars, farm machinery, plastic, rubber, leather, or glass.
19. FABRIC: A textile material. Non-manufactured items from nature are not fabric except for natural threads, fibers, filaments, and similar that have been manufactured into textile fabric.
20. FILLER: a relatively non-adhesive substance added to an adhesive to improve its working properties, permanence, strength, or other qualities.
21. FLEXIBLE PLASTIC PART OR PRODUCT: A plastic part or product designed to withstand significant deformation without damaging it for its intended use. Not included are flexible plastic parts that are found on a can, coil, metal furniture, or large appliance, or that are already a part of an aerospace component, highway vehicle, mobile equipment, architectural building or structure, or a previously coated marine-vessel.
22. FLOW COAT: A non-atomized technique of applying coatings to a substrate with a fluid nozzle in a fan pattern with no air supplies to the nozzle.
23. HAND APPLICATION METHODS: Application of coatings by non-mechanical, hand-held equipment including but not limited to paint brushes, hand rollers, caulking guns, trowels, spatulas, syringe daubers, rags and sponges.
24. HEAT-RESISTANT COATING: A coating that must withstand a temperature of at least 400°F during normal use.



25. HIGH PERFORMANCE ARCHITECTURAL COATING: A coating used to protect architectural subsections and that meets the requirements of the Architectural Aluminum Manufacturer Associations publication number AAMA 2604-05 (Voluntary Specification, Performance Requirements and Test Procedures for High Performance Organic Coatings on Aluminum Extrusions and Panels) or 2605-05 (Voluntary Specifications, Performance Requirements and Test Procedures for Superior Performing Organic Coatings on Aluminum Extrusions and Panels).
26. HIGH TEMPERATURE COATING: A coating that is certified to withstand a temperature of 1000°F for 24 hours.
27. HIGH-VOLUME, LOW PRESSURE (HVLP) SPRAY-GUN: Spray equipment that is permanently labeled as such and used to apply any coating by means of a spray-gun which is designed and operated between 0.1 and 10 pounds per square inch gauge (psig) air atomizing pressure measured dynamically at the center of the air cap and at the air horns.
28. HIGHWAY VEHICLE: A vehicle that is physically capable of being driven upon a highway including, but not limited to, cars, pickups, vans, trucks, truck-tractors, motor-homes, motorcycles, and utility vehicles.
29. IN USE OR HANDLED: Actively engaging the materials with activities such as mixing, depositing, brushing, rolling, padding, wiping or removing or transferring material into or out of the container.
30. LARGE APPLIANCE: A door, case, lid, panel, or interior support part of residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dishwashers, trash compactors, air conditioners, evaporative coolers, and other similar products.
31. LOW PRESSURE SPRAY GUN: An air-atomized spray gun that, by design, functions best at tip pressures below 10 psig (516 mm HG), measured according to §5-13-500(4)(i)(d) of this rule, and for which the manufacturer makes no claims to the public that the gun can be used effectively above 12 psig (619 mm HG).
32. METAL FURNITURE: Furniture made of metal or any metal part which will be assembled with other parts made of metal or other material(s) to form a furniture piece.
33. METALLIC COATING: A coating that contains more than 5 grams of metal particles per liter of coating as applied.
34. MILITARY SPECIFICATION COATING: A coating that has a formulation that has been approved by a United States Military Agency for use on military equipment.
35. MOBILE EQUIPMENT: Equipment that is physically capable of being driven or drawn on a highway including, but not limited to: construction vehicles (such as mobile cranes, bulldozers, concrete mixers); farming equipment (wheel tractor, plow, pesticide sprayer); hauling equipment (truck trailers, utility bodies, camper shells); and miscellaneous equipment (street cleaners, mopeds, golf carts).
36. MOLD-SEAL COATING: The initial coating applied to a new mold or a repaired mold to provide a smooth surface which, when coated with a mold release coating, prevents products from sticking to the mold.
37. NON-PRECURSOR ORGANIC COMPOUNDS: Non-Precursor Organic Compounds are compounds having negligible photochemical reactivity. The list of negligible photochemical reactivity compounds is provided in 40 CFR 51.100(s)(1).
38. OTHER METAL PARTS AND PRODUCTS: Any metal part of product, excluding the following items that are made of metal: can, coil, furniture, large appliance, aerospace component, metal foil, metal textile fabric, semiconductor metal, highway vehicle, mobile equipment, an architectural building or structure, a previously coated marine-vessel.
39. PAN BACKING COATING: A coating applied to the surface of pots, pans, or other cooking implements that are exposed directly to a flame or other heating element.
40. PLASTIC: Substrates containing one or more resins and may be solid, porous, flexible, or rigid. Plastics include fiber reinforced plastic composites. Any solid, synthetic: resin, polymer, or elastomer, except rubber. For the purposes of this rule, plastic film is considered film, fabric and paper made of polymeric plastic fibers are considered fabric and paper, respectively.
41. PREFABRICATED ARCHITECTURAL COMPONENT COATING: A coating applies to metal parts and products which are to be used as an architectural structure.
42. PRETREATMENT COATING: A coating containing no more than 12 percent solids by weight, and at least ½ percent by acid, by weight, is used to provide surface etching, and is applied directly to metal surfaces to provide corrosion resistance, adhesion and ease of stripping.
43. PRIMER: A coating applies directly to substrate for any one or combination of the following purposes: corrosion prevention, protection from the environment, functional fluid resistance, or adhesion of subsequent coatings.
44. REPAIR COATING: A coating used to recoat the portion of a completed finish that suffered post-production damage at the facility where the finish was applied.
45. RESTRICTED SPRAY GUN: An air-atomizing spray gun that is not a low pressure spray gun, and any other spray gun that is not on the list in §5-13-300.2 of this rule.
46. SEALANT (BEADED): A material with adhesive properties that is applied as a rope of bead and that is formulated for use primarily to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. Sealants include sealant primers and caulks.
47. SMALL SURFACE COATING SOURCE (SSCS): A facility from which the total VOC emissions for all surface coating operations that are subject to this rule without, or prior to, any emission control, is less than 2 tons/yr (1814 kg); as demonstrated by both adequate records of coating and diluent use (according to §5-13-500.1 of this rule) and a separate tally of the number of days each month such coating operations occur.
48. STENCIL COATING: An ink or a coating that is rolled or brushed onto a template or stamp in order to add identifying letters, symbols and/or numbers.



- 49. SURFACE COATING: A liquid, fluid, or mastic composition that is converted to a solid (or semi-solid) protective, decorative, or adherent film or deposit after application as a thin layer. Surface coating is generally distinct and different from impregnation and from applying adhesive for bonding purposes.
- 50. SURFACE COATING OPERATION: Preparation, handling, mixing, and application of surface coating, and cleanup of application equipment and enclosures at a facility where surface coating is applied.
- 51. SURFACE PREPARATION: Surface preparation is the cleaning of a substrate to remove dirt, oils, and other contaminants prior to the application of surface coatings or sealants.
- 52. TEXTURE COATING: A coating that is applied which, in its finished form, consists of discrete raised spots of the coating.
- 53. TOUCH UP COATING: A coating used to cover minor coating imperfections after the main coating operation. This includes touch-up coating that accompanies the purchase of an object already coated with that coating.
- 54. TRANSFER EFFICIENCY: The ratio of the weight of coating solids adhering to the part being coated, to the weight of coating solids used in the application process expressed as a percentage.
- 55. VACUUM-METALIZING COATING: The undercoat applies to the substrate on which the metal is deposited or the overcoat is applied directly to the metal film. Vacuum metalizing/physical vapor deposition (PVD) is the process whereby the metal is vaporized and deposited in a substrate in a vacuum chamber.
- 56. VOC ACTUAL: VOC Actual includes the VOC Content minus the weight of water and minus the weight of exempt compounds (§5-13-200.12) divided by the total volume of all materials. Units of VOC actual are in pounds of VOC per gallon (or grams per liter) of material and shall be calculated using the following equation:

$$\text{VOC Content of Cleaners or Reducers} = \frac{W_s - W_w - W_{es}}{V_m}$$

Using consistently either English or metric measures in the calculations, where:

W_s = weight of all volatile material in pounds (or grams) including VOC, water, non-precursor organic compounds (§5-13-200.30) and dissolved vapors

W_w = weight of water in pounds (or grams)

W_{es} = weight of all non-precursor organic compounds in pounds (or grams)

V_m = volume of total material in gallons (or liters)

- 57. VOC CONTENT: The organic chemicals in a material that have a high vapor pressure at ordinary room temperature. The high vapor pressure results from a low boiling point, which causes large numbers of molecules to evaporate or sublime from the liquid or solid form of the compound and enter the surrounding air. The term VOC Content is a general term used throughout the rule and includes VOC, VOC Actual or VOC Regulatory.
- 58. VOC REGULATORY: VOC Content Minus Exempt Compounds. The VOC content minus the weight of water and minus the weight of Exempt Compounds divided by the volume of material minus the volume of water and minus the volume of Exempt Compounds. Units of VOC Regulatory are in pounds of VOC per gallon (or grams per liter) of material and shall be calculated using the following equation:

$$\text{VOC Regulatory} = \frac{W_s - W_w - W_{es}}{V_m - V_w - V_{es}}$$

Using consistently either English or metric measures in the calculations, where:

W_s = weight of all volatile material in pounds (or grams), including VOC, water, non-precursor organic compounds and dissolved vapors

W_w = weight of water in pounds (or grams)

W_{es} = weight of all non-precursor organic compounds in pounds (or grams)

V_m = volume of total material in gallons (or liters)

V_w = volume of water in gallons (or liters)



3. CLEANUP OF APPLICATION EQUIPMENT: An owner or operator shall comply with the following when using VOC-containing material to clean application equipment:
 - i. Spray-Gun Cleaning Requirements:
 - a. Clean spray-guns without spraying or atomizing a solvent cleaner with the gun.
 - b. Spray-Gun Cleaning Machine: Use a spray-gun cleaning machine that complies with the following requirements unless the owner or operator complies with the manual spray-gun cleaning requirements in §5-13-300(3)(ii) of this rule.
 - (1) Spray-Gun Cleaning Machine-General Requirements: The spray-gun cleaning machine shall meet all of the following requirements:
 - (a) Be designed to clean spray-guns.
 - (b) Have at least one pump that drives solvent cleaner through and over the spray-gun.
 - (c) Have a basin which permits containment of the solvent cleaner.
 - (d) Be kept in proper repair and free from liquid leaks.
 - (e) Shall be fitted with a cover.
 - (f) Be located on-site where the spray application occurs; and
 - (g) Be operated and maintained according to manufacturer's or distributor's instructions.
 - (2) Automatic Spray-Gun Cleaning Machine: An automatic spray-gun cleaning machine shall have a self-covering or enclosing cover feature when not loading or unloading that in the cover's closed position allows no gaps exceeding 1/8 inch (3 mm) between the cover and the cabinet. The self-enclosing feature shall be maintained and consistently cover or enclose to these gap limits.
 - (3) Non-Automatic Remote Reservoir Spray-Gun Cleaning Machine: Non-automatic Remote Reservoir Spray-Gun Cleaning Machine shall meet all of the following requirements:
 - (a) Drain solvent cleaner from the sink/work-space quickly into a remote reservoir when work-space is not in use; and
 - (b) Machine reservoir shall have cumulative total openings, including the drain opening(s) exceeding two square inches in area so that the reservoir will not allow VOC vapors to escape to the atmosphere; and
 - (c) Allow a machine design in which the base of the sink/work-space functions as the reservoir's top surface, as long as the fit/seal between the sink base and reservoir container allows the reservoir to meet the opening limits specified in §5-13-300(3)(i)(b)(3)(b) of this rule.
 - ii. Manual Spray-Gun Cleaning Requirements: An owner or operator manually cleaning spray-guns shall comply with the following requirements:
 - a. Disassembled spray-guns must be cleaned by non-mechanical, hand-held method of application of cleaners including but not limited to paint brushes, hand rollers, caulking guns, trowels, spatulas, syringe daubers, rags, and sponges;
 - b. Disassembled spray-guns must be soaked in a vat which remains covered at all times, except when the application equipment is being handled in the container, or transferred into or out of the container;
 - c. Solvent cleaners used to clean spray-guns shall be less than 10 percent VOC (excluding water and non-precursor organic compounds) and shall contain less than 8.0 percent VOC by weight (including water and non-precursor organic compounds) and calculated pursuant to VOC Regulatory as defined in this rule.
4. WORK PRACTICES-HANDLING, DISPOSAL AND STORAGE OF VOC-CONTAINING MATERIAL: An owner or operator of any surface coating facility shall store, handle, and dispose of VOC-containing material in a way to prevent the evaporation of VOC to the atmosphere. Work practices limiting VOC emissions include but are not limited to the following:
 - i. Use and Storage: An owner or operator shall cover and keep covered each VOC-containing material which is not currently in use. A person shall store finishing and cleaning materials in closed or covered leak-free containers.
 - ii. Disposal of VOC-Containing Material: An owner or operator shall store all VOC-containing materials intended for disposal including, but not limited to, rags, waste coatings, waste brushes, waste rollers, waste applicators, waste solvents, and their residues, in closed, leak free containers. The containers shall be clearly marked "Disposal of VOC Material" and remain covered with a leak tight cover, when not in use.
 - iii. Minimize spills of VOC-containing coatings, thinners, and coating-related waste materials; and
 - iv. Convey VOC-containing coatings, thinners, and coating related waste materials from one location to another in closed containers or pipes.
 - v. Use of VOC Solvent for Surface Coating Cleanup: An owner or operator may choose to use a VOC cleaning solvent for the cleaning of coating-application equipment, if such application equipment does not use spray devices and the same principal solvent is used for cleaning as is used in the coating.
5. EMISSION CONTROL SYSTEM (ECS) REQUIREMENTS:



- i. ECS Control Efficiencies: To meet the requirements pursuant to §5-13-300(1)(ii) of this rule, an ECS shall be operate as follows:
 - a. Overall ECS Efficiency: The ECS shall prevent at least 90% of the mass of the VOC emitted by each coating or process from entering the atmosphere except those controlled pursuant to the alternative in §5-13-300(5)(i)(c)(2) of this rule.
 - b. Capture Efficiency:
For an ECS used pursuant to §5-13-300(1)(ii) of this rule, capture shall be at least 90%.
 - c. Control Efficiency of The Emissions Processing Subsystem:
 - (1) The ECS shall reduce the mass of VOC entering it by at least 90 percent.
 - (2) Alternative for Very Dilute Input: For VOC input-concentrations of less than 100 ppm (as carbon) at the inlet of the ECS emissions processing subsystem, an ECS' VOC processing subsystem also satisfies the processor efficiency requirements of this rule if:
 - (a) The VOC output is consistently less than 20 mg VOC/m³ (as carbon) adjusted to standard conditions; and
 - (b) The ECS consistently shows an overall control efficiency of at least 90% when tested pursuant to §5-13-500(4)(i)(b) of this rule, at VOC input-concentrations exceeding 100 ppm (as carbon).
 - d. All VOC coatings used that are in excess of the VOC limits in Table 1 of this rule shall be clearly identified such that coating-operators are informed that an ECS must be used.
- ii. Operation and Maintenance (O&M) Plan Required for ECS:
 - a. An owner or operator shall provide and maintain (an) O&M Plan(s) for any ECS, any other emission processing equipment, and any ECS monitoring devices used pursuant to this rule or to an air pollution control permit.
 - b. The owner or operator shall submit to the Control Officer for approval the O&M Plans of each ECS and each ECS monitoring device used pursuant to this rule.
 - c. The owner or operator shall comply with all identified actions and schedules provided in each O&M Plan.
- iii. Providing and Maintaining ECS Monitoring Devices: Any owner or operator incinerating, adsorbing, or otherwise processing VOC emissions pursuant to this rule shall provide, properly install and maintain in calibration, in good working order and in operation, devices described in the facility's O&M Plan that indicate temperatures, pressures, rates of flow, or other operating conditions necessary to determine if air pollution control equipment is functioning properly and is properly maintained. Records shall be kept pursuant to §5-13-500.2 which demonstrate that the ECS meets the overall control standard required by §5-13-300(5)(i) of this rule.
- iv. O&M Plan Responsibility: An owner or operator of a facility that is required to have an O&M Plan pursuant to §5-13-300(5)(ii) must fully comply with all O&M Plans that the owner or operator has submitted for approval, but which have not yet been approved, unless notified otherwise by the Control Officer in writing. If revisions to the plan have been submitted and not yet been approved by the Control Officer, then an owner or operator shall comply with the most recent O&M plan on file at Pinal County Air Quality Control District.
- v. Operation and Maintenance (O&M) Plan Contents For an ECS:
 - a. An O&M Plan for any ECS including any ECS monitoring devices shall include all of the following information:
 - (1) ECS equipment manufacturer;
 - (2) ECS equipment model;
 - (3) ECS equipment identification number or identifier that owner or operator subject to this rule assigns to such ECS equipment when manufacturer's equipment identification number is unknown.; and
 - (4) Information required by §5-13-500.1 of this rule.
 - b. Control Officer Modifications to Plan: After discussion with the owner or operator, the Control Officer may modify the plan in writing prior to approval of the initial O&M Plan. An owner or operator shall then comply with the plan modified.
 - c. Deficient Plan: The owner or operator subject to this rule, who receives a written notice from the Control Officer that the O&M Plan is deficient or inadequate, must make written revisions to the O&M Plan for any ECS including any ECS monitoring devices, and must submit such revised O&M Plan to the Control Officer within five working days of receipt of the Control Officer's written notice, unless such time period is extended by the Control Officer, upon written request, for good cause. During the time such owner or operator is preparing revisions to the O&M Plan, such owner or operator shall still comply with all requirements of this rule.

5-13-400 – ADMINISTRATION REQUIREMENTS

1. COMPLIANCE SCHEDULE VOC LIMITS:

- i. Emission Control System (ECS): Any owner or operator installing an ECS shall:
 - a. Implement all recordkeeping provisions of this rule.
 - b. Announce the intention to use an ECS to the Control Officer in writing if:
 - (1) The ECS is used as an alternative to meeting the spray-gun provisions of §5-13-300.2 of this rule; or



(2) The ECS is used as an alternative to meeting the gun cleaning machine provisions of §5-13-300.3 of this rule.

c. One year after rule adoption of this rule, the ECS announced pursuant to §5-13-400(1)(i)(b) shall be in continuous use.

ii. VOC limits and Rule Requirements: Upon adoption of this rule, the owner or operator shall discontinue shelf purchase of materials that are non-compliant with §5-13-300(1)(i). The owner or operator has up to 6 months after rule adoption to complete use of existing non-compliant materials already purchased. A schedule for achieving compliant use of materials shall be prepared and made available to an inspector upon request. This schedule shall specify that 6 months after rule adoption complete material compliance shall be achieved.

2. COMPLIANCE SCHEDULE O&M PLAN:

i. O&M Plans for ECS equipment subject to this rule shall be revised/updated 3 months after rule adoption.

ii. The Control Officer shall take final action on an O&M Plan revision/update to address the newly amended provisions of this rule within thirty calendar days of the filing of the complete O&M Plan revision/update. The Control Officer shall notify the applicant in writing of approval or denial.

5-13-500 – MONITORING AND RECORDS

1. RECORDKEEPING AND REPORTING: The owner or operator shall comply with the following recordkeeping requirements.

i. The type and amount used of each VOC-containing coating which is regulated by name or type in Table 1 of this rule, and update each VOC-containing material, related to surface coating, that is not addressed by this table. This includes, but is not limited to, thinners, surfacers, and diluents.

ii. Records shall be retained for five years and shall be made available to the Control Officer upon request.

iii. Current List:

a. Maintain a current list of coatings, or any other VOC-containing materials regulated by this rule. This list shall include:

VOC content for each as received (before thinning). Express VOC content in 1 of 3 forms:

(1) Pounds VOC per gallon;

(2) Grams VOC per liter;

(3) The percent VOC by weight along with the specific gravity or density. (Two numbers are required).

b. An owner or operator using any VOC coating subject to §5-13-300.1 of this rule shall have on site the written value of the VOC coating in one of the following forms:

(1) A manufacturer’s technical data sheet;

(2) A manufacturer’s safety data sheet (MSDS); or

(3) Actual test results.

c. Usage or Purchase Records:

(1) Monthly: Records of the amount of VOC coatings used shall be updated by the end of the month for the previous month. Show the type and amount of each make-up (as described in §5-13-500(1)(iii) of this rule) and all other VOC cleaners and solvents to which this rule is applicable.

(2) Annually:

(a) Low VOC Coatings: Use of low VOC coatings shall be updated at least annually.

(b) Low-VOC Cleaner: An owner and/or operator need not keep a record of a cleaning substance that is made by diluting a concentrate with water or non-precursor compound(s) to a level that qualifies as a “Low VOC Cleaner” if records of the concentrate usage are kept in accordance with this rule.

(3) Grouping by VOC Content: For purposes of recording usage, an operator may give VOC coatings, cleaners, and solvents of similar VOC content a single group-name, distinct from any product names in the group. The total usage of all the products in that group is then recorded under just one name. (In such a case, the operator must also keep a separate list that identifies the product name of the particular solvents included under the group name). To the group name shall be assigned the highest VOC content among the members of that group, round to the nearest 10th of a pound of VOC per gallon of material, or to the nearest gram VOC per liter of material.

d. Facilities That Are Not Small Surface-Coating Sources: Facilities that are not small surface-coating sources shall for all coatings (except those recorded under §5-13-100(3)(v)(c) low usage allowance), make the following listings for coatings that have VOC limits listed in Table 1 of this rule:

(1) VOC Before Reducing: The VOC content of each coating as received, minus exempt compounds. (The figure is something called the “EPA Method 24” VOC content on manufacturer’s data sheets). If the coating is a multi-part coating, list the manufacturer’s final VOC content.

(2) List Maximum VOC Content of Coating As Applied: For each coating that you thin/reduce or add any additive to, record in a permanent log either of the following:



- b. The VOC content of gaseous emission entering and exiting an ECS shall be determined by either EPA Method 18 referred to in §5-13-500(4)(ii)(b) of this rule, or EPA Method 25 and its submethod, referred to in in §5-13-500(4)(ii)(d) of this rule.
- c. Capture efficiency of an ECS shall be determined either by the methods in §5-13-500(4)(ii)(e) of this rule (EPA Method 204 and its submethods), or by using mass balance calculation methods in concert with the methods in §5-13-500(4)(ii)(a) of this rule (EPA Methods 2, 2a, 2c, and 2d).
- d. Measurement of air pressure at the center of the spray gun tip and air horns of an air-atomizing spray gun shall be performed using an attachable device in proper working order supplied by the gun’s manufacturer for performing such a measurement.
- e. Temperature measurements shall be done with an instrument with an accuracy and precision of less than one-half degree Fahrenheit (0.25°C) for temperatures up to 480°F (250°C).
- ii. Test Methods Adopted By Reference: The EPA test methods as they exist in the Code of Federal Regulations (CFR) (July 1, 2015), as listed below, are adopted by reference. The other test methods listed here are also adopted by reference, each having paired with it a specific date that identifies the particular version/revision of the method that is adopted by reference. The adoptions by reference include no future editions or amendments.
 - a. EPA Methods 2 (“Determination of Stack Gas Velocity and Volumetric Flow Rate”), 2a (“Direct Measurement of Gas Volume Through Pipes and Small Ducts”), 2c (“Determination of Stack Gas Velocity and Volumetric Flow rate in Small Stacks or Ducts”), and 2d (“Measurement of Gas volumetric Flow Rates in Small Pipes and Ducts”). All 4 of the foregoing methods are in 40 CFR 60m, Appendix A.
 - b. EPA Method 18 (“Measurement of Gaseous Organic Compound Emissions by Gas Chromatography”) and its submethods (40 CFR 60, Appendix A).
 - c. EPA Test Method 24 (“Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings”)(40 CFR 60, Appendix A).
 - d. EPA Method 25 (“Determination of Total Gaseous Non-methane Organic Emissions as Carbon”) and its submethods (40 CFR 60, Appendix A).
 - e. EPA Test Methods 204 (“Criteria for and Verification of a Permanent or Temporary Total Enclosure”), 204a, 204b, 204c, 204d, 204e, and 204f (Appendix M, 40 CFR 51).
 - f. California’s Bay Area Air Quality Management District (BAAQMD) Method 31 (May 18, 2005), “Determination of Volatile Organic Compounds in Paint Strippers, Solvent Cleaners, and Low Solids Coatings.”
 - g. California’s South Coast Air Quality Management District (SCAQMD) Method 313-91 (April 1997).
- iii. Test Methods for ECS: For coatings/adhesives controlled pursuant to §5-13-300(2)(i) or §5-13-300(5)(iii) of this rule:
 - a. Measurements of VOC emissions from an ECS shall be conducted in accordance with EPA Methods 18 or its submethods, or by Method 25 or its submethods (40 CFR 60, Appendix A).
 - b. Capture efficiency of an ECS shall be determined by mass balance in combination with ventilation/draft rate determinations done in accordance with §5-13-500(4)(iii)(c) of this rule or with US EPA Test Methods 204, 204a, 204b, 204c, 204d, 204e, and 204f (Appendix M, 40 CFR 51).
 - c. Ventilation/draft rates shall be determined by EPA Methods 2, 2a, 2c, and 2d (40 CFR 60, Appendix A).

**PINAL COUNTY AIR QUALITY CONTROL DISTRICT
NOTICE OF FINAL RULEMAKING
PURSUANT TO A.R.S. §49-471.01 et seq**

[M16-296]

1. Preamble

- A. The Pinal County Air Quality Control District (PCAQCD), an operating division of Pinal County, proposed that the Board of Supervisors (BOS) adopt or amend certain rules under authority of A.R.S. §§49-479 and 49-480, which respectively authorize the board to adopt rules to control air pollution.

The Clean Air Act Amendments (CAAA) of 1990 required ozone nonattainment areas to implement Reasonably Available Control Technology (RACT) to control Volatile Organic Compounds (VOC) emissions. Pinal County has a small portion in/around the Apache Junction area that’s incorporated into the Phoenix metro ozone nonattainment area for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Phoenix metro was originally designated a ‘Marginal’ nonattainment area for the 2008 8-hour ozone NAAQS on July 20, 2012 and required to attain the standard by July 20, 2015. A marginal ozone nonattainment area isn’t required to submit an all-encompassing State Implementation Plan (SIP) that higher nonattainment designations carry (i.e. moderate, serious, severe) which include RACT requirements.



Unfortunately the nonattainment area didn't attain the ozone NAAQS by the July 20, 2015 deadline and was recently redesignated to a moderate 8-hour ozone nonattainment area (81 FR 26697, May 4, 2016). Thus requiring the nonattainment area to complete a SIP by January 1, 2017 which includes RACT rules.

Pinal County Air Quality evaluated permitted sources within the Pinal County portion of the 8-hour ozone nonattainment area to determine what, if any source categories would require RACT. The two source categories in the ozone nonattainment area that were found to require RACT rules are gasoline service stations and surface coatings. This particular rulemaking addresses gasoline service stations.

The adopted amended and new rules are identified below and include an amendment to §1-1-105 with the ultimate purpose of this rulemaking being the submittal of the adopted rules in Chapter 5, Article 20 (specifically sections 100, 200, 300, 400 and 500) through ADEQ to EPA, for inclusion as elements of the Arizona State Implementation Plan (SIP) as required under the Clean Air Act (CAA).

B. All of the adopted corresponding changes are discussed in subsection E. of this preamble, and include the following sections:

Section Affected	Rulemaking Action
§1-1-105. SIP List.....	Amend
§5-20-100. General.....	New
§5-20-200. Definitions.....	New
§5-20-300. Standards.....	New
§5-20-400. Administrative Requirements.....	New
§5-20-500. Monitoring and Records.....	New

C. Those wishing further information regarding any aspect of this rulemaking may contact Scott DiBiase, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona, 85132, 520-866-6929, scott.dibiase@pinalcountyaz.gov.

D. The rule making process consisted of the initial administrative rule development process, including the combined notice of proposed rulemaking and oral proceeding, a 30 day public comment period, two stakeholder meetings and an oral proceeding before the Control Officer or his designee on September 27, 2016. Written comments were due prior to the close of the comment period, which was the close-of-business on the day of the oral proceeding. The final step in the rule adoption process was a hearing before the Board of Supervisors on November 30, 2016.

E. The adopted additions include the following:

1. §1-1-105 – Addition of Chapter 5, Article 20, sections 100, 200, 300, 400 and 500 and their adoption dates in Section 1-1-105 which is a list designating which Board approved rules (and their corresponding adoption dates) that are to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP
2. Addition of Chapter 5, Article 20, §100. General
 - 1) Purpose of the rule – limit emissions of VOCs from gasoline during storage and loading of gasoline at gasoline dispensing facilities.
 - 2) Applicability – Applies to an owner or operator that operates a gasoline dispensing facility in the Pinal County portion of the Phoenix-Mesa 2008 8-hour ozone NAAQS nonattainment area.
 - 3) Exemptions
 - a) Rule doesn't apply to storage and loading of diesel nor liquefied petroleum gas (LPG)
 - b) The loading of aviation gasoline into storage tanks at airports and transfer of aviation gasoline within the airport is exempt from the loading of gasoline requirements and control of VOC vapors (i.e. Stage 1 Vapor Recovery System) requirements. However the storage of aviation gasoline requirements still pertain.
 - c) Bulk gasoline plant or terminal
 - d) Stationary gasoline dispensing tanks used exclusively for fueling of implements of normal farm operations are exempt from all requirements of this rule except for the general housekeeping (i.e. minimize gasoline spills, clean up spills as expeditiously as possible, etc.)
 - e) Stage 1 vapor recovery systems don't apply to the following:
 - i. Non-resale gasoline dispensing operations receiving less than 120,000 gallons in any 12 consecutive calendar month is exempt from the standards as long as each stationary gasoline tank is equipped with a permanent submerged fill pipe.
 - ii. Stationary gasoline dispensing tanks having a capacity of 1,000 gallons or less that were installed prior to October 2, 1978, provided there's a permanent submerged fill pipe, unless such a pipe can't be installed then use of a nozzle extension is permitted.
 - f) Loading of gasoline standards exempt when the gasoline dispensing facility is unattended or when there is only one owner or operator present.



3. Addition of Chapter 5, Article 20, §200. Definitions – Sixteen relevant definitions to the proposed new rule.
4. Addition of Chapter 5, Article 20, §300. Standards
 - 1) Manufacturers, suppliers, and owners or operators
 - a) Tank system requirements for the manufacturers, suppliers and owners or operators including
 - i. CARB certified components or rebuilt by a person authorized by CARB to rebuild components. Identification requirements for installed components.
 - ii. A licensed vapor recovery registered service representative in the State of Arizona is required to install an aboveground or underground storage tank or vapor recovery system.
 - iii. Restrictions for use of coaxial vapor balance systems
 - iv. The owner or operator of stationary dispensing tanks is required to verify that vapor recovery equipment is properly installed and is in use at all times.
 - v. Requirement for owner or operator to allow the loading of gasoline from any cargo tank that has a current Maricopa County Pressure Test decal.
 - 2) General housekeeping requirements
 - a) Requirements for the owner or operator to minimize gasoline spills, clean up spills quickly, cover all open gasoline containers and gasoline storage tank fill-pipes with a gasketed seals when not in use. Minimize gasoline sent to open waste collection systems and properly dispose of VOC containing material.
 - 3) Requirements for gasoline storage equipment and operations
 - a) Unless exempt (per §5-20-100.3), underground storage tanks (UST) must meet ten conditions, including but not limited to, being equipped and maintained with CARB certified components and authorized personnel.
 - b) Above ground storage tanks with a capacity greater than 250 gallons have to meet ten conditions similar in nature to the UST requirements in 5-20-300(3)(a).
 - 4) Loading of gasoline
 - a) When one or more owner or operator is present during acceptance of loading of gasoline, they shall verify the gasoline cargo tank displays a valid Maricopa County vapor tightness test decal and the owner or operator connects the vapor return hose.
 - 5) Control of VOC vapors
 - a) Unless exempted, gasoline vapors are to be handled by a Stage 1 vapor recovery system
 - b) Stage 1 vapor recovery system system configuration
 - i. CARB certified replacement parts required including vapor valves. The vapor valves are to be inspected weekly and records are to be kept on the inspections.
 - ii. CARB certified fittings required for above ground systems
 - iii. Each new tank shall have CARB-certified fittings and have its own separate and functioning dual-point vapor return line and is allowed to have a combination vapor recovery system linking it to one or more other stationary gasoline dispensing tanks
 - iv. Prohibition on use of coaxial fill pipes in new installations and major modifications.
 - c) Equipment maintenance and use requirements
 - i. Vapor loss control equipment needs to be installed and operated correctly and maintained leak-free, vapor-tight and in good working order.
 - ii. Coaxial systems on existing tanks shall be maintained according manufacturer(s) standards and have no obstruction of vapor passage from the tank to the cargo tank.
 - 6) Administrative requirements
 - a) The owner or operator is required to conduct inspections of the gasoline storage tank, including the spill containment receptacle, the external fittings of the fill pipe assembly, and the popped dry break. The frequency of inspections, at least once per week or if the gasoline dispensing facility receives gasoline loads less than once per week, the inspection shall take place upon the completion of receipt of the load of gasoline.
 - b) The burden of proof of the eligibility for exemption from a provision(s) in this rule is on the owner or operator. The owner or operator seeking such an exemption shall keep adequate records and give them to the control officer when requested. The owner or operator is also required to provide proof when requested by the Control Officer that a vapor recovery system or its modifications meet the requirements of the article.
 - c) An owner or operator can't install or reinstall a component related to vapor recovery that's been decertified by CARB.
 - 7) Monitoring and Records
 - a) Monitoring for leaks
 - i. Test procedures for combustible gas detector or organic vapor analyzer including calibration of equipment, probe distance, probe movement and probe position



- ii. Method 21, alternative screening procedure using a soap solution to determine whether a leak exists
- iii. Optical gas imaging may be used to identify vapor leaks. If vapor leaks are detected then the instrument techniques in 5-20-500.1.a are to be used to determine if a vapor leak exists.
- b) Compliance inspections
 - i. During any working hours any gasoline dispensing facility required by this rule to have vapor loss control devices may be subject to monitoring for vapor tightness and liquid leak tightness. Such tanks may be opened for gauging or inspection when loading operations aren't in progress as long as the tank is part of an open system or is served by a positive-pressure relief valve.
- c) Gasoline dispensing facility recordkeeping
 - i. The owner or operator is required to keep records of the total amount of gasoline received each month which shall be recorded by the end of the following month. The owner or operator shall record inspections in a permanent record or log book by the end of Saturday of the following week or shall record the inspection within three days after receipt of the load of gasoline if the facility receives gasoline loads less than one per week. The records shall be retained for at least 5 years and records of the past 12 months shall be readily accessible and made available to the Control Officer within 24 hours upon verbal or written request.
- d) Compliance determination
 - i. Compliance parameters defined for control efficiency of vapor loss, vapor pressure of gasoline and vapor leaks including reference to test methods in §5-20-500.5
- e) Test methods
 - i. Stationary source test methods listed including EPA, ASTM, CARB, San Diego County and American Petroleum Institute.

F. 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 (See contact information in subsection C above), all data underlying each study, and any analysis of each study and other supporting material:

Design criteria for stage I vapor control systems gasoline service stations. EPA-450-R-75-102.

G. Economic, small business and consumer impact statement

The following discussion addresses each of the elements required for an economic, small business and consumer impact state under A.R.S. §41-1055.

This rulemaking adopted Chapter 5, Article 20. Storage and Loading of Gasoline at Gasoline Dispensing Facilities.

The persons affected by this rulemaking will be the owners or operators of gasoline dispensing facilities in the Pinal County portion of the Phoenix metro ozone nonattainment area. The department has issued permits to 14 facilities that will be subject to Chapter 5, Article 20. The majority of these permitted gasoline dispensing facilities are owned and operated by national chains with other locations in Maricopa County. The facilities in Maricopa County have been regulated with RACT level rules (Maricopa County rules 33, 33.3 and 353) since the 1980s. Correspondingly their equipment and business practices align with the RACT rule. Since the gasoline dispensing facilities in Pinal County are in close proximity to the Phoenix metro and are run by the same national chains, both equipment and business practices are similar in nature. Therefore the majority of the equipment and business practices requirements of Chapter 5, Article 20 are for the most part already being followed. Therefore minimal impacts are expected. The one aspect of Chapter 5, Article 20 that may have some impact on gasoline dispensing facilities in the Pinal County portion of the Phoenix ozone nonattainment area are the administrative requirements. The owners or operators will be required to regularly inspect their storage tanks for leaks and also to keep records of their inspections. It is assumed that the owners or operators of the gasoline dispensing facilities already inspect their facilities in order to limit the possibility of loss of fuel from leaking storage tanks. However the documentation of these inspections may not be taking place currently so additional administrative duties will be required of the regulated community in order to comply with Chapter 5, Article 20.

The probable costs to the implementing agency (Pinal County Air Quality) will be minimal since the department already conducts regular inspections of gasoline dispensing facilities in order to verify compliance with their permit requirements.

H. The adopted changes will take effect on January 1, 2017.

I. Compliance with the Fee-limitations of A.R.S. §49-112 (A) or (B).



Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these proposed changes do not impose any additional fees on those sources at this time.

J. Persons may obtain a full copy of the adopted rule or existing rules at:

Pinal County Air Quality Control District
31 North Pinal St., Building F.
P.O. Box 987
Florence, AZ. 85132

<http://www.pinalcountyz.gov/AirQuality/Pages/home.aspx>

K. A list of all previous notices appearing in the Register addressing the proposed rules:

Notice of Rulemaking Docket Opening: 22 A.A.R. 35, 2273, August 26, 2016.

Combined Notice of Proposed Rulemaking and Notice of Oral Proceeding, 22 A.A.R. 35, 2274, August 26, 2016

2. The full text of the adopted changes follows:

1-1-105. SIP list

A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

1. Chapter 1
 - a. Article 1.(As amended 5/14/97 and 5/27/98), except for §§1-1-105 and 1-1-107.
 - b. Article 2 (As amended 5/14/97 and 7/12/00) except for §1-2-110.
 - c. Article 3. (As amended 5/14/97, 5/27/98 and 10/27/04, 07/23/14, except for §1-3-130 and the definition in §1-3-140.82 (10/12/95) of "maximum achievable control technology.")
2. Chapter 2
 - a. Article 1. (As amended 10/12/95).
 - b. Article 2. (As amended 5/14/97), excluding:
 - i. §2-2-090 (as amended 5/14/97)
 - c. Article 3. (As amended 10/12/95).
 - d. Article 4. (As amended 10/12/95).
 - e. Article 5. (As amended 10/12/95).
 - f. Article 6. (As amended 10/12/95).
 - g. Article 7. (As amended 10/12/95).
 - h. Article 8. (As amended 5/18/05, as amended 1/7/09).
3. Chapter 3
 - a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. §3-1-020
 - ii. §3-1-045
 - iii. §3-1-080
 - iv. §3-1-100
 - v. §3-1-150 (as amended 5/14/97)
 - vi. §3-1-160 (as amended 5/14/97)
 - vii. §3-1-170 (as amended 5/14/97)
 - viii. §3-1-173 (as amended 5/14/97)
 - b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
 - c. Article 3. (As amended 10/12/95, 5/27/15).
 - d. Article 8. (As amended 10/12/95 and 10/27/04).
4. Chapter 4
 - a. Article 1. (As amended 2/22/95).
 - b. Article 2. (As amended 5/14/97, 7/12/00, 12/4/02 and 10/27/04).
 - c. Article 3, limited to:
 - i. §4-3-160 (As amended 10/28/15)



- ii. §4-3-170 (As amended 10/28/15)
- iii. §4-3-180 (As amended 10/28/15)
- iv. §4-3-190 (As amended 10/28/15)
- d. Article 4 (As amended 6/3/09).
- e. Article 5 (As amended 6/3/09).
- f. Reserved.
- g. Article 7 (As amended 6/3/09)
- h. Reserved.
- i. Article 9, limited to:
 - i. §4-9-320 (As amended 6/3/09)
 - ii. §4-9-340 (As amended 6/3/09)

5. Chapter 5

- a. Article 20. (as amended 11/30/16)

B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save §3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:

- 1. "construction," as defined in Nov. '93 Code §1-3-140.28; or
- 2. "modification," as defined in Nov. '93 Code §1-3-140.85; and

C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:

- 1. Operate as elements of the SIP insofar as they pertain to other than "conventional pollutants," as defined in §1-3-140.33;
- 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. §111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
- 3. Operate as an element of the SIP, at least insofar as they impose a "fee";
- 4. Operate as an element of the SIP, at least insofar as they require a "certification";
- 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to "renewals";
- 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding "excess emissions"; or
- 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding "compliance plans."

D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:

- 1. §§1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
- 2. Chapter 2, Article 8 (As amended 1/7/09) *Visibility Limiting Standard*
- 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
- 4. [Reserved]
- 5. [Reserved]
- 6. [Reserved]
- 7. [Reserved]
- 8. [Reserved]
- 9. [Reserved]
- 10. [Reserved]
- 11. [Reserved]
- 12. §5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
- 13. §5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
- 16. §5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
- 17. §5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
- 18. §5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
- 19. §5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
- 20. §5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*
- 21. §5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
- 22. §5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
- 23. §5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
- 24. §5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

CHAPTER 5, ARTICLE 20.

ARTICLE 20. ~~RESERVED~~ STORAGE AND LOADING OF GASOLINE AT GASOLINE DISPENSING FACILITIES



5-20-100. GENERAL

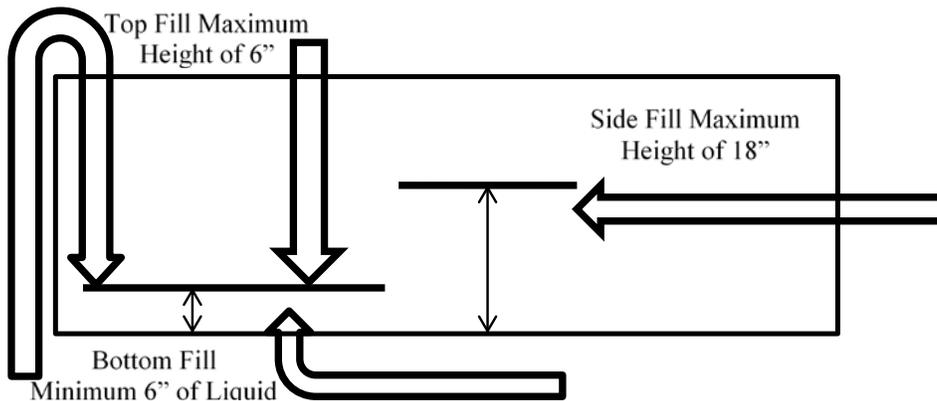
1. Purpose: To limit emissions of volatile organic compounds (VOC) from gasoline during storage and loading of gasoline at gasoline dispensing facilities.
2. Applicability: This Article applies to an owner or operator who operates a gasoline dispensing facility, including those located at airports in the Pinal County portion of the Phoenix-Mesa 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area, namely T1N, R8E; T1S, R8E (Sections 1 through 12) as defined in 40 CFR 81.303.
3. Exemptions:
 - a. This Article does not apply to the storage and loading of the following fuels:
 - i. Diesel
 - ii. Liquefied petroleum gas (LPG)
 - b. Aviation gasoline loaded at airports: The loading of aviation gasoline into storage tanks at airports, and the subsequent transfer of aviation gasoline within the airport, is exempt from §5-20-300.4 and section §5-20-300.5(a) of this Article. The storage of aviation gas at airports is subject to this Article.
 - c. Bulk gasoline plant or bulk gasoline terminal: This Article does not apply to a bulk gasoline plant or a bulk gasoline terminal.
 - d. Stationary gasoline dispensing tanks for farm operations: Any stationary gasoline dispensing tank used exclusively for the fueling of implements of normal farm operations must comply with Section §5-20-300.2 (General Housekeeping Requirements), but is exempt from all other requirements of this rule.
 - e. Control of VOC Vapors exemption: The Stage 1 Vapory Recovery System provisions of §5-20-300.5.b of this Article shall not apply to the following stationary gasoline dispensing tanks:
 - i. Non-resale gasoline dispensing operations: Any stationary gasoline dispensing facility receiving less than 120,000 gallons of gasoline in any 12 consecutive calendar months, dispensing no resold gasoline, and having each stationary gasoline tank equipped with a permanent submerged fill pipe is exempt from §5-20-300 of this Article. However, any operation shall become subject to the provisions of §5-20-300 of this Article by exceeding the 120,000 gallon threshold, and shall remain subject to such provisions even if annual emissions later fall below this threshold.
 - ii. Stationary gasoline dispensing tanks of 1,000 gallons or less: Any stationary gasoline dispensing tank having a capacity of 1,000 gallons or less which was installed prior to October 2, 1978, provided that such tank is equipped with a permanent submerged fill pipe. Where, because of government regulation including, but not limited to, Fire Department codes, such a fill pipe cannot be installed, the gasoline shall be delivered into the tank using a nozzle extension that reaches within 6 inches of the tank bottom.
 - f. The owner or operator of a gasoline dispensing facility that is unattended or when there is only one owner or operator under control of the gasoline dispensing facility present, the owner or operator of the gasoline dispensing facility is exempt from §5-20-300.4.

5-20-200. DEFINITIONS

1. AVIATION GASOLINE – A type of gasoline used to fuel a piston engine aircraft.
2. CARB-CERTIFIED: A vapor control system, subsystem, or component that has been specifically approved by system configuration and manufacturer’s name and model number in an executive order of the California Air Resources Board (CARB), pursuant to Section 41954 of the California Health and Safety Code.
3. COAXIAL VAPOR BALANCE SYSTEM: A type of vapor balance system in which the gasoline vapors are removed through the same opening through which the fuel is delivered.
4. DUAL-POINT VAPOR BALANCE SYSTEM: A type of vapor balance system in which the storage tank is equipped with an entry port for a gasoline fill pipe and a separate exit port for a vapor connection. [40 CFR 63.11132].
5. GASOLINE: Any petroleum distillate, petroleum distillate/alcohol blend, petroleum distillate/organic compound blend, or alcohol having a Reid vapor pressure between 4.0 and 14.7 psi (200-760 mm Hg.), as determined by §5-20-500(4)(b) of this Article, and which is used as a fuel for internal combustion engines.
6. GASOLINE CARGO TANK: A delivery tank truck or railcar which is loading or unloading gasoline, or which has loaded or unloaded gasoline on the immediately previous load. This includes any hoses the vessel carries through which deliveries must be made.
7. GASOLINE DISPENSING FACILITY (GDF): Any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on-road and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment. [40 CFR 63.11132]
8. GASOLINE VAPORS: Vapors, originating from liquid gasoline, that are usually found in mixture with air. Included are any droplets of liquid gasoline or of gasoline vapor condensate that are entrained by the vapor.
9. LEAK-FREE: A condition in which there is no liquid gasoline escape or seepage of more than 3 drops per minute from gasoline storage, handling, and ancillary equipment, including, but not limited to, seepage and escaped from above ground fittings.
10. MARICOPA COUNTY (MC) VAPOR TIGHTNESS TEST: The complete pressure, vacuum, and vapor-valve testing of a gasoline cargo tank that is performed according to Maricopa County specifications as described in Maricopa County Air Quality Rule 352.
11. POPPETTED DRY BREAK: A type of vapor loss control equipment that opens only by connection to a mating device to ensure that no gasoline vapors escape from the stationary dispensing tank before the vapor return line is connected.



- 12. STAGE 1 VAPOR RECOVERY (VR) SYSTEM: At a gasoline dispensing facility, the use of installed vapor recovery equipment designed to reduce by at least 95% the VOC vapor that would otherwise be displaced into the atmosphere from a stationary dispensing tank when gasoline is delivered into the tank by a gasoline cargo tank. This reduction may be done either by capturing the displaced vapors within the gasoline cargo tank, and or by processing the vapors on site with an emission processing device.
- 13. STATIONARY DISPENSING TANK: Any stationary tank which dispenses gasoline directly into a motorized vehicle’s fuel tank, dispenses gasoline into an aircraft’s fuel tank, or dispenses gasoline into a watercraft’s fuel tank that directly fuels its engine(s).
- 14. SUBMERGED FILL: Any discharge pipe or nozzle which meets the applicable specifications as follows:
 - a. Top-Fill or Bottom-Fill Tanks: The end of the discharge pipe or nozzle is totally submerged when the liquid level is six inches (15 cm) from the bottom of the tank.
 - b. Side-Fill: At its highest point within the storage tank that is less than 2,000,000 gallon capacity, the end of the discharge pipe or nozzle is totally submerged when the liquid level is 18 inches (46 cm) from the bottom of the tank.
 - c. Horizontal Fill: At its highest point within a floating roof tank of 2,000,000 gallons or greater capacity, the end of the discharge pipe or nozzle may be up to 39.4 inches (1 meter) above the tank bottom if the discharge pipe or nozzle is kept completely submerged, including when the roof rests on its legs, except when the tank is being emptied completely.



- 15. VAPOR LOSS CONTROL EQUIPMENT: Any piping, hoses, equipment, or devices which are used to collect, store and/or process VOC vapors at a service station or other gasoline dispensing operation.
- 16. VAPOR TIGHT: A condition in which a suitable detector at the site of (potential) leakage of vapor shows less than 10,000 ppmv when calibrated with methane; or the detector shows less than 1/5 LEL (lower explosive limit) subsequent to calibration with a gas specified by the manufacturer and is used according to the manufacturer’s instructions.

5-20-300. STANDARDS

- 1. MANUFACTURERS, SUPPLIERS, AND OWNERS OR OPERATORS:
 - a. A manufacturer, supplier, owner or operator shall not supply, offer for sale, sell, install or allow the installation of an aboveground or underground storage tank, any type of vapor recovery system or any of its components unless the tank, system and components meet the following:
 - i. Replacement Components for a Vapor Recovery System: A vapor recovery system for which there is a CARB specification shall be replaced with components that comply with one of the following:
 - 1. The equipment is supplied by the manufacturer as a CARB-certified component; or
 - 2. The equipment is rebuilt by a person who is authorized by CARB to rebuild that specific CARB-certified component.
 - ii. All vapor return lines from dispensing tanks shall be equipped with CARB-certified, spring loaded, vapor-tight, poppetted dry break valves.
 - iii. After [date of rule adoption], each new or rebuilt installed component shall be clearly identified with a permanent identification affixed by the certified manufacturer or rebuilder.
 - b. A licensed Vapor Recovery Registered Service Representative (RSR) in the State of Arizona shall install an aboveground or underground storage tank or vapor recovery system components.
 - c. Coaxial Vapor Balance System Prohibition: An owner or operator shall not
 - i. Install a coaxial fill pipe in a new installation; or
 - ii. Reinstall a coaxial fill pipe during any changes to the tank when the top of the tank is exposed and the vapor port bung is pre-configured to accept vapor recovery piping.
 - d. The owner or operator of a stationary dispensing tank shall verify that vapor recovery equipment (if required by this rule) is properly connected and in use at all times while gasoline is actively being loaded. If the gasoline dispensing facility is unattended or there is only one owner or operator under control of the gasoline dispensing facility on-site, the owner or operator of the cargo tank is responsible for the proper connection and use of the vapor recovery equipment (if required by this rule) while gasoline is being actively loaded.



- e. An owner or operator shall load, allow the loading, or provide equipment for the loading of gasoline from any cargo tank identified with a current Maricopa County Pressure Test decal into any stationary gasoline storage tank.
- 2. GENERAL HOUSEKEEPING REQUIREMENTS:
 - a. An owner or operator shall not store gasoline or permit the loading of gasoline in any stationary gasoline storage tank located above or below ground unless all of the following conditions are met:
 - i. Minimize gasoline spills;
 - ii. Clean up spills as expeditiously as practicable;
 - iii. Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;
 - iv. Minimize gasoline sent to open waste collection systems that collect and transport gasoline to reclamation and recycling equipment, such as oil/water separators;
 - v. Properly dispose of any VOC containing material.
- 3. GASOLINE STORAGE EQUIPMENT AND OPERATION REQUIREMENTS:
 - a. An Underground Storage Tank (UST) must meet all of the following conditions unless exempt from the vapor recovery system requirements per §5-20-100.3 of this Article:
 - i. The UST is equipped and maintained according to §5-20-300.1 of this rule;
 - ii. For an existing GDF, maintain a dual-point vapor recovery system OR a coaxial vapor balance system. For new installations or modifications to existing GDF, install and maintain a dual-point vapor recovery system with separate fill and vapor connection points;
 - iii. A pressure vacuum vent is installed and maintained per manufacturer specifications;
 - iv. The vapor recovery system is maintained and operated according to the manufacturer's specifications and the applicable CARB Executive Orders including the corresponding CARB approved Installation, Operation and Maintenance Manual;
 - v. A permanent submerged fill pipe is installed and maintained to ensure the highest point of the discharge opening is no more than six inches (6") from the bottom of the UST;
 - vi. Each fill pipe is equipped with gasketed vapor tight cap;
 - vii. Each poppetted dry break is equipped with vapor tight seal and gasketed vapor tight cap;
 - viii. Each gasketed vapor tight cap is maintained in a closed position except when the fill pipe or poppetted dry break it serves is actively in use;
 - ix. The fill pipe assembly, including fill pipe, fittings and gaskets, is maintained to prevent vapor leakage from any portion of the vapor recovery system; and
 - x. A spill containment receptacle is installed and maintained free of standing liquid, debris and other foreign matter. The spill containment receptacle shall be equipped with an integral drain valve or other CARB-certified equipment, to return spilled gasoline to the underground stationary storage tank. The drain valve shall be maintained closed and free of vapor emissions at all times except when the valve is actively in use.
 - b. An Above Ground Storage Tank (AST) with a capacity greater than 250 gallons must meet all of the following conditions:
 - i. A permanent submerged fill pipe is installed and maintained to ensure the highest point of the discharge opening is no more than six inches (6") from the bottom of the AST. If the AST is side filled, the fill pipe discharge opening is no more than 18 inches above the tank bottom;
 - ii. A pressure vacuum vent is installed and maintained per manufacturer specifications;
 - iii. Each fill pipe is equipped with a gasketed vapor tight cap;
 - iv. Each poppetted dry break is equipped with a vapor tight seal and is covered with a gasketed vapor tight cap;
 - v. All threads, gaskets, and mating surfaces of the fill pipe assembly shall prevent liquid or vapor leakage at the joints of the assembly;
 - vi. Each gasketed vapor tight cap is maintained in a closed position except when actively in use;
 - vii. If an AST is equipped with a spill containment receptacle, it shall be maintained to be free of standing liquid, debris and other foreign matter;
 - viii. A spill containment receptacle is installed at each fill pipe;
 - ix. Each spill containment receptacle equipped with an integral drain valve or other approved equipment that returns spilled gasoline to the aboveground storage tank shall be maintained closed vapor tight except when the valve is actively in use; and
 - x. Any overfill prevention equipment shall be approved, installed and maintained vapor tight to the atmosphere. Any device mounted within the fill pipe shall be so designed and maintained that no vapor from the vapor space above the gasoline within the tank can penetrate into the fill pipe or through any of the fill pipe assembly into the atmosphere.
- 4. LOADING OF GASOLINE:
 - a. When more than one owner or operator is present at a gasoline dispensing facility, prior to accepting a load of gasoline, the owner or operator of a gasoline dispensing facility shall verify all of the following:
 - i. The gasoline cargo tank clearly displays a valid Maricopa County (Mc) Vapor Tightness Test decal that is permanently mounted near the front on the right (passenger) side of the vessel.
 - ii. The owner or operator of the gasoline cargo tank connects the vapor return hose.
- 5. CONTROL OF VOC VAPORS:



- a. Gasoline vapors displaced from a stationary dispensing tank by gasoline being delivered shall be handled by a Stage 1 Vapor Recovery System, unless the tank is exempted by §5-20-100.3 of this rule.
- b. Stage 1 Vapor-Recovery System Configuration:
 - i. Replacement: No part of a vapor recovery system for which there is a CARB specification shall be replaced with anything but CARB-certified components.
 - ii. Vapor Valves:
 1. All vapor return lines from a stationary dispensing tank shall be equipped with CARB-certified, spring-loaded, vapor-tight, poppetted dry break valves.
 2. Vapor valves shall be inspected weekly to determine if closure is complete and gaskets are intact; a record shall be made pursuant to §5-20-500.2 of this rule.
 - iii. Above Ground Systems: An above ground dispensing tank shall have CARB-certified fittings wherever CARB so specifies.
 - iv. Installation of New Gasoline Tank: Each new gasoline tank installation shall use CARB-certified fittings exclusively wherever CARB so specifies, and:
 1. Shall have its own separate, functioning dual-point vapor return line;
 2. Is allowed to have a combination vapor recovery system that in addition to having a separate dual-point vapor return line, also has vapor piping/fittings linking it to one or more (other) stationary gasoline dispensing tanks.
 - v. New Coaxial Prohibited:
 1. No coaxial fill pipes shall be installed in new installations; and
 2. No coaxial fill pipes shall be reinstalled in major modifications in which the top of the tank is exposed and the vapor port bung is pre-configured to accept vapor recovery piping.
- c. Equipment Maintenance and Use Required:
 - i. All vapor loss control equipment shall be:
 1. Installed as required;
 2. Operated as recommended by the manufacturer; and
 3. Maintained leak-free, vapor-tight and in good working order.
 - ii. Coaxial Systems: Both spring-loaded and fixed coaxial fill pipes shall be
 1. Maintained according to the standards of their manufacturer(s); and
 2. Be operated so that there is no obstruction of vapor passage from the tank to the cargo tank.

5-20-400. ADMINISTRATIVE REQUIREMENTS

1. The owner or operator of a gasoline dispensing facility shall conduct inspections of the stationary gasoline storage tank.
 - a. The inspection shall include, but is not limited to all of the following:
 - i. The spill containment receptacle shall be maintained:
 1. Free of cracks, rust and defects;
 2. Free of foreign material;
 3. Empty of liquid, including gasoline; and
 4. The drain valve, if installed, shall properly seal.
 - ii. The external fittings of the fill pipe assembly shall be:
 1. Intact and not loose;
 2. Covered with a gasketed cap that fits securely onto the fill pipe.
 - iii. The poppetted dry break shall be:
 1. Equipped with a vapor tight seal;
 2. Covered with a gasketed cap that fits securely onto the poppetted dry break.
 - b. The inspections shall be conducted:
 - i. At least once per calendar week; or
 - ii. If the gasoline dispensing facilities receives gasoline loads less than once per calendar week, the inspection shall take place upon completion of the receipt of the load of gasoline.
2. Burden of Proof:
 - a. Proving Exempt Status: The burden of proof of eligibility for exemption from a provision of this rule is on the owner or operator. An owner or operator seeking such an exemption shall maintain adequate records and furnish them to the Control Officer upon request.
 - b. Providing Proof of Equipment Compliance: It is the responsibility of the owner or operator to provide proof, when requested by the Control Officer, that a vapor recovery system or its modifications meet the requirements of this Article.
3. CARB Decertification: An owner or operator shall not install or reinstall a component related to vapor recovery that has been decertified by CARB.

5-20-500. MONITORING AND RECORDS

1. MONITORING FOR LEAKS
 - a. Combustible Gas Detector or Organic Vapor Analyzer – Test Procedure: During loading of gasoline into storage tanks, the peripheries of all potential sources of leakage at the loading facility are checked with a combustible gas detector (CGD) or organic vapor analyzer(OVA) as follows:



5. TEST METHODS: The EPA test methods as they exist in the Code of Federal Regulations (CFR) as listed below, are adopted by reference. The CARB test methods as they exist in Stationary Source Test Methods, Volume 2, on April 8, 1999, as listed in §5-20-500(5)(c) of this rule, are adopted by reference. The other test methods listed here are also adopted by reference, each having paired with it a specific date that identifies the particular version/revision of the method that is adopted by reference. These adoptions by reference include no future editions or amendments.
- a. EPA Test Methods:
 - i. EPA Methods 2a (“Direct Measurement of Gas Volume Through Pipes and Small Ducts”), and 2b (“Determination of Exhaust-Gas Volume Flow-Rate From Gasoline Vapor Incinerators”), 40 CFR 60, Appendix A.
 - ii. EPA Method 21 - Determination of Volatile Organic Compound Leaks.
 - iii. EPA Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3
 - iv. EPA Method 25 (“Determination of Total Gaseous Nonmethane Organic Emissions as Carbon”) and its submethods (40 CFR 60, Appendix A).
 - v. EPA Method 27 (“Determination Of Vapor Tightness Of Gasoline Delivery Tank Using Pressure-Vacuum Test”) in 40 CFR 60, Appendix A.
 - vi. Optical Gas Imaging: Alternative Work Practice for Monitoring Equipment Leaks, 40 CFR 60.18(g). An owner or operator may use an optical gas imaging instrument instead of a 40 CFR part 60, Appendix A-7, Method 21 to monitor for equipment volatile organic compound leaks.
 - b. ASTM Standards:
 - i. ASTM D323-15a “Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).
 - ii. ASTM D4953-15 “Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)
 - c. CARB Certification and Test Procedures for Gasoline Vapor Recovery Systems:
 - i. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - ii. California Air Resources Board Vapor Recovery Test Procedure TP-201.1,—Volumetric Efficiency for Phase I Vapor Recovery Systems, adopted April 12, 1996, and amended February 1, 2001, and October 8, 2003.
 - iii. CARB Test Procedure TP-201.1A - “Determination of Efficiency of Phase I Vapor Recovery Systems of Dispensing Facilities with Assist Processors”.
 - iv. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - v. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - vi. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1D, Leak Rate of Drop Tube Overfill Protection Devices and Spill Container Drain Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - vii. California Air Resources Board Vapor Recovery Test Procedure TP-201.3—Determination of 2-Inch WC Static Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, adopted April 12, 1996, and amended July 26, 2012.
 - viii. Bay Area Air Quality Management District Source Test Procedure ST-30—Static Pressure Integrity Test—Underground Storage Tanks, adopted November 30, 1983, and amended December 21, 1994.
 - d. Additional Test Methods:
 - i. 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.
 - ii. American Petroleum Institute Standard API STD 650 Welded Tanks for Oil Storage, Twelfth Edition, Includes Errata 1 (2013), Errata 2 (2014), and Addendum 1 (2014).

REGISTER INDEXES

The *Register* is published by volume in a calendar year (See “Information” in the front of each issue for a more detailed explanation).

Abbreviations for rulemaking activity in this Index include:

PROPOSED RULEMAKING

PN = Proposed new Section
PM = Proposed amended Section
PR = Proposed repealed Section
P# = Proposed renumbered Section

SUPPLEMENTAL PROPOSED RULEMAKING

SPN = Supplemental proposed new Section
SPM = Supplemental proposed amended Section
SPR = Supplemental proposed repealed Section
SP# = Supplemental proposed renumbered Section

FINAL RULEMAKING

FN = Final new Section
FM = Final amended Section
FR = Final repealed Section
F# = Final renumbered Section

SUMMARY RULEMAKING**PROPOSED SUMMARY**

PSMN = Proposed Summary new Section
PSMM = Proposed Summary amended Section
PSMR = Proposed Summary repealed Section
PSM# = Proposed Summary renumbered Section

FINAL SUMMARY

FSMN = Final Summary new Section
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EXPEDITED RULEMAKING**PROPOSED EXPEDITED**

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PEM = Proposed Expedited amended Section
PER = Proposed Expedited repealed Section
PE# = Proposed Expedited renumbered Section

SUPPLEMENTAL EXPEDITED

SPEN = Supplemental Proposed Expedited new Section
SPEM = Supplemental Proposed Expedited amended Section
SPER = Supplemental Proposed Expedited repealed Section
SPE# = Supplemental Proposed Expedited renumbered Section

FINAL EXPEDITED

FEN = Final Expedited new Section
FEM = Final Expedited amended Section
FER = Final Expedited repealed Section
FE# = Final Expedited renumbered Section

EXEMPT RULEMAKING**EXEMPT PROPOSED**

PXN = Proposed Exempt new Section
PXM = Proposed Exempt amended Section
PXR = Proposed Exempt repealed Section
PX# = Proposed Exempt renumbered Section

EXEMPT SUPPLEMENTAL PROPOSED

SPXN = Supplemental Proposed Exempt new Section
SPXR = Supplemental Proposed Exempt repealed Section
SPXM = Supplemental Proposed Exempt amended Section
SPX# = Supplemental Proposed Exempt renumbered Section

FINAL EXEMPT RULMAKING

FXN = Final Exempt new Section
FXM = Final Exempt amended Section
FXR = Final Exempt repealed Section
FX# = Final Exempt renumbered Section

EMERGENCY RULEMAKING

EN = Emergency new Section
EM = Emergency amended Section
ER = Emergency repealed Section
E# = Emergency renumbered Section
EEXP = Emergency expired

RECODIFICATION OF RULES

RC = Recodified

REJECTION OF RULES

RJ = Rejected by the Attorney General

TERMINATION OF RULES

TN = Terminated proposed new Sections
TM = Terminated proposed amended Section
TR = Terminated proposed repealed Section
T# = Terminated proposed renumbered Section

RULE EXPIRATIONS

EXP = Rules have expired

See also “emergency expired” under emergency rulemaking

CORRECTIONS

C = Corrections to Published Rules

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2016 RULES EFFECTIVE DATES CALENDAR

A.R.S. § 41-1032(A), as amended by Laws 2002, Ch. 334, § 8 (effective August 22, 2002), states that a rule generally becomes effective 60 days after the day it is filed with the Secretary of State's Office. The following table lists filing dates and effective dates for rules that follow this provision. Please also check the rulemaking Preamble for effective dates.

January		February		March		April		May		June	
Date Filed	Effective Date										
1/1	3/1	2/1	4/1	3/1	4/30	4/1	5/31	5/1	6/30	6/1	7/31
1/2	3/2	2/2	4/2	3/2	5/1	4/2	6/1	5/2	7/1	6/2	8/1
1/3	3/3	2/3	4/3	3/3	5/2	4/3	6/2	5/3	7/2	6/3	8/2
1/4	3/4	2/4	4/4	3/4	5/3	4/4	6/3	5/4	7/3	6/4	8/3
1/5	3/5	2/5	4/5	3/5	5/4	4/5	6/4	5/5	7/4	6/5	8/4
1/6	3/6	2/6	4/6	3/6	5/5	4/6	6/5	5/6	7/5	6/6	8/5
1/7	3/7	2/7	4/7	3/7	5/6	4/7	6/6	5/7	7/6	6/7	8/6
1/8	3/8	2/8	4/8	3/8	5/7	4/8	6/7	5/8	7/7	6/8	8/7
1/9	3/9	2/9	4/9	3/9	5/8	4/9	6/8	5/9	7/8	6/9	8/8
1/10	3/10	2/10	4/10	3/10	5/9	4/10	6/9	5/10	7/9	6/10	8/9
1/11	3/11	2/11	4/11	3/11	5/10	4/11	6/10	5/11	7/10	6/11	8/10
1/12	3/12	2/12	4/12	3/12	5/11	4/12	6/11	5/12	7/11	6/12	8/11
1/13	3/13	2/13	4/13	3/13	5/12	4/13	6/12	5/13	7/12	6/13	8/12
1/14	3/14	2/14	4/14	3/14	5/13	4/14	6/13	5/14	7/13	6/14	8/13
1/15	3/15	2/15	4/15	3/15	5/14	4/15	6/14	5/15	7/14	6/15	8/14
1/16	3/16	2/16	4/16	3/16	5/15	4/16	6/15	5/16	7/15	6/16	8/15
1/17	3/17	2/17	4/17	3/17	5/16	4/17	6/16	5/17	7/16	6/17	8/16
1/18	3/18	2/18	4/18	3/18	5/17	4/18	6/17	5/18	7/17	6/18	8/17
1/19	3/19	2/19	4/19	3/19	5/18	4/19	6/18	5/19	7/18	6/19	8/18
1/20	3/20	2/20	4/20	3/20	5/19	4/20	6/19	5/20	7/19	6/20	8/19
1/21	3/21	2/21	4/21	3/21	5/20	4/21	6/20	5/21	7/20	6/21	8/20
1/22	3/22	2/22	4/22	3/22	5/21	4/22	6/21	5/22	7/21	6/22	8/21
1/23	3/23	2/23	4/23	3/23	5/22	4/23	6/22	5/23	7/22	6/23	8/22
1/24	3/24	2/24	4/24	3/24	5/23	4/24	6/23	5/24	7/23	6/24	8/23
1/25	3/25	2/25	4/25	3/25	5/24	4/25	6/24	5/25	7/24	6/25	8/24
1/26	3/26	2/26	4/26	3/26	5/25	4/26	6/25	5/26	7/25	6/26	8/25
1/27	3/27	2/27	4/27	3/27	5/26	4/27	6/26	5/27	7/26	6/27	8/26
1/28	3/28	2/28	4/28	3/28	5/27	4/28	6/27	5/28	7/27	6/28	8/27
1/29	3/29	2/29	4/29	3/29	5/28	4/29	6/28	5/29	7/28	6/29	8/28
1/30	3/30			3/30	5/29	4/30	6/29	5/30	7/29	6/30	8/29
1/31	3/31			3/31	5/30			5/31	7/30		



July		August		September		October		November		December	
Date Filed	Effective Date										
7/1	8/30	8/1	9/30	9/1	10/31	10/1	11/30	11/1	12/31	12/1	1/30/17
7/2	8/31	8/2	10/1	9/2	11/1	10/2	12/1	11/2	1/1/17	12/2	1/31/17
7/3	9/1	8/3	10/2	9/3	11/2	10/3	12/2	11/3	1/2/17	12/3	2/1/17
7/4	9/2	8/4	10/3	9/4	11/3	10/4	12/3	11/4	1/3/17	12/4	2/2/17
7/5	9/3	8/5	10/4	9/5	11/4	10/5	12/4	11/5	1/4/17	12/5	2/3/17
7/6	9/4	8/6	10/5	9/6	11/5	10/6	12/5	11/6	1/5/17	12/6	2/4/17
7/7	9/5	8/7	10/6	9/7	11/6	10/7	12/6	11/7	1/6/17	12/7	2/5/17
7/8	9/6	8/8	10/7	9/8	11/7	10/8	12/7	11/8	1/7/17	12/8	2/6/17
7/9	9/7	8/9	10/8	9/9	11/8	10/9	12/8	11/9	1/8/17	12/9	2/7/17
7/10	9/8	8/10	10/9	9/10	11/9	10/10	12/9	11/10	1/9/17	12/10	2/8/17
7/11	9/9	8/11	10/10	9/11	11/10	10/11	12/10	11/11	1/10/17	12/11	2/9/17
7/12	9/10	8/12	10/11	9/12	11/11	10/12	12/11	11/12	1/11/17	12/12	2/10/17
7/13	9/11	8/13	10/12	9/13	11/12	10/13	12/12	11/13	1/12/17	12/13	2/11/17
7/14	9/12	8/14	10/13	9/14	11/13	10/14	12/13	11/14	1/13/17	12/14	2/12/17
7/15	9/13	8/15	10/14	9/15	11/14	10/15	12/14	11/15	1/14/17	12/15	2/13/17
7/16	9/14	8/16	10/15	9/16	11/15	10/16	12/15	11/16	1/15/17	12/16	2/14/17
7/17	9/15	8/17	10/16	9/17	11/16	10/17	12/16	11/17	1/16/17	12/17	2/15/17
7/18	9/16	8/18	10/17	9/18	11/17	10/18	12/17	11/18	1/17/17	12/18	2/16/17
7/19	9/17	8/19	10/18	9/19	11/18	10/19	12/18	11/19	1/18/17	12/19	2/17/17
7/20	9/18	8/20	10/19	9/20	11/19	10/20	12/19	11/20	1/19/17	12/20	2/18/17
7/21	9/19	8/21	10/20	9/21	11/20	10/21	12/20	11/21	1/20/17	12/21	2/19/17
7/22	9/20	8/22	10/21	9/22	11/21	10/22	12/21	11/22	1/21/17	12/22	2/20/17
7/23	9/21	8/23	10/22	9/23	11/22	10/23	12/22	11/23	1/22/17	12/23	2/21/17
7/24	9/22	8/24	10/23	9/24	11/23	10/24	12/23	11/24	1/23/17	12/24	2/22/17
7/25	9/23	8/25	10/24	9/25	11/24	10/25	12/24	11/25	1/24/17	12/25	2/23/17
7/26	9/24	8/26	10/25	9/26	11/25	10/26	12/25	11/26	1/25/17	12/26	2/24/17
7/27	9/25	8/27	10/26	9/27	11/26	10/27	12/26	11/27	1/26/17	12/27	2/25/17
7/28	9/26	8/28	10/27	9/28	11/27	10/28	12/27	11/28	1/27/17	12/28	2/26/17
7/29	9/27	8/29	10/28	9/29	11/28	10/29	12/28	11/29	1/28/17	12/29	2/27/17
7/30	9/28	8/30	10/29	9/30	11/29	10/30	12/29	11/30	1/29/17	12/30	2/28/17
7/31	9/29	8/31	10/30			10/31	12/30			12/31	3/1/17



REGISTER PUBLISHING DEADLINES

The Secretary of State's Office publishes the Register weekly. There is a three-week turnaround period between a deadline date and the publication date of the Register. The weekly deadline dates and issue dates are shown below. Council meetings and Register deadlines do not correlate. Also listed are the earliest dates on which an oral proceeding can be held on proposed rulemakings or proposed delegation agreements following publication of the notice in the Register.

Table with 3 columns: Deadline Date (paper only) Friday, 5:00 p.m., Register Publication Date, and Oral Proceeding may be scheduled on or after. Rows list dates from October 2016 to May 2017.



GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES

The following deadlines apply to all Five-Year-Review Reports and any adopted rule submitted to the Governor’s Regulatory Review Council. Council meetings and *Register* deadlines do not correlate. We publish these deadlines as a courtesy.

All rules and Five-Year Review Reports are due in the Council office by noon of the deadline date. The Council’s office is located at 100 N. 15th Ave., Suite 402, Phoenix, AZ 85007. For more information, call (602) 542-2058 or visit www.grrc.state.az.us.

GOVERNOR’S REGULATORY REVIEW COUNCIL DEADLINES FOR 2016

DEADLINE TO BE PLACED ON COUNCIL AGENDA	FINAL MATERIALS DUE FROM AGENCIES	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
November 17, 2015	December 18, 2015	December 29, 2015	January 5, 2016
December 21, 2015	January 15, 2016	January 26, 2016	February 2, 2016
January 19, 2016 (Tuesday)	February 12, 2016	February 23, 2016	March 1, 2016
February 16, 2016 (Tuesday)	March 18, 2016	March 29, 2016	April 5, 2016
March 21, 2016	April 15, 2016	April 26, 2016	May 5, 2016
April 18, 2016	May 20, 2016	June 1, 2016 (Wednesday)	June 7, 2016
May 23, 2016	June 17, 2016	June 28, 2016	July 6, 2016 (Wednesday)
June 20, 2016	July 15, 2016	July 26, 2016	August 2, 2016
July 18, 2016	August 19, 2016	August 30, 2016	September 7, 2016 (Wednesday)
August 22, 2016	September 16, 2016	September 27, 2016	October 4, 2016
September 19, 2016	October 14, 2016	October 25, 2016	November 1, 2016
October 17, 2016	November 18, 2016	November 29, 2016	December 6, 2016
November 21, 2016	December 16, 2016	December 28, 2016 (Wednesday)	January 4, 2017 (Wednesday)

*Materials must be submitted by **noon** on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.



**GOVERNOR'S REGULATORY REVIEW COUNCIL
NOTICE OF ACTION TAKEN AT THE
DECEMBER 8, 2016 MEETING**

[M16-293]

RULES:

BOARD OF PHYSICIAN ASSISTANTS (R-16-1201)

Title 4, Chapter 17, Article 2, Physician Assistant Licensure; Article 3, Duties of the Executive Director

Amend: Table 1; R4-17-202; R4-17-203; R4-17-204; R4-17-205; R4-17-206

New Article: Article 3

New Section: R4-17-301; R4-17-302; R4-17-303; R4-17-304; R4-17-305; R4-17-306

COUNCIL ACTION: APPROVED

BOARD OF DENTAL EXAMINERS (R-16-1202)

Title 4, Chapter 11, Article 4, Fees

Amend: R4-11-401; R4-11-402; R4-11-405; R4-11-406

New Section: R4-11-403

COUNCIL ACTION: APPROVED

ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (R-16-1203)

Title 9, Chapter 22, Article 7, Standards for Payments

New Section: R9-22-712.90

COUNCIL ACTION: APPROVED

FIVE-YEAR-REVIEW REPORTS:

DEPARTMENT OF ENVIRONMENTAL QUALITY (F-16-0701)

Title 18, Chapter 9, Article 1, Aquifer Protection Permits – General Provisions; Article 3, Aquifer Protection Permits – General Permits; Article 4, Nitrogen Management – General Permits

COUNCIL ACTION: APPROVED

DEPARTMENT OF AGRICULTURE (F-16-0802)

Title 4, Chapter 29, Article 1, General and Administrative Provisions; Article 2, Certification, Registration and Licensure; Continuing Education; Article 3, Pest Management; Article 4, Supervision; Article 5, Recordkeeping and Reporting; Article 6, Inspections; Disciplinary Procedures

COUNCIL ACTION: APPROVED

DEPARTMENT OF ENVIRONMENTAL QUALITY (F-16-1101)

Title 18, Chapter 2, Article 14, Conformity Determinations; Article 15, Forest and Range Management Burns

COUNCIL ACTION: APPROVED



DEPARTMENT OF HEALTH SERVICES (F-16-1201)

Title 9, Chapter 1, Article 5, Sliding Fee Schedules

COUNCIL ACTION: APPROVED

CRIMINAL JUSTICE COMMISSION (F-16-1202)

Title 10, Chapter 4, Article 3, Criminal Justice Enhancement Fund; Article 5, Full-Service Forensic Crime Laboratory Account

COUNCIL ACTION: APPROVED

BOARD OF DISPENSING OPTICIANS (F-16-1203)

Title 4, Chapter 20, Article 1, General

COUNCIL ACTION: APPROVED

CONSIDERATION AND DISCUSSION OF THE REVIEW OF RULES OUTSIDE OF THE FIVE-YEAR REVIEW PROCESS:

DEPARTMENT OF AGRICULTURE

R3-2-205 (Requirements for Designation of Rendering Plants to Produce Certified Animal Fat)

R3-2-403 (Individual Identification of Swine at Market)

R3-2-621 (Non-restricted Live Wildlife Cervidae)

R3-2-622 (Monkeys)

COUNCIL ACTION: Require a report be submitted with a due date of December 15, 2016

DEPARTMENT OF INSURANCE

R20-6-204 (Surplus Lines Brokers' Filing Requirements; List of Unauthorized Insurers)

COUNCIL ACTION: Require a report be submitted with a due date of December 15, 2016