

Arizona Administrative REGISTER

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~ Administrative Register Contents ~

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Information 2
Rulemaking Guide 3

RULES AND RULEMAKING

Proposed Rulemaking, Notices of

 4 A.A.C. 23 Board of Pharmacy 5
 17 A.A.C. 5 Department of Transportation - Commercial Programs 7
 17 A.A.C. 5 Department of Transportation - Commercial Programs 16

Final Rulemaking, Notices of

 9 A.A.C. 22 AHCCCS - Administration 22

Emergency Rulemaking, Notices of

 4 A.A.C. 23 Board of Pharmacy 31

Rule Expirations

 2 A.A.C. 8 State Retirement System 34
 17 A.A.C. 4 Department of Transportation - Title, Registration, and Driver Licenses 34

OTHER AGENCY NOTICES

Proposed Delegation Agreement, Notices of
 Department of Environmental Quality 35

ARIZONA COUNTY NOTICES

 Maricopa County 37
 Maricopa County 54

INDEXES

 Register Index Ledger 72
 Rulemaking Action, Cumulative Index for 2016 73
 Other Notices and Public Records, Cumulative Index for 2016 83

CALENDAR/DEADLINES

 Rules Effective Dates Calendar 86
 Register Publishing Deadlines 88

GOVERNOR'S REGULATORY REVIEW COUNCIL

 Governor's Regulatory Review Council Deadlines 89

DIRECTOR
Public Services Division
Scott Cancelosi

PUBLISHER
Secretary of State
MICHELE REAGAN

RULES MANAGING EDITOR
Arizona Administrative Register
Rhonda Paschal

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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PUBLISHER
SECRETARY OF STATE
Michele Reagan

PUBLIC SERVICES STAFF
DIRECTOR
Scott Cancelosi

RULES MANAGING EDITOR
Rhonda Paschal

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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.

CONTACT US
The Honorable Michele Reagan
Office of the Secretary of State
1700 W. Washington Street, Fl. 7
Phoenix, AZ 85007
(602) 364-3223

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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 that 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 23. BOARD OF PHARMACY**

[R16-269]

PREAMBLE

1. **Articles, Parts, and Sections Affected (as applicable)** **Rulemaking Action**
 R4-23-407.1 New Section
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. § 32-1979
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. 3414, December 9, 2016
 Notice of Emergency Rulemaking: 22 A.A.R. XX, January 6, 2017 (*in this issue*).
4. **The agency's contact person who can answer questions about the rulemaking:**
 Name: Kamlesh Gandhi
 Address: 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:**
 Under Laws 2016, Chapter 212, Section 5, the legislature added A.R.S. § 32-1979 authorizing a licensed pharmacist to dispense an opioid antagonist approved by the U.S. Food and Drug Administration without a prescription order to an individual at risk of experiencing an opioid-related overdose or a family or community member in position to assist the individual. The statute requires the Board to make rules regarding dispensing an opioid antagonist without a prescription order and documenting the dispensing. This rulemaking makes the required rule.

 An exemption from Executive Order 2016-03 for an emergency rulemaking was authorized by Christina Corieri, Senior Policy Advisor in the Governor's Office, in an e-mail dated September 30, 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.
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:**
 It is the statutory change enacted by the legislature that has economic impact. The legislation authorizes licensed pharmacists to



make opioid antagonists more readily available to individuals at risk of an opioid-related overdose. The economic impact includes the potential for saving the lives of individuals at risk of an opioid-related overdose. The rulemaking, which simply makes the rules required by statute, will have minimal economic impact.

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

Name: Kamlesh Gandhi
Address: 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 rules will be held as follows:

Date: Monday, February 6, 2017
Time: 9:00 a.m.
Location: 1616 W. Adams St., Pharmacy Board room
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 rule does not require a 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 is federal law governing medications and those requiring a prescription order. However there is no federal law specific to the subject matter 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.

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 23. BOARD OF PHARMACY**

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-407.1. Dispensing an Opioid Antagonist

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-407.1. Dispensing an Opioid Antagonist

A. As used in this Section:

1. “Community member” means a person in position to assist an individual at risk of experiencing an opioid-related overdose. This includes emergency first responders, peace officers or other law enforcement personnel, fire department personnel, school district employees, and personnel of a facility or center that provides services to individuals at risk of experiencing an opioid-related overdose.
2. “Opioid antagonist” means any drug approved by the U.S. Food and Drug Administration that binds to opioid receptors, effectively blocking or inhibiting the receptor and preventing the body from responding to the opioid. Naloxone hydrochloride is an opioid antagonist.
3. Opioid-related overdose” means an acute condition in which the opioid overdose triad of symptoms, decreased level of consciousness, pinpoint pupils, and respiratory depression, is present. Other symptoms may include seizures, muscle spasms, and coma or death. An opioid-related overdose requires medical assistance.

B. Before allowing an opioid antagonist to be dispensed under A.R.S. § 32-1979, a pharmacy permit holder shall have written policies and procedures regarding:

1. Documentation of opioid antagonists dispensed under A.R.S. § 32-1979. The documentation shall:



- a. Include the information required under R4-23-407(A)(1)(a), (c), (d), (f), and (l) and (A)(2); and
- b. Include the following:
 - i. Quantity dispensed;
 - ii. Directions for use; and
 - iii. If available, the patient’s name, address, telephone number, and birth date; or
 - iv. Name, address, telephone number, and birth date of a family member in position to assist the individual at risk of an opioid-related overdose; or
 - v. Name, address, telephone number, and entity at which employed of a community member in position to assist an individual at risk of an opioid-related overdose; and
 - vi. Name of the individual providing the education required under subsection (B)(2);
- 2. Education to be provided to the individual to whom the opioid antagonist is dispensed. The education shall include:
 - a. How to prevent an opioid-related overdose;
 - b. How to recognize an opioid-related overdose;
 - c. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
 - d. Precautions regarding:
 - i. Potential side effects, and
 - ii. Possible adverse events associated with administration of the opioid antagonist; and
 - e. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist; and
- 3. Confidentiality, security, and privileged nature of documentation of opioid antagonists dispensed under A.R.S. § 32-1979.
- C. Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall:
 - 1. Complete an opioid prevention and treatment training program that includes the following information:
 - a. How to recognize the symptoms of an opioid-related overdose.
 - b. How to respond to a suspected opioid-related overdose.
 - c. How to administer all preparations of an opioid antagonist, and
 - d. The information needed by an individual to whom an opioid antagonist is dispensed, and
 - 2. Comply fully with the policies and procedures developed under subsection (B).
- D. A pharmacist who has completed an opioid prevention and treatment training program described in subsection (C):
 - 1. May administer an opioid antagonist to an individual the pharmacist believes is experiencing an opioid-related overdose, and
 - 2. Is exempt from civil liability under the terms of A.R.S. § 36-2267(B).
- E. Dispensing an opioid antagonist under A.R.S. § 32-1979 by invoice to a community member is not wholesale distribution as defined at A.R.S. § 32-1981.

**NOTICE OF PROPOSED RULEMAKING
TITLE 17. TRANSPORTATION
CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

[R16-270]

PREAMBLE

- | <u>1. Article, Part, or Section Affected (as applicable)</u> | <u>Rulemaking Action</u> |
|---|---------------------------------|
| R17-5-301 | Amend |
| R17-5-302 | Amend |
| R17-5-303 | Amend |
| R17-5-305 | Amend |
| R17-5-306 | Amend |
| R17-5-307 | Amend |
| R17-5-308 | Amend |
| R17-5-309 | Amend |
| R17-5-311 | Amend |
| R17-5-313 | Amend |
| R17-5-315 | Amend |
| R17-5-318 | Amend |
| R17-5-323 | Amend |
- 2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**
 Authorizing statutes: A.R.S. §§ 28-366, 28-3411, 32-2352, and 32-2372.01
 Implementing statutes: A.R.S. §§ 28-3413 through 28-3416, 32-2371, 32-2371.01, 32-2373, 32-2374, 32-2391, 41-1009, and 41-1064
 - 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. 2569, September 16, 2016



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

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Web site: http://www.azdot.gov/about/GovernmentRelations

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 Department engages in this rulemaking to implement Laws 2016, Chapter 371, which eliminated the requirement for professional driver training school (PDTs) instructors to be licensed, by repealing A.R.S. § 32-2372, effective January 1, 2017, and which also newly requires the Department to adopt rules to establish requirements and minimum standards for commercial motor vehicle instructors. The statutory requirements for PDTs and agents to be licensed by the Department remain in law at A.R.S. §§ 32-2371 and 32-2371.01, respectively. PDTs educate and train persons, either practically or theoretically, or both, to operate or drive commercial motor vehicles and prepare applicants for an examination given for a commercial driver license or instruction permit. Amendments made in this rulemaking include removing PDTs instructor license verbiage, temporary PDTs instructor license verbiage, and the PDTs instructor license application process; establishing PDTs instructor requirements; specifying that the statutory agent needs to be listed as in the Articles of Incorporation during the PDTs school application; and making minor streamlining and technical changes. In addition, the Department is removing the requirement that school licensees and instructors must be at least 21 years of age and have a high school diploma or equivalent.

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 Department did not review or rely on any study relevant to the rules.

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:

Pursuant to Laws 2016, Chapter 371, this proposed rulemaking amends the rules relating to the licensure and administration of PDTs instructors by removing the licensing requirements and instead adopting instructor requirements and standards. The rule amendments are necessary in order for the Department to continue to be in compliance with state law and to ease the burden on the PDTs schools and instructors and their clients.

Currently, the Department licenses and provides administrative oversight for 12 PDTs and 96 PDTs instructors. PDTs instruction is being offered at 13 licensed locations (12 principal places of business and 1 branch location).

The Department estimates that the PDTs and PDTs instructors should not incur any new costs in relation to these rules. Legislation and this rulemaking will benefit the schools and instructors in decreased costs and time savings from no longer having to go through the instructor license application process. The schools and instructors will no longer need to pay the licensing fee (\$10) to the Department and the fingerprint clearance card fee (\$67) to the Arizona Department of Public Safety (DPS).

The Department will realize minimal annual savings that include no longer having to print applicable forms, purchasing applicable office and operational supplies, and paying postage fees and archival fees for the administration of the instructors. The removal of the licensing of the instructors will cost a minimal to moderate lost of revenue to the Department (\$960 in possible annual license fees) and to DPS (\$6,432 in possible fingerprint clearance card fees).

The establishment of qualifications and requirements of instructors will continue the Department's ability to ensure some measure of consumer protection for individuals utilizing PDTs services.

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

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
E-mail: COlson2@azdot.gov
Web site: http://www.azdot.gov/about/GovernmentRelations

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:

Written comments on the proposed rulemaking should be directed to the person listed in item 4. All comments must be received by the close of public record at 5:00 p.m. on February 8, 2017. The Department has scheduled the following oral proceeding for pub-



lic comments:

Date: February 8, 2017
 Time: 10:00 a.m.
 Location: 206 S. 17th Ave., Rm. 107
 Phoenix, AZ 85007
 Nature: Oral Proceeding/Public Hearing

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), the Department does not discriminate on the basis of race, color, national origin, age, gender, disability, or limited English proficient. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptación razonable por habilidad limitada en inglés o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT al (602) 712-8946 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el estado tiene la oportunidad de abordar el alojamiento.

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:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

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:

These rules do contain regulations concerning the licenses of PDTs and traffic survival schools. These licenses do fall under the definition of general permits since the activities and practices licensed or qualified are substantially similar in nature for all to perform that specified activity or function.

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:

These rules are not more stringent than any applicable 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 to the Department.

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

This rulemaking incorporates no materials by reference.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
 COMMERCIAL PROGRAMS**

ARTICLE 3. PROFESSIONAL DRIVER SERVICES

Section

- R17-5-301. Definitions
- R17-5-302. Professional Driver Training School and Traffic Survival School Licensing; Eligibility and Application Requirements
- R17-5-303. Professional Driver Training School Instructor Licensing; Eligibility and Application Requirements; ~~Temporary Professional Driver Training Instructor License~~ Qualifications and Requirements
- R17-5-305. Traffic Survival School Qualified Instructor Status; Eligibility and Application Requirements
- R17-5-306. Required Training and Examination of School and Instructor Applicants
- R17-5-307. Approval or Denial of Application; Hearing; Appeal
- R17-5-308. License Issuance; Effective Date; Expiration; Display
- R17-5-309. Renewal of License
- R17-5-311. Professional Conduct; Conflicts of Interest; Advertising
- R17-5-313. Method of Instruction; Curriculum
- R17-5-315. Record Retention
- R17-5-318. Instructor Responsibilities
- R17-5-323. Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School ~~or Instructor~~ License or Traffic Survival School License or Qualification of a Traffic Survival School Instructor; Hearing and Appeal

ARTICLE 3. PROFESSIONAL DRIVER SERVICES

R17-5-301. Definitions

In addition to the definitions under A.R.S. §§ 28-101 and 32-2351, the following definitions apply to this Article, unless otherwise specified:



“Activity” means a function or service that is provided by a licensed professional driver training school pursuant to A.R.S. Title 32, Chapter 23 or licensed traffic survival school pursuant to A.R.S. Title 28, Chapter 8, Article 7.1 and that is performed by a ~~licensed professional driver training school~~ instructor or ~~traffic survival school~~ qualified instructor as defined in this Article.

“Applicant” means an individual or school, including principals, requesting in the manner set forth in this Article the issuance or renewal of a license or to become a qualified instructor under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.

“Application date” means the date the Department or private entity receives a signed application from an applicant.

“Audit” means a review of the operations, facilities, equipment, and records of a licensee under this Article, which is performed by the Department or private entity under A.R.S. § 28-3411 or 32-2352 to assess and ensure compliance with all applicable federal and state laws and rules.

“Branch” means a licensed professional driver training school’s or licensed traffic survival school’s business location that is an additional established place of business, but not the school’s principal place of business.

“Business day” means a day other than a Saturday, Sunday, or legal state holiday.

“Business manager” means an owner or employee of a licensed school who has primary and sufficient oversight, supervision, and responsibility for all operations necessary to ensure full compliance with all applicable federal or state laws, rules, and school guidelines.

“Certificate of completion” means an electronic or paper document that is approved by the Department or private entity and that is issued by a traffic survival school or high school qualified instructor to a student who has demonstrated successful completion of a training or educational session or both conducted under this Article.

“Character and reputation” means a person:

Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction.

Has not within five years of application date been convicted of any other felony or misdemeanor offense having a reasonable relationship to the functions of the activity or the employment or category for which the qualification is sought, and

Has not within 12 months had an application or an examination required for license or qualification under this Chapter denied or revoked due to fraud or misrepresentation.

“Commercial driver license motor vehicle record” has the same meaning as a CDLIS motor vehicle record as defined in 49 CFR 384.105.

“Department-approved inventory” means educational media and related items or other resources provided and approved by the Department or private entity that are deemed necessary or useful for traffic survival school instruction, which includes curriculum, computer disks or drives, classroom training materials, instructor workbooks, instructor training manuals, or other materials, whether stored in paper or electronic formats.

“Established place of business” means a licensed professional driver training school’s or licensed traffic survival school’s business location that is:

- Approved by the Department,
- Located in Arizona,
- Not used as a residence, and
- Where the licensed school performs licensed activities.

“Good moral character” means a person:

~~Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction;~~

~~Has not within five years of application date been convicted of any other felony or misdemeanor offense having a reasonable relationship to the functions of the activity or the employment or category for which the qualification is sought;~~

~~Has not within five years of application committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to the person’s proposed area of license or qualification;~~

~~Has not within 12 months engaged in fraud or misrepresentation in connection with an application or an examination required for license or qualification under this Chapter;~~

“Good standing” means an applicant:

- Has not had a similar business license, qualification, or approval suspended, revoked, canceled, or denied within the previous three years of the application date;
- Does not have any pending corrective action, as defined under R17-5-323, relating to a Department-issued business license, qualification, or approval;
- Has not had a fingerprint clearance card required for licensure under this Article suspended, revoked, or canceled;



Does not owe delinquent fees, taxes, or unpaid balances to the Department or private entity;

Has not had any substantiated derogatory information relevant to the requested license reported to the Department about the applicant from any state agency ~~or from any consumer protection agency~~ contacted by the Department; or

Has not been dismissed, or resigned in lieu of dismissal, from a position for cause following allegations of misconduct having a reasonable relationship to the person's proposed area of licensure or qualification, if the applicant is a former Department employee or a former principal or employee of a licensed professional driver training school or licensed traffic survival school.

"Immediate family member" has the same meaning as prescribed in A.R.S. § 28-2401.

"Inactivation" or "inactive" means a temporary or permanent status, assigned by the Department to a school ~~or professional driver training school instructor~~ previously licensed under this Article, which prohibits the school ~~or instructor~~ from further engaging in the previously licensed activity after the occurrence of any of the following actions:

Cancellation of license, as defined in R17-5-323;

Suspension of license, as defined in R17-5-323;

Revocation of license, as defined in R17-5-323;

Non-renewal of license; or

Relinquishment of license.

"Licensee" means a school ~~or instructor~~ licensed by the Department or private entity under A.R.S. § 28-3413; ~~or 32-2371; or 32-2372;~~ and this Article, to perform a licensed activity.

"Principal" means any of the following:

If a sole proprietorship, the sole proprietor;

If a partnership, limited partnership, limited liability partnership, limited liability company or corporation, the:

Partner;

Manager;

Member;

Officer;

Director;

Agent; or

If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation; or

If a political subdivision or government agency, the political subdivision or agency head.

"Principal place of business" means a licensed professional driver training school's or licensed traffic survival school's administrative headquarters, which shall not be used as a residence.

"Private entity" means an entity that contracts with the Department under A.R.S. § 28-3411 or 32-2352.

"Professional driver training school instructor license" means an ~~annual license issued by the Department or private entity under A.R.S. § 32-2372, and renewable under A.R.S. § 32-2374, which authorizes a person to individual meeting the qualifications under R17-5-303 who can~~ present specific training and educational curriculum to professional driver training school students as provided under this Article.

"Satisfactory driver record" means an applicant has not had within the past 39 months:

A conviction for driving under the influence, reckless or aggressive driving, racing on a highway, or leaving the scene of an accident;

A driver license previously canceled, suspended, revoked, or disqualified for any reason except for failing to meet or maintain the commercial driver license physical qualifications under 49 CFR 391.41 and A.A.C. R17-4-508; and

More than three previous assignments to attend traffic survival school and no pending assignment.

~~"Temporary professional driver training school instructor license" means the preliminary license issued to an instructor applicant by the Director or private entity under A.R.S. § 32-2372, which authorizes the applicant to perform school activities under this Article.~~

"Traffic survival school qualified instructor" means an individual deemed qualified by the Department or private entity under this Article to conduct instruction of an education session on behalf of a licensed traffic survival school.

R17-5-302. Professional Driver Training School and Traffic Survival School Licensing; Eligibility and Application Requirements

- A. An applicant for a professional driver training school or traffic survival school license, issued by the Department or private entity under A.R.S. § 28-3411 or 32-2371 and this Section, shall ~~be at least 21 years of age and~~ meet all applicable licensing requirements under state law and this Article when applying for an original or renewal license.



- B. An applicant for a professional driver training school or traffic survival school license shall complete and submit to the Department or private entity an application packet that contains all of the following:
 - 1. An application, completed on a form approved by the Department;
 - 2. Certification that each classroom used for the instruction of students is maintained in compliance with all applicable fire codes and local zoning ordinances;
 - 3. Certification that each classroom used for the instruction of students meets the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended;
 - 4. A copy of the following documents relating to the applicant’s business if the applicant is a:
 - a. Corporation:
 - i. A copy of the articles of incorporation, including any amendments filed with the Arizona Corporation Commission; and
 - ii. Any other official documents, including copies of board meeting minutes and annual reports that reflect the most recent change to the corporate name, structure, or officers;
 - b. Limited liability company:
 - i. A copy of the articles of organization, including any amendments filed with the Arizona Corporation Commission; or
 - ii. A copy of the application for registration as a foreign limited liability company filed with the Arizona Corporation Commission and a copy of the certificate of registration issued by the Arizona Corporation Commission to a foreign limited liability company;
 - c. Limited partnership or a limited liability partnership:
 - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State;
 - ii. A copy, stamped “filed” by the Arizona Office of the Secretary of State, of a certificate of limited partnership, certificate of foreign limited partnership, limited liability partnership form, foreign limited liability partnership form, or statement of qualification for conversion of limited partnership or limited liability partnership; or
 - iii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State; or
 - d. Sole proprietor:
 - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State, or
 - ii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State;
 - 5. ~~A copy of a high school diploma or equivalent for each applicant~~ The name, Arizona driver license number, and address of the school’s statutory agent, as designated in the articles of incorporation, if the applicant is a corporation;
 - 6. Documentation prescribed under A.R.S. § 41-1080 indicating that each applicant’s presence in the United States is authorized under federal law if the applicant is an individual, a sole proprietor, or part of a general partnership;
 - 7. Payment of the license fees prescribed under A.R.S. § 28-3415 or 32-2374 for each activity requested; and
 - 8. A form, approved by the Department, completed for each branch license, if applicable, and accompanied by payment of any applicable branch license fees prescribed under A.R.S. § 28-3415 or 32-2374.
- C. An applicant shall not use the following in any part of its school name, which ~~are~~ is subject to approval by the Department or private entity:
 - 1. The terms “Arizona Department of Transportation,” “Department of Transportation,” “Motor Vehicle Division,” “Motor Vehicle Department,” “Division of Motor Vehicles,” or “Department of Motor Vehicles;” or
 - 2. The acronyms “ADOT,” “DOT,” “MVD,” or “DMV.”
- D. Professional driver training school applicants must provide the following additional documents with the school’s application packet:
 - 1. A copy of the school’s complete curriculum, including a sample of all written examinations and answer keys, unless the curriculum is provided by the Department or private entity;
 - 2. Verification of liability insurance coverage reflecting at least the minimum amount prescribed under A.R.S. § 32-2393 for each motor vehicle used to provide instruction; and
 - 3. Diagrams detailing a minimum of three separate ~~road skills test~~ behind-the-wheel final evaluation routes with a written narrative indicating all required maneuvers, if the applicant will be providing behind-the-wheel driver training.

R17-5-303. Professional Driver Training School Instructor ~~Licensing, Eligibility and Application Requirements, Temporary Professional Driver Training School Instructor License~~ Qualifications and Requirements

- A. An applicant for a ~~A~~ professional driver training school instructor ~~license~~ shall:
 - 1. ~~Apply through Work for~~ a professional driver training school licensed by the Department or private entity under A.R.S. § 32-2371 and R17-5-302,
 - 2. ~~Be at least 21 years of age~~ Possess a valid Arizona commercial driver license with applicable endorsements representative of the vehicle to be used in training,
 - 3. ~~Be of good moral character~~ Meet the character and reputation requirements as defined in R17-5-301, and
 - 4. Meet all applicable ~~licensing~~ instructor requirements under state law and this Article.
- B. Each ~~professional driver training school licensed under A.R.S. § 32-2371 and this Article shall maintain a file for each~~ professional driver training ~~school instructor applicant shall complete an application packet~~ that contains the following:
 - ~~1. An application, completed on a form approved by the Department;~~
 - ~~2. A copy of a high school diploma or equivalent;~~
 - ~~3.1~~ A copy of a valid Arizona commercial driver license with applicable endorsements representative of the vehicle to be used in training; and
 - ~~4. Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant’s presence in the United States is authorized under federal law;~~
 - ~~5.2~~ A An annual commercial driver license motor vehicle record, dated within 30 days of the application date, which indicates that within the previous 39 months the applicant instructor has maintained a satisfactory driver record as defined in R17-5-301;
 - ~~6. Payment of license fees prescribed under A.R.S. § 32-2374 for each activity requested;~~



7. ~~Statements of positive endorsement or recommendation from at least three character references indicating each reference's:~~
 - a. ~~Name;~~
 - b. ~~Address;~~
 - c. ~~Contact phone number and email address;~~
 - d. ~~Relationship to the instructor applicant, and~~
 - e. ~~Number of years associated with the instructor applicant;~~
 8. ~~An affidavit, as provided under A.R.S. § 32-2372, from the business manager of the professional driver training school certifying that the instructor applicant:~~
 - a. ~~Has the necessary skills and abilities to give instruction on driver training at a professional level, and~~
 - b. ~~Has completed at least 100 hours of combined classroom and vehicle training representative of the class of vehicle appropriate to the activity; and~~
 9. ~~A copy of the fingerprint clearance card as required of the applicant under A.R.S. § 32-2372 and R17-5-304.~~
- C. ~~A business manager of a professional driver training school licensed under A.R.S. § 32-2371 and this Article shall submit to the Department or private entity the application packet for each instructor applicant a list of all of its professional driver training school instructors, including full name and commercial driver license number, at the time of hiring the instructors, within 10 calendar days of making any changes to the instructors as required under R17-5-310, and when renewing the school license as required under R17-5-309.~~
- ~~D. Temporary Professional Driver Training Instructor License. The Department or private entity shall issue a temporary professional driver training instructor license to an instructor applicant after receiving a fully completed application packet with all of the required content and information, as provided under subsection (B).~~
- ~~E. The Department or private entity may issue an annual professional driver training school instructor license to an instructor applicant, if:~~
1. ~~The applicant successfully completes the training session and examination required under R17-5-306 prior to expiration of the temporary instructor license issued under subsection (D), and~~
 2. ~~The applicant is otherwise qualified under this Article and state law to receive an annual professional driver training school instructor license.~~
- ~~F. The professional driver training school shall withdraw an application for a professional driver training school instructor license or the Department or private entity shall deny issuance of a license for an instructor applicant who fails to successfully complete the requirements under subsection (E) prior to expiration of the temporary professional driver training instructor license.~~

R17-5-305. Traffic Survival School Qualified Instructor Status; Eligibility and Application Requirements

- A. An applicant for traffic survival school qualified instructor status shall:
1. Apply through a traffic survival school licensed by the Department or private entity under A.R.S. § 28-3413 and this Article,
 2. ~~Be at least 21 years of age~~ Possess a valid Arizona driver license,
 3. Meet all applicable requirements under this Article, and
 4. ~~Be of good moral character~~ Meet the good standing and character and reputation requirements as defined in R17-5-301.
- B. Each traffic survival school qualified instructor applicant shall complete an application packet that contains the following:
1. An application, completed on a form approved by the Department;
 2. ~~A copy of a high school diploma or equivalent;~~
 3. ~~A copy of a valid Arizona driver license;~~
 4. ~~Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant's presence in the United States is authorized under federal law;~~
 5. ~~A motor vehicle record, dated within 30 days of the application date, which indicates that within the previous 39 months the applicant maintained a satisfactory driver record as defined under in R17-5-301;~~
 6. ~~An affidavit from the business manager of the traffic survival school certifying that the qualified instructor applicant has the necessary skills and abilities to give instruction at a professional level; and~~
 7. ~~Payment of authorized fees as required by the private entity for application and administration of the instructor qualification process and for required instructor continuing education, which shall be negotiated by the Department and the private entity and shall be set forth in their contract.~~
- C. An applicant for instructor qualification shall have successfully completed a traffic survival school educational workshop or similar curriculum approved by the Department or private entity before being permitted to instruct any traffic survival school course.
- D. An applicant for instructor qualification shall have successfully completed an examination given for qualification of instructors by the Department or private entity as required under R17-5-306 before being permitted to instruct any traffic survival school course.
- E. A business manager of a traffic survival school licensed under A.R.S. § 28-3413 and this Article shall submit to the Department or private entity the complete application packet for each qualified instructor applicant.

R17-5-306. Required Training and Examination of School and Instructor Applicants

- A. An applicant for a school ~~or instructor~~ license or for traffic survival school instructor qualification under this Article shall attend Department-approved training and shall pass one or more required examinations administered by the Department or private entity before:
1. Issuance of an applicable school ~~or instructor~~ license, or
 2. Approval of ~~the applicant's~~ the applicant's status as a traffic survival school qualified instructor.
- B. The Department or private entity shall limit a professional driver training school license applicant or traffic survival school qualified instructor applicant to three opportunities within 90 days, based on scheduling, to successfully complete and achieve a passing score or grade on each examination required under this Section.



R17-5-307. Approval or Denial of Application; Hearing; Appeal

- A. An application will not be approved by the Department or private entity unless it is properly and fully completed with all required supporting documents and applicable fees as identified in this Article.
- B. The Department or private entity shall provide written notification to the professional driver training school or traffic survival school of the approval or denial of a license or traffic survival school instructor qualification. A notice denying the applicant a license or qualification under this Article shall specify the basis for denial and indicate that the applicant may request a hearing on the denial with the Department’s Executive Hearing Office within 30 calendar days of the date on the notice unless the application is withdrawn by the applicant.
- C. The Department or private entity may issue a license to the school or ~~professional driver training instructor~~ applicant or deem a traffic survival school instructor applicant qualified when a completed application is received and the applicant has successfully completed all required training and examinations.
- D. Unless the application is withdrawn by the applicant, the Department or private entity may deny an application in which the applicant has:
 1. Failed to have or to document a satisfactory driver record as ~~defined in R17-5-304~~ required under R17-5-305, as applicable;
 2. Failed to meet the good standing ~~requirement or character and reputation requirements~~ of the Department as defined in R17-5-301;
 3. Failed to meet the fingerprint clearance card requirement under R17-5-304, as applicable;
 4. Made a material misrepresentation or misstatement on the application;
 5. Violated a federal or state law or rule reasonably related in a business context to the authority applied for; or
 6. Failed to complete all applicable application requirements under this Article.
- E. If timely requested by an applicant under subsection (B), the Department shall schedule and conduct a hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6 and 17 A.A.C. 1, Article 5 for denial of a license.
- F. An applicant whose application was previously denied by the Department or private entity for making a material misrepresentation or misstatement on the application is not eligible to reapply for 12 months from the date of previous denial.

R17-5-308. License Issuance; Effective Date; Expiration; Display

- A. The Department or private entity may issue the following licenses upon determining an applicant meets all eligibility and application requirements provided under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article:
 1. Professional driver training school,
 2. ~~Professional driver training school instructor,~~
 3. ~~Professional driver training school temporary instructor,~~
 4. ~~2.~~ Traffic survival school, and
 5. ~~3.~~ Established place of business (branch).
- B. The Department or private entity shall license only a school that employs or contracts at least one professional driver training school instructor currently licensed who meets the qualifications under this Article or at least one currently qualified traffic survival school instructor, as applicable.
- C. A license issued under this Article is:
 1. Effective on the date of issuance;
 2. Effective until its expiration on the last day of each calendar year, except:
 - a. ~~A temporary instructor license issued under R17-5-303 shall expire 90 calendar days from the date of issuance or shall expire immediately if the applicant fails to meet a licensing requirement under this Article;~~
 - b. ~~a.~~ A license subject to an active duty military extension shall expire as provided under A.R.S. § 32-4301, and
 - e. ~~b.~~ A license subject to an individual’s limited length of authorized stay shall expire immediately if the individual’s presence in the United States is no longer authorized under federal law; and
 3. Nontransferable under any circumstances.
- D. A licensed school shall prominently and publicly display all licenses currently in effect at the school’s principal ~~places~~ place of business.
- ~~E.~~ ~~A professional driver training school instructor shall prominently display copies of all appropriate licenses during instruction.~~
- ~~F.~~ ~~E.~~ A school shall surrender to the Department or private entity within three business days after the date of any license inactivation, as defined under in R17-5-301, all:
 1. Licenses;
 2. Records pertaining to the school’s operations and the training of students; and
 3. Department-approved inventory, as applicable and as defined in this Article.

R17-5-309. Renewal of License

- A. A completed renewal ~~packet, consisting of the following,~~ shall be submitted to the Department or private entity a minimum of 30 calendar days prior to license expiration. ~~Notwithstanding, notwithstanding~~ notwithstanding A.A.C. R17-1-102, failure to submit a renewal ~~packet~~ prior to December 1st shall result in the applicant being subject to all original licensing requirements:
 1. A renewal application, completed on a form approved by the Department, including:
 - a. An updated list of all principals, instructors, contracted personnel, and employees of the school who are responsible for Arizona school operations, including full name and driver license number; and
 - b. The signature of all current principals on the completed application; and
 2. Payment of applicable license fees prescribed under A.R.S. § 28-3415 or 32-2374, for each activity and branch.
- ~~B.~~ ~~A school license renewal application packet shall include:~~
 1. ~~A renewal application, completed on a form approved by the Department, including:~~
 - a. ~~A list of all principals, contracted personnel, and employees of the school who are responsible for Arizona school operations if there have been any changes since the last renewal or original application; and~~



- b. ~~The signature of all principals on the completed application; and~~
- 2. ~~Payment of applicable license fees prescribed under A.R.S. § 28-3415 or 32-2374, for each activity, branch, and professional driver training school instructor.~~

~~C.B.~~ Notwithstanding A.R.S. § 28-3415 or 32-2374, an annual license issued by the Department or private entity under this Article during the month of December shall not expire until the last day of the subsequent calendar year.

R17-5-311. Professional Conduct; Conflicts of Interest; Advertising

- A. A professional driver training school or traffic survival school representative or instructor shall not:
 - 1. Accompany a student into any Department office or office of an authorized third party driver license or driver license training provider; or
 - 2. Solicit an individual for any purpose on any premises rented, leased, operated, or owned by the Department or by an authorized third party driver license or driver license training provider.
- B. A licensee or traffic survival school qualified instructor shall maintain good standing with the Department at all times while licensed or qualified by the Department or private entity under this Article.
- C. A licensee shall not delegate or subcontract any licensed activity authorized by the Department or private entity under this Article.
- D. The Department may take corrective action as provided under R17-5-321 and R17-5-323 if the Department or private entity determines or has reason to believe that a licensee or ~~traffic survival school qualified~~ instructor has demonstrated unethical conduct in the performance of official duties, including:
 - 1. Verbally abusing, intimidating, or sexually harassing a student or potential student; or
 - 2. Making a false statement that is material to the activities regulated in this Article to any personnel of the Department or private entity.
- E. A school shall use for all licensed activities and related advertising purposes only its official business name or its doing-business-as name as indicated on the license issued under this Article.
- F. A licensee shall not represent or imply that it is the state of Arizona, the Department, the Motor Vehicle Division, or any government agency in any printed or electronic advertising or promotional material, except to the extent expressly authorized by the Department.
- G. Licensee advertising shall not in any way:
 - 1. Contain false, deceptive, or misleading information;
 - 2. Imply that the licensee can issue or guarantee issuance of a driver license or endorsement;
 - 3. Imply that the licensee can influence the Department or an authorized third party provider in the issuance of a driver license or endorsement;
 - 4. Imply that the licensee can provide any activity the licensee is not licensed by the Department or private entity to perform;
 - 5. Imply that preferential or advantageous treatment by the Department can be obtained; or
 - 6. Use or contain a term prohibited under R17-5-302(C).
- H. A school licensed by the Department or private entity under this Article may state in its advertising that it is “licensed” or “qualified” by the Department, but shall not indicate that the school is approved, sanctioned, or in any other way endorsed or recommended by the Department.
- I. All printed or electronic advertising or promotional material used, issued, or published by a licensee must be pre-approved by the Department or private entity.
- J. An instructor, in any official capacity as an instructor or for compensation, shall not provide any classroom instruction or skills training for an immediate family member or a principal or employee of any school that employs the instructor.
- K. A full-time employee of the state of Arizona shall not receive any direct pecuniary payments from any fees paid by those who attend a licensed school.

R17-5-313. Method of Instruction; Curriculum

- A. ~~A licensed or qualified~~ An instructor shall teach only curriculum approved by the Department or private entity to a student attending a class.
- B. ~~A licensed or qualified~~ An instructor shall not conduct personal business during a time designated for instruction.
- C. An instructor shall not solicit students during training classes for businesses other than those licensed by the Department or private entity.
- D. A school or instructor shall ensure that a student has both fully attended and successfully completed a course before issuing a certificate of completion to the student.
- E. A licensed traffic survival school must use all equipment required by the Department or private entity to present the curriculum to the students, including at a minimum, a computer, a PowerPoint compatible projector, a DVD player, and a display monitor visible to all students.
- F. Professional driver training school approved curriculum. The Department shall approve, and may modify, in writing, a uniform curriculum that the professional driver training school shall teach as applicable for each activity the licensee is authorized to perform. The curriculum shall be a standard course of instruction used by a professional driver training school for the training and education of students.
- G. Traffic survival school approved curriculum. The Department shall approve, and may modify, in writing a uniform curriculum that the traffic survival school shall teach. The curriculum shall be selected and approved on the basis of effectiveness in improving the safety and habits of drivers.

R17-5-315. Record Retention

- A. A licensed traffic survival school shall electronically transmit proof of course completion ~~to the Department~~ immediately following each student’s satisfactory completion of a traffic survival school course in a manner and with the basic computer equipment prescribed by the Department or private entity. At a minimum, the computer equipment must be able to temporarily store, and electronically transmit over the internet, the certificates of completion required by the Department or private entity.



- B. All records pertaining to a licensed school’s operations and training of students shall be:
 1. Stored and securely maintained at the licensee’s principal place of business,
 2. Available for inspection by the Department or private entity during business hours, and
 3. Retained by the school for three years from the date of course completion.
- C. A licensed school shall establish and maintain separate records for each authorized activity.
- D. A licensed school shall maintain, for three years, attendance records for each class conducted.

R17-5-318. Instructor Responsibilities

~~While licensed or qualified by the Department or private entity under A.R.S. § 32-2372 and this Article to give instruction, an A professional driver training school instructor or traffic survival school qualified instructor shall:~~

1. Attend all ongoing training and continuing education as required by the Department or private entity;
2. Provide written notice to the licensed professional driver training school or traffic survival school within twenty-four hours if the instructor’s driver license is suspended, revoked, cancelled, or disqualified;
3. Conduct training and courses only at training sites ~~and on driver road training routes~~ approved by the Department or private entity;
4. Conduct the final evaluation on behind-the-wheel final evaluation routes approved by the Department or private entity;
- ~~4-5.~~ Follow and complete the curriculum approved by the Department or private entity for each course conducted; and
- ~~5-6.~~ Conduct at least two courses in a calendar year.

R17-5-323. Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School or Instructor License or Traffic Survival School License or Qualification of a Traffic Survival School Instructor; Hearing and Appeal

- A. The following definitions apply to this Section:
 1. “Cancellation” means a Department action that withdraws a license or qualification of a traffic survival school instructor issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.
 2. “Revocation” means a Department action that terminates, for an indefinite period of time, a licensee’s or traffic survival school qualified instructor’s privilege to operate a school or conduct instruction under this Article.
 3. “Suspension” means a Department action that prohibits, for a stated period of time, a licensee or traffic survival school qualified instructor from operating as a school or instructor under this Article.
- B. The Department or private entity may initiate corrective action on a licensee or a traffic survival school qualified instructor as provided under A.R.S. Title 28, Chapter 8, Article 7.1, Title 32, Chapter 23, Article 3, or Title 41, Chapter 6, Article 6, and this Article, if satisfactory evidence shows that a licensee or ~~traffic survival school qualified~~ instructor, individually or collectively:
 1. Violated a federal or state law or rule reasonably relating in a business context to a duty prescribed under this Article;
 2. Failed to maintain a status of good standing or character and reputation as defined ~~under~~ in R17-5-301; or
 3. Provided false, deceptive, or misleading information to the Department or private entity in either an application or in response to an audit or inspection conducted pursuant to R17-5-321.
- C. ~~Corrective~~ A corrective action initiated under subsection ~~(A)(B)~~, depending on the severity or number of violations, may ~~result in an action by the Department to impose~~ include the Department imposing a term of probation; ~~issue~~ issuing a cease and desist order under A.R.S. § 28-3417 or 32-2394; or ~~request~~ requesting a hearing to cancel, suspend, or revoke an existing license under A.R.S. § 28-3416 or 32-2391.
- D. A notice of corrective action issued by the Department requesting a hearing to cancel, suspend, or revoke an existing ~~school~~ license shall include:
 1. The grounds for the Department’s action ~~and its request for a hearing before the Department’s Executive Hearing Office~~; and
 2. A brief written statement ~~of the hearing and appeal rights for the~~ explaining that it will request that a hearing be held before the Department’s Executive Hearing Office on the proposed cancellation, suspension, or revocation of a professional driver training school ~~or instructor~~ license or a traffic survival school license, as provided under A.R.S. § 28-3416 or 32-2391.
- E. A notice of corrective action issued by the Department to cancel, suspend, or revoke an existing qualification of a traffic survival school instructor shall include:
 1. The grounds for the Department’s action; and
 2. A brief written statement of the hearing and appeal rights, including that the instructor may request a hearing with the Department’s Executive Hearing Office within 30 calendar days of the date on the notice for the cancellation, suspension, or revocation of the qualification of a traffic survival school instructor, as provided in A.R.S. §§ 41-1001(12) and 41-1064.
- F. The Department shall provide notice and conduct hearings as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5, as applicable.

**NOTICE OF PROPOSED RULEMAKING
TITLE 17. TRANSPORTATION
CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

[R16-271]

PREAMBLE

<u>1. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R17-5-401	New Section
R17-5-402	Amend
R17-5-405	Amend
R17-5-406	Amend



R17-5-407
R17-5-408

Amend
Amend

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

Authorizing statutes: A.R.S. §§ 28-366, 28-4303, and 28-4410

Implementing statutes: A.R.S. §§ 28-2058, 28-2060, 28-4301, 28-4409, 28-4410, 28-4410.01, 28-4422, and 28-4362

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 rules:

Notice of Rulemaking Docket Opening: 22 A.A.R. 1347, May 27, 2016

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

Name: Jane McVay

Address: Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007

Telephone: (602) 712-4279

E-mail: jmcvay@azdot.gov

Web site: Please visit the ADOT web site to track progress of these rules and any other agency rulemaking matters at www.azdot.gov/about/GovernmentRelations

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

ADOT received approval from Rene Guillen at the Governor's Office on March 7, 2016 to implement rule changes necessary to update the dealer rules in 17 A.A.C. 5, Article 4. These rule changes are proposed to update the dealer rules to be consistent with current dealer statutes and other agency rules, pursuant to a five-year review report approved by the Governor's Regulatory Review Council (GRRC) on April 5, 2016. The rule changes also make the rules consistent with the form and style requirements of the Secretary of State, update rule references, and improve the rule consistency and clarity.

The rules add a new section, R17-5-401, which defines terms for Article 4 that are applicable to dealers licensed by ADOT and dealer and vehicle-related terminology used in the rules. The rules state the bond amount for a public consignment auction dealer, the application requirements for bonds, and add information that is included on the dealer acquisition contract. In addition, the rules change references from the Motor Vehicle Division to the Department in order to conform to other agency rules. The rules also clarify that if a motor vehicle is repossessed, the odometer certification statement information shall be provided if required by statute. The rules clarify that the provisions of R17-5-408 on resale of a new motor vehicle apply to motor vehicle dealers. The rules make other technical and conforming changes.

6. A reference to any study relevant to the rules that the agency reviewed and proposes to either rely on or not to rely on in its evaluation of or justification for the rules, 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 agency did not review or rely on any study relevant to the rules.

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:

This rulemaking does not diminish a previous grant of authority to political subdivisions in this state.

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

As of July 31, 2016, the Department had a total of 3,824 licensed motor vehicle dealers in nine different license types, as follows: retail dealers, including 770 new vehicle dealers; 1,702 used vehicle dealers; 13 public consignment auction dealers; 26 brokers; 845 wholesale dealers; 13 wholesale auction dealers; 198 manufacturers; 60 distributors; and 197 automobile recyclers.

A.R.S. § 41-1001 defines a small business as a concern that is independently owned and operated, not dominant in its field, and which employs fewer than 100 full-time employees, or which had gross annual receipts of less than \$4,000,000 last fiscal year. Some licensed Arizona dealers are small businesses while other licensed dealers generate more than \$4,000,000 in revenue yearly, and employ more than 100 full-time employees. The rules make technical changes to make the dealer rules consistent with the dealer statutes and other Department rules. The rules do not impose any new fees or costs on dealers and do not increase the regulatory burden on dealers. In addition, the rules do not impose any costs on consumers, the Department, or other state or local agencies. The rules will not impact public or private employment.

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

Name: Jane McVay

Address: Department of Transportation
Government Relations and Policy Development Office
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007

Telephone: (602) 712-4279

E-mail: jmcvay@azdot.gov

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

The Department has scheduled the following oral proceeding on the proposed rules:



Date: February 7, 2017
Time: 2:00 p.m.
Location: Arizona Department of Transportation
206 S. 17th Ave.
Phoenix, AZ 85007

Written comments on the proposed rulemaking should be directed to the person listed under item 4 and may be submitted for 30 days after the publication of the proposed rules until the close of record at 5 p.m. on February 7, 2017.

Pursuant to Title VI of the Civil Rights Act of 1964, and the Americans with Disabilities Act (ADA), ADOT does not discriminate on the basis of race, color, national origin, age, gender or disability. Persons that require a reasonable accommodation based on language or disability should contact ADOT Civil Rights at (602) 712-8946 or civilrightsoffice@azdot.gov. Requests should be made as early as possible to ensure the state has an opportunity to address the accommodation.

Personas que requieren asistencia o una adaptacion razonable por habilidad limitada en ingles o discapacidad deben ponerse en contacto con la Oficina de Derechos Civiles de ADOT at (602) 712-8946 or civilrightsoffice@azdot.gov. Las solicitudes deben hacerse tan pronto como sea posible para asegurar que el consejo tiene la oportunidad de abordar el alojamiento.

11. All agencies shall list other matters prescribed by statute that are 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:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

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 rules do not require a permit, however A.R.S. §§ 28-4333, 28-4334, 28-4335, and 28-4336 require all types of vehicle dealers to be licensed by ADOT to operate in this state. Each type of dealer license is a general permit because the activities and practices authorized by this class of license are the same for all licensees in the class.

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:

No federal laws are specifically applicable to the rules and the rules are not 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 to the Department.

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

The rules do not incorporate by reference any material.

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION
CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS

ARTICLE 4. DEALERS

Section

- R17-5-401. Definitions
R17-5-402. Bond Amounts; Motor Vehicle Dealers, Brokers, and Automotive Recyclers Recyclers' Business Licenses
R17-5-405. Motor Vehicle Dealer Acquisition Contract
R17-5-406. Motor Vehicle Dealer Consignment Contract
R17-5-407. Motor Vehicle Repossession
R17-5-408. Resale of a New Motor Vehicle

ARTICLE 4. DEALERS

R17-5-401. Definitions

In addition to the definitions in A.R.S. §§ 28-4301 and 28-4410, the following definitions apply to this Article unless otherwise specified:

"Dealer" or "motor vehicle dealer" has the same meaning as "motor vehicle dealer" in A.R.S. § 28-4301.

"Owner" means a person who holds the legal title of a motor vehicle.

"Principle place of business" means a wholesale dealer's or broker's administrative headquarters in the state.

"State" means the state of Arizona and all its agencies and political subdivisions, their officers and agents.

"Taxpayer identification number" means a number used for tax purposes that is assigned by the Social Security Administration or the Internal Revenue Service.

"VIN" means the unique code, including serial number, used by an automobile manufacturer to identify a specific motor vehicle.

**R17-5-402. Bond Amounts; ~~Motor Vehicle Dealers, Brokers, and Automotive Recyclers~~ Recyclers' Business Licenses**

- A. As prescribed under A.R.S. § 28-4362, the ~~Division~~ Department shall require a bond in the amount specified for the following motor vehicle business license applicants:
1. \$100,000 ~~from for~~ a motor vehicle dealer engaged in selling new or used motor vehicles,
 - a. A new motor vehicle dealer,
 - b. A used motor vehicle dealer, or
 - c. A public consignment auction dealer.
 2. \$25,000 ~~from a wholesale motor vehicle dealer, for~~,
 - a. A broker,
 - b. A wholesale motor vehicle dealer, or
 - c. A wholesale motor vehicle auction dealer.
 3. \$25,000 ~~from a wholesale motor vehicle auction dealer,~~
 4. \$25,000 ~~from a motor vehicle broker, and~~
 5. ~~3~~ \$20,000 ~~from for~~ an automotive recycler.
- B. An applicant shall submit a bond ~~in a form on the original vehicle dealer bond form~~ prescribed by the ~~Division~~ Director: that meets the requirements in A.R.S. § 28-4362 and these rules. An applicant shall submit a separate, original bond for each application and for each county in which an applicant or licensee has an established place of business or a principle place of business. A power of attorney for the attorney-in-fact shall be attached to the dealer bond, if applicable. The Division shall not accept a handwritten bond.
- C. An applicant shall sign the dealer bond, in addition to all partners for a partnership, or one officer for an incorporation.
- D. The completed bond form shall contain an embossed stamp, seal, or sticker from the bond company.
- E. The Department shall not accept a handwritten bond.

R17-5-405. ~~Motor Vehicle Dealer Acquisition Contract~~**~~A.~~ Definitions:**

1. "Contract" or "Dealer acquisition contract" has the meaning prescribed under A.R.S. § 28-4410(G)(2).
2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed in A.R.S. § 28-4301(23).
3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.
6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.

~~B.A.~~ **General Requirements:** For the purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a Department form with contents as prescribed under subsection ~~(C)~~ (B).

~~C.B.~~ **Content:** A dealer acquisition contract shall contain the following information:

1. The heading "Dealer Acquisition Contract;"
2. The dealer's name and dealer license number;
3. The dealer's business address and telephone number;
4. The owner's name, address, ~~and~~ telephone number; driver license number or taxpayer identification number, as applicable; and type of ownership;
5. The vehicle identification number VIN; license plate number; licensing state; and model, make, and year of the motor vehicle that has a dealer acquisition contract;
6. If there is a lien holder, ~~for each lien holder:~~
 - a. The lien holder's name, address, and telephone number;
 - b. ~~Lien~~ The lien balance;
 - c. ~~Prepayment~~ The prepayment penalties, if any; and
 - d. Other information ~~relevant to~~ on the terms and conditions of the lien repayment;
7. A statement by the owner that the motor vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection ~~(C)(6)(a)~~ (B)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection ~~(C)(6)(b)~~ (B)(6)(b);
8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another motor vehicle;
9. A statement indicating that the owner is selling and transferring the described motor vehicle to the dealer;
10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner's name on the title; and if necessary, transfer the title to the dealer;
14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
15. The date when the dealer acquisition contract is executed by each party.
16. The dealer's signature; and
17. The owner's signature.

~~D.C.~~ A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.

~~E.D.~~ **Disposition:** When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the date the motor vehicle is sold.



F.E. Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. ~~¶~~ This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

R17-5-406. Motor Vehicle Dealer Consignment Contract

A. Definitions:

1. ~~“Contract” or “Dealer consignment contract” has the meaning prescribed under A.R.S. § 28-4410(G)(1).~~
2. ~~“Dealer” or “Motor vehicle dealer” has the meaning prescribed under A.R.S. § 28-4301(23).~~
3. ~~“Division” means the “Motor Vehicle Division” of the Arizona Department of Transportation and any authorized agent.~~
4. ~~“Vehicle” or “motor vehicle” has the meaning prescribed under A.R.S. § 28-4301(22).~~
5. ~~“Owner” means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.~~
6. ~~“State” means the “state of Arizona” and all its agencies and political subdivisions and their officers and agents.~~

B.A. General Requirements: For the purposes of A.R.S. § 28-4410, a motor vehicle dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection ~~(C)~~(B).

C.B. Content: A dealer consignment contract shall contain the following information:

1. The heading “Dealer Consignment Contract;”
2. The dealer’s name and dealer license number;
3. The dealer’s business address and telephone number;
4. The owner’s name, address, ~~and~~ telephone number; ~~driver license number or taxpayer identification number, and type of ownership;~~
5. ~~The vehicle identification number VIN; license plate number; licensing state; and model, make, and year; of the motor vehicle that has a dealer consignment contract;~~
6. If there is a lien holder; ~~for each lienholder:~~
 - a. The lien holder’s name, address, and telephone number;
 - b. ~~Lien~~ The lien balance;
 - c. ~~Prepayment~~ The prepayment penalties, if any; and
 - d. Other information ~~relevant to~~ on the terms and conditions of the lien repayment;
7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection ~~(C)(6)(a)~~ (B)(6)(a) and the lien balance is no greater than that disclosed under subsection ~~(C)(6)(b)~~ (B)(6)(b);
8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
12. The expiration date of the consignment contract;
13. An agreement by the dealer to deliver the motor vehicle to the owner at a specified location on the date that the contract expires or terminates;
14. An agreement by the owner to pay any specified fees due to the motor vehicle dealer ~~upon~~ on the return of the vehicle, after the expiration or termination of the consignment contract;
15. The date the contract is executed;
16. The dealer’s signature; and
17. The owner’s signature.

D.C. A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.

E.D. Disposition: When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer’s established place of business for three years after the date that the dealer consignment contract expires or terminates, or the vehicle is sold.

F.E. Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. ~~¶~~ This Section does not detail any additional contractual requirements that may be defined under other Arizona statutes.

R17-5-407. Motor Vehicle Repossession

A. The ~~Division~~ Department shall not transfer a title when the ownership of a motor vehicle titled in this state or another state reverts through operation of state law to a lienholder of record through repossession unless the following conditions are met:

1. The motor vehicle is physically located in this state;
2. A notice of lien is filed with the ~~Division~~ Department;
3. A completed affidavit from the lienholder is submitted to the ~~Division~~ Department stating that the motor vehicle is physically located in this state and was repossessed on default pursuant to the terms of the lien and applicable law and that this state, its agencies, employees, and agents shall not be held liable for relying on the contents of the affidavit; and
4. In addition to the information required in subsection (A)(3), the affidavit contains the following information:
 - a. ~~The Vehicle Identification Number (VIN).~~
 - b. The vehicle model year,
 - c. The vehicle make,
 - d. The registered owner’s name,
 - e. The date of repossession,



- f. The state in which the vehicle is titled,
 - g. The lienholder company name,
 - h. The lienholder agent or representative name,
 - i. ~~Lienholder~~ The lienholder signature, and
 - j. ~~Notary~~ The notary or ~~Motor Vehicle Division~~ Department agent signature.
- B. The ~~Division~~ Department shall accept out-of-state affidavits of repossession that comply with the requirements in subsections (A)(3), ~~and (4)(A)(4)~~, and subsection (C) if all of the following apply:
1. The affidavit is submitted by an Arizona licensed dealer, and
 2. The Arizona licensed dealer is transferring the title into the dealership's name.
- C. A lienholder may sell a repossessed motor vehicle without transferring the title into the lienholder's name by completing a Bill of Sale for submission to the Division Department. The Bill of Sale may be combined with the affidavit of repossession and shall contain the following information:
1. The buyer's name;
 2. The sale date;
 3. ~~Buyer's~~ The buyer's street address, including the city, state, and zip code;
 4. ~~Name~~ The name of the new lienholder, if applicable;
 5. ~~New~~ The new lien date, if applicable;
 6. ~~Odometer~~ The odometer certification statement, if required by A.R.S. § 28-2058, including odometer reading, and an area for acknowledgment with the buyer's name and signature to acknowledge the odometer certification;
 7. A statement that the buyer is aware of the odometer certification made by the seller;
 8. The seller's name;
 9. The seller's notarized signature; and
 10. The seller's address, including city, state, and zip code; and.
- D. A completed repossession affidavit as prescribed in this Section is proof of ownership, right of possession, and right of transfer.
- E. ~~Disclaimer.~~ The Division Department has no responsibility relating to foreclosure on real property under A.R.S Title 33, Chapter 7.

R17-5-408. Resale of a New Motor Vehicle

- A. A ~~new~~ motor vehicle dealer, ~~as defined in A.R.S. § 28-4301~~, that sells a new motor vehicle that was delivered to a previous purchaser, shall provide written notice to the new purchaser under subsection (B).
- B. A motor vehicle dealer shall ensure that the notice under A.R.S. § 28-4422 contains the following information:
1. The name of the dealership;
 2. A vehicle description, including year, make, and ~~vehicle identification number~~ (VIN);
 3. A statement that the new motor vehicle was delivered to a previous purchaser;
 4. The printed name of the new purchaser; and
 5. The signature of the new purchaser (initials are not acceptable) indicating that the new purchaser has received the notice.
- C. The ~~new~~ motor vehicle dealer shall:
1. Provide a copy of the notice under subsection (B) to the new purchaser, and
 2. Keep a copy of the signed notice under subsection (B) at the new motor vehicle dealer's established place of business for at least three years.
- D. The ~~new~~ motor vehicle dealer is not required to submit ~~to the Division~~ the notice to the Department under subsection (B) unless otherwise required by state or federal law.
- E. A new motor vehicle dealer shall not add additional language to the notice that would conflict with, or alter, the intent of the provisions specified in subsection (B).



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 them. 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 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

[R16-272]

PREAMBLE

1. Articles, Parts, or Sections Affected (as applicable) R9-22-712.90

Rulemaking Action: New Section

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. § 36-2903.01

Implementing statute: A.R.S. § 36-2903.01

3. The effective date of the rule: February 11, 2017

4. Citations 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. 784, April 8, 2016

Notice of Proposed Rulemaking: 22 A.A.R. 770, April 8, 2016

Notice of Public Information: 22 A.A.R. 1067, May 6, 2016

Notice of Supplemental Proposed Rulemaking: 22 A.A.R. 1945, July 29, 2016

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

Name: Gina Relkin
Address: AHCCCS, Office of Administrative Legal Services, 701 E. Jefferson, Mail Drop 6200, Phoenix, AZ 85034
Telephone: (602) 417-4232
Fax: (602) 253-9115
E-mail: AHCCCSrules@azahcccs.gov
Web site: www.azahcccs.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:

This rulemaking is proposed as part of the AHCCCS Administration's obligation under the federal Medicaid Act, 42 U.S.C. § 1396a(a)(30)(A), to establish methods for the reimbursement of health care providers that are consistent with efficiency, economy, quality of care, and adequate access to care for persons enrolled in AHCCCS, Arizona's implementation of the Medicaid program. Hospitals that elect to participate in the AHCCCS program are required to execute a provider participation agreement. A.R.S. § 36-2904(D). As such, the relationship between the AHCCCS Administration and health care providers is contractual in nature. In general, the terms of State contracts are exempt from rulemaking. A.R.S. § 41-1005(A)(14). However, statutory provisions specific to the AHCCCS program require the agency to adopt rules regarding payment for hospital services. A.R.S. § 36-2903.01(G). This rulemaking distinguishes services provided by a hospital-based freestanding emergency department from other hospital services and establishes the payment methodology for services provided by hospital-based freestanding emergency departments.

The Arizona Department of Health Services has established a class of health care institutions known as outpatient treatment centers (OTCs). See generally, A.A.C. Title 9, Chapter 10, Article 10. A subclass of OTCs is authorized to provide emergency department services. A.A.C. R9-10-1019. In this rulemaking, OTCs licensed to provide emergency department services are referred to as "freestanding emergency departments" (FSEDs). FSEDs are relatively new to the Arizona health care delivery system with most of the facilities opening since 2015. A single license may be issued for a hospital which also operates satellite facilities, such as FSEDs, at the request of the hospital. A.R.S. § 36-422(F). Under the billing methodologies currently in place, a claim for services provided in the hospital is indistinguishable from a claim for services provided in a FSED operated by the same hospi-



tal when a single group license is issued because provider registration is based on that license.

For ease of reference, throughout this preamble, the terms “freestanding emergency department” and “FSED” refer to hospital-based freestanding emergency departments except where the context explicitly states otherwise. Emergency departments that are located within a hospital are referred to as “on-site emergency departments” or “on-site EDs.”

Outpatient hospital services are reimbursed using the outpatient prospective fee schedule described in A.A.C. R9-22-712.10 through R9-22-712.50. Because hospital-based FSEDs have been registered under the same license as the hospital operating the FSED, that reimbursement methodology has been used even though the hospital-based FSEDs do not have the same overhead costs and capabilities as an on-site emergency department according to secondary sources reviewed by the AHCCCS Administration (please see specific reference in the responses to public comments). They often do not have the same equipment and do not have the ability to immediately admit persons requiring inpatient care. By the very nature of being a FSED, transportation services are required when a patient requires inpatient care. Services provided by an OTC that is not hospital-based are reimbursed based on a capped fee schedule established by the AHCCCS Administration which also applies to services provided in any clinic or physician’s office which, in general, is a lower total reimbursement than that provided for outpatient hospital services and associated professional (e.g., physician) services.

FSEDs are required to operate 24 hours a day, seven days a week: hours that exceed those of most urgent care clinics or physician’s offices. Media coverage and promotional materials published by hospitals presenting these facilities emphasize the convenience, shorter wait times, and extended hours of FSEDs. Most offer patients the ability to schedule an appointment for a visit to the FSED (see, for example, the site maintained by Dignity Health at www.dignityhealth.org/arizonageneral/services/er-services and by Abrazo Community Health Network at www.abrazohealth.com/our-services/emergency-trauma). Clearly, scheduling an appointment is incongruous with the generally understood concept of an emergency. Dignity Health has sent direct mailings promoting its hospital-based freestanding emergency departments, offering one first aid kit per household per mailer when presented at the specific FSED location. Taken as whole, these promotional activities have the effect of misleading patients to conclude that a visit to the FSED is an appropriate and more convenient alternative to treatment by a primary care practitioner in an office setting. For example, the website maintained by Honor Health for the Sonoran Health and Emergency Center states that the FSED offers treatment for multiple conditions including “headache” and “fever.” (see <https://www.honorhealth.com/locations/emergency/sonoran-health-and-emergency-center>). Treatment of non-emergency conditions by healthcare providers other than the patient’s primary care practitioner restricts the ability of the primary care practitioner to coordinate care for the patient, potentially leading to sub-optimal health outcomes. Federal law significantly restricts the ability of the AHCCCS program to use copayments to discourage the low-income population it serves from inappropriate use of emergency departments including FSEDs. However, as justification for its final rule authorizing imposition of higher Medicaid copayments for nonemergency use of the emergency room, the Centers for Medicare and Medicaid Services stated that “The goal underlying the policy is to ensure that the *right* care is provided at the *right* time in an *appropriate* setting.” (emphasis added) 78 FR 42160 at 42277. The federal government also noted that “...it is important for states to have options to incentivize care in the most appropriate settings and to encourage individuals to develop a regular source of care, to the extent that beneficiaries are assured timely access to needed care” 78 FR 42160 at 42276. The AHCCCS Administration is reasonably concerned about use of FSEDs as a substitute for services that are more appropriately and cost-effectively rendered in a clinic or physician’s office, and the proposed rule furthers the goal of delivery and payment of the most appropriate care in the most appropriate setting.

This rulemaking requires hospital-based FSEDs to register separately from the hospital with which it shares common ownership regardless of whether both are listed as part of a single group license so that the AHCCCS Administration can clearly distinguish claims for services from hospital-based FSEDs from claims for services provided by the hospital itself. The rule provides that reimbursement for services in a hospital-based FSED is a percentage (that varies depending on the level of services provided) of the amount that would otherwise be paid for similar services provided as outpatient hospital services but does not include the adjustment in A.A.C. R9-22-712.35 that accounts for the unique costs of services provided in a hospital outpatient setting but which are not applicable to FSEDs. The percentage reductions are applied to level 1, 2, and 3 emergency department visits, many of which can be addressed by a primary care physician in an office setting which offers better continuity of care at a lower cost.

The rulemaking also includes an exception that permits the application of the adjustment applicable to the hospital in instances where a FSED is established to replace the services of a hospital that has closed in a rural area where appropriate local care might not otherwise be available.

7. 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;

A study was not referenced or relied upon when revising these regulations other than secondary sources referenced in the responses to comments and the cost estimations included in the economic, small business and consumer statement submitted to the Governor’s Regulatory Review Council. The term “study” as used in Title 41, Chapter 6, of the Arizona Revised Statutes is not defined. Neither is that term defined in Title 1 of the Arizona Administrative Code or any guidance published by the Arizona Secretary of State or the Governor’s Regulatory Review Council. However, both the statutory and regulatory provisions regarding the contents of a “preamble” require disclosure of “where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material.” A.R.S. § 41-1001(16); A.A.C. R1-1-602(B)(5)(g). This suggests that a “study” is a written document that analyzes a collection of objective data. The AHCCCS Administration did not rely on any written documents that are a primary source describing the collection and analysis of data. However, the AHCCCS Administration did review several secondary sources that appeared in industry publications discussing freestanding emergency departments. Several, if not all, of these secondary sources include references to studies conducted by entities other than the authors of the secondary sources. As such, the AHCCCS Administration is not aware of where the public can view the data underlying the primary sources referenced in the secondary sources. The following is a list of the secondary sources relied upon by the AHCCCS Administration in its evaluation and justification for this Notice of Final Rulemaking including where they can be found on the internet:



- Ayers, Alan A. “Understanding the Freestanding Emergency Department Phenomenon.” The Journal of Urgent Care Medicine. February 2014. <http://www.jucm.com/understanding-the-freestanding-emergency-department-phenomenon/2/>.
- “How the Freestanding Emergency Department Boom Can Help Patients,” New England Journal of Medicine. February 18, 2016 <http://catalyst.nejm.org/how-the-freestanding-emergency-department-boom-can-help-patients>
- Goodman, Matt. “Are Freestanding Emergency Rooms Driving Up Costs?” May 2016 <http://www.dmagazine.com/publications/d-ceo/2016/may/freestanding-emergency-rooms/>
- Dignity Health website at www.dignityhealth.org/arizonageneral/services/er-services
- Abrazo Community Health Network website at www.abrazohealth.com/our-services/emergency-trauma
- Honor Health website at <https://www.honorhealth.com/locations/emergency/sonoran-health-and-emergency-center>
- Do Freestanding Emergency Departments Make Financial Sense? <http://www.freemanwhite.com/do-freestanding-emergency-departments-make-financial-sense/>
- Warren, David. “As the Number of Freestanding ERs Grows, so does Scrutiny.” Associated Press. August 21, 2016. <http://big-story.ap.org/article/39dffaceddc4eee888eeca1924f50bf/number-freestanding-ers-grows-so-does-scrutiny>
- ED Facility Level Coding Guidelines published by the American College of Emergency Physicians <https://www.acep.org/physician-resources/practice-resources/administration/financial-issues/-reimbursement/ed-facility-level-coding-guidelines/>
- AHCCCS website at <https://azahcccs.gov/PlansProviders/RatesAndBilling/FFS/>
- Shlachter, Barry. “As Free-Standing ERs’ Business Grows, so Does Backlash.” <http://www.star-telegram.com/news/business/article3868661.html>.

Due to federal and state requirements, the raw data used for the estimates (claims and encounter data) cannot be made publicly available. However, information regarding fee schedule payments to hospitals, urgent care centers, and physicians are available on the agency’s public website (www.azahcccs.gov/PlansProviders/RatesAndBilling/FFS/). In addition, data regarding historical AHCCCS payments to hospitals is also available through the public website at <https://azahcccs.gov/PlansProviders/RatesAndBilling/hospitalReimbursement.html> through the link on that page to the “summary of all hospital payments.” As hospital-based freestanding emergency departments are currently indistinguishable in the AHCCCS claims data from on-site hospital emergency departments, utilization data specific to these facilities is not available.

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:

This rulemaking does not diminish a previous grant of authority of a political subdivision.

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

As noted earlier in this preamble, the purpose of this rule is to establish the payment methodology for hospital-based FSEDs. As such, it is not a rule that is designed or intended to directly change any particular conduct. The rule does reflect the AHCCCS Administration’s efforts to contain costs and establish payment methodologies that do not intentionally or unintentionally encourage health care providers to deliver services in ways that are not cost effective. Absent this rule, the AHCCCS Administration expects - as a result of the increasing availability of FSEDs - an increase in the amount of taxpayer dollars spent on payments to FSEDs for services that could be addressed more cost effectively at an urgent care center or physician’s office.

Hospital-based FSEDs, a subclass of outpatient treatment centers, are relatively new to Arizona. About 12 such facilities have been identified as currently existing, although the administration has information that additional hospital-based FSEDs are planned for the future. Because the administration cannot currently distinguish services provided by hospital-based FSEDs from other outpatient hospital services, the AHCCCS Administration presumes that services provided at these facilities have been reimbursed as specified in A.A.C. R9-22-712.10 through R9-22-712.50. While this proposed rulemaking reduces the payments for levels 1, 2 and 3 – services that could usually be provided more efficiently and cost effectively by a primary care physician – information provided to the administration by an operator of several of the hospital-based FSEDs suggests low utilization of services at those levels of care.

As such, the administration assumes that the economic impact of this supplemental proposed rulemaking on hospital revenues will be minimal based on the following. Approximately eighty general acute care hospitals have participation agreements with AHCCCS, and these are the entities most likely to expand existing emergency departments through the creation of FSEDs. However, none of those hospitals are small business as defined by A.R.S. § 41-1001(21). As stated in greater detail in the economic, small business, and consumer impact statement submitted to the Governor’s Regulatory Review Council, the AHCCCS Administration anticipates that the reimbursement impact on hospital providers will be minimal. AHCCCS is aware of approximately 12 hospital-based freestanding emergency departments in Arizona. Assuming those 12 facilities realize a volume of Medicaid-eligible ED visits proportional to their number, it is estimated that reimbursements for levels 1-3 visits to these facilities under the current fee schedule would equal at most 1.1% (\$22,730,608) of total acute hospital reimbursements (more than \$2 billion in FY 2015), and that the incremental percentage reductions resulting from this rulemaking would reduce total reimbursements for those 12 facilities by approximately \$3 million annually.

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

The Notice of Proposed Rulemaking, published at 22 A.A.R. 770 on April 8, 2016, proposed that services provided by outpatient treatment centers, including hospital-based FSEDs, are not outpatient hospital services which are reimbursed as specified in A.A.C. R9-22-712.10 through R9-22-712.50. Instead, the administration proposed that those services be reimbursed under the capped fee schedule established by the AHCCCS Administration which schedule is exempt from the requirements of rule-making under A.R.S. § 41-1005(A)(9). Public comments received in response to the Notice of Proposed Rulemaking requested that the Proposed Rulemaking describe the reimbursement methodology in the proposed rule. In response, the Administration filed a Notice of Supplemental Proposed Rulemaking, published at 22 A.A.R. 1945 on July 29, 2016, treats hospital-based FSEDs as a special type of outpatient hospital services which are reimbursed based on a modified version of the methodology for other outpatient hospital services.

Based on comments received on the Notice of Supplemental Proposed Rulemaking, the AHCCCS Administration has also



made some clarifying changes to the Final Rule:

- The phrase “hospital-based” has been added to the title of the rule to clarify that the rule only applies to FSED that have common ownership with a hospital.
- Subsection (E) of the rule has been amended to remove an incorrect cross-reference to subsection (B); instead and in addition, subsection (E) has been amended to clarify that the payment rates and methods for hospital-based outpatient departments other than FSEDs are not affected by this rulemaking.
- Subsection (C) has been amended to clarify the impact of this rulemaking on claims for services other than for the evaluation and management procedure codes for the emergency department visit that may appear on the claims from a hospital-based FSED.

In addition, non-substantive technical changes have been made at the request of staff at the Governor’s Regulatory Review Council.

11. An agency’s summary of the public or stakeholder comments made about the rule making and the agency response to the comments:

Dignity Health, September 6, 2016	
1.	<i>Comment:</i> FSEDs are not urgent care centers. Laws and regulation mandate FSEDs and On-Site emergency departments be alike.
	<i>Response:</i> AHCCCS agrees that FSEDs are not urgent care centers and that FSEDs must meet minimum standards applicable to all emergency departments; however, this does not mean that on-site emergency departments and FSEDs are the same. Obviously, FSEDs lack on-site inpatient admission capabilities, do not have intensive care capabilities, and are unprepared to handle volume influxes from natural and man-made disasters. See Ayers, Alan A. “Understanding the Free-standing Emergency Department Phenomenon.” The Journal of Urgent Care Medicine. February 2014. http://www.jucm.com/understanding-the-freestanding-emergency-department-phenomenon/2/ . On-site EDs have immediate access to inpatient cardiac catheterization services – a service often required to promptly treat patients who present with complaints of chest pain – while FSEDs do not. Another commenter, AzHHA, noted that some of the FSEDs do not have MRI services available or have them easily accessible.
2.	<i>Comment:</i> Dignity Health acknowledges that more can be done to educate patients regarding accessing the appropriate level of care, but Dignity has found no promotional materials that promote primary care through Dignity FSEDs.
	<i>Response:</i> The AHCCCS Administration agrees that many factors, including lack of patient education, lead to inappropriate utilization of emergency department visits, and the AHCCCS Administration appreciates Dignity Health’s commitment to improving patient knowledge regarding accessing the appropriate level of care. Nevertheless, it is not prudent for the AHCCCS Administration to maintain a reimbursement methodology that facilitates the growth of FSEDs. Dignity Health acknowledges in its own comments that Level 1 and Level 2 services “are similar to encounters that could be treated in a physician’s office or primary health center.” AHCCCS believes that most Level 1 services, many Level 2 services, and even some Level 3 services should not be provided in an ED, nor should taxpayers bear the increased costs of treating such services in more costly ED settings. Conditions such as insect bites (level 1), sunburns (level 2), and fevers that respond to ibuprofen (level 3) should not typically be provided in an ED. See the <i>ED Facility Level Coding Guidelines</i> published by the American College of Emergency Physicians https://www.acep.org/physician-resources/practice-resources/administration/financial-issues/-reimbursement/ed-facility-level-coding-guidelines/ . While the expansion of FSEDs expands access to emergency care, there is no evidence of an inability to access emergency care through on-site emergency departments, and the expansion of FSEDs increases opportunities for inappropriate utilization of emergency services without a commensurate benefit.
3.	<i>Comment:</i> The proposed rule implies, without supporting data, that AHCCCS members will use FSEDs inappropriately rather than seeking care from their primary care provider. We believe the reasons why AHCCCS members seek care at any emergency room for non-emergent needs are numerous and complex and should not be solely attributed to the availability of FSEDs. The elimination of FSEDs will not change behavior.



	<p><i>Response:</i> The AHCCCS Administration agrees that many factors lead to inappropriate utilization of emergency department visits. All commenters agree that there is some level of inappropriate use of the ED. The proliferation of FSEDs will exacerbate the problem. The AHCCCS Administration lacks data specific to FSEDs and Medicaid recipients because, under current AHCCCS requirements, a claim from hospital-based FSEDs is not distinguishable from a claim from the hospitals' on-site ED. However, other sources support the AHCCCS Administration's concern. For example:</p> <ul style="list-style-type: none"> •According to Freeman White (a healthcare consulting and design firm), FSEDs do not appear to lower ED visits at main hospital EDs but rather tend to tap into pent up demand. They are "a last ditch attempt to bolster inpatient volumes." See, <i>Do Freestanding Emergency Departments Make Financial Sense?</i> http://www.freemanwhite.com/do-freestanding-emergency-departments-make-financial-sense/ •An analysis by the Colorado-based Center for Improving Value in Health Care found that the cost of treating someone in an ED exceeds that in an urgent care center by \$400-\$800. Of the top ten reasons for seeking care at a FSED, seven were non-life threatening conditions such as sore throats and bronchitis. See, Warren, David. "As the Number of Freestanding ERs Grows, so does Scrutiny." <i>Associated Press</i>. August 21, 2016. http://bigstory.ap.org/article/39dffacdeddc4eee888ee-ca1924f50bf/number-freestanding-ers-grows-so-does-scrutiny •Dignity Health's comments state that the admission rate from FSEDs tends to be lower than at on-site EDs, suggesting that there may be a greater percentage of non-emergency use at FSEDs compared to on-site emergency departments. •FSEDs often differentiate themselves from on-site EDs by patient experience and shorter wait times. See Ayers, Alan A. "Understanding the Freestanding Emergency Department Phenomenon." <i>The Journal of Urgent Care Medicine</i>. February 2014. http://www.jucm.com/understanding-the-freestanding-emergency-department-phenomenon/2/. While this is certainly not a negative thing, this can encourage non-emergency usage among Medicaid recipients since many do not have deterrent to using FSED services such as a higher co-pay.
4.	<p><i>Comment:</i> The proposed rate methodology is arbitrary. AHCCCS did not evaluate negative impacts on delivery systems or member utilization patterns. Neither did AHCCCS analyze the cost of FSED operations.</p>
	<p><i>Response:</i> The proposed payment methodology provides for the identical base payment for Levels 4 and 5, which the Administration acknowledges to be primarily true emergencies. For each of Levels 1 -3, the proposed based payment to an FSED is more than the payment for like services when provided in a physician's office or Urgent Care clinic. There are numerous resources suggesting that it is less expensive to run a FSED than an on-site ED. For example:</p> <ul style="list-style-type: none"> •In a webinar, Greg Davis, Chief Strategy Officer for the Arizona Market for Dignity Health stated "I look at these [FSED] facilities as a lower cost setting than our hospital based emergency departments." Greg Davis, Chief Strategy Officer for the Arizona Market for Dignity Health and Donald Adam, Chief Corporate Officer of Adeptus Health. "Freestanding ERs: A Disruptive Force for Health Systems' Ambulatory Care Strategy." Sponsored by Adeptus Health. https://www.youtube.com/watch?v=cf7fftn9cbM. Published June 15, 2016. •The New England Journal of Medicine recently stated "FSEDs can charge the same fees with a fraction of the overhead costs required to run a full-service hospital" See, Harish, Nir. "How the Freestanding Emergency Department Boom Can Help Patients," <i>New England Journal of Medicine</i>. http://catalyst.nejm.org/how-the-freestanding-emergency-department-boom-can-help-patients/. February 18, 2016. •A 2015 congressional briefing by the Medicare Advisory Commission found that it takes some independent ERs just 20 patients a day to turn a profit. See, Goodman, Matt. "Are Freestanding Emergency Rooms Driving Up Costs?" http://www.dmagazine.com/publications/d-ceo/2016/may/freestanding-emergency-rooms/. May 2016. •The CEO of Baylor Emergency Medical Centers, Dr. John Wood, has been quoted as saying, "for the cost of an 80-bed hospital, we can build 10 ER centers," See, Shlachter, Barry. "As Free-Standing ERs' Business Grows, so Does Backlash." http://www.star-telegram.com/news/business/article3868661.html. <p>In addition, consistent with federal requirements, AHCCCS is required to submit to CMS an analysis of the impact of restructuring provider payments on enrollees' access to care. Historical analyses of access to care have not identified any problems with access to hospital services or emergency department services. See reports posted at https://azahcccs.gov/PlansProviders/RatesAndBilling/FFS/</p> <p>As such, there is no evidence suggesting that expansion of ED services are necessary to ensure AHCCCS enrollees have adequate access to care.</p>
5.	<p><i>Comment:</i> Dignity Health acknowledges that patients at FSEDs must be transferred when inpatient care is required; however, it also noted that on-site EDs also transfer patients to other hospitals depending on acuity and specialty.</p>
	<p><i>Response:</i> The Administration acknowledges that transfers sometimes occur at both FSEDs and on-site locations. However, many, if not most, admissions from an FSED will require two AHCCCS covered transports – one to the FSED and another from the FSED to the hospital when inpatient care is required. This, obviously, is not true of on-site emergency departments. The commenter acknowledges that their own data shows that patients presenting at FSEDs have lower acuity than at on-site EDs. Research shows that only 3-5% of patients at FSEDs are transferred to hospitals compared to at least 15% being admitted at on-site locations (See, Ayers and Harish, <i>Id.</i>). These statistics support the AHCCCS administration's concern that higher non-emergency use occurs at FSEDs.</p>
6.	<p><i>Comment:</i> The proposed rulemaking does not comply with the Arizona Administrative Procedures Act, specifically requirements in A.R.S. § 41-1055.</p>



	<p><i>Response:</i> The commenter incorrectly states the requirements of the Arizona Administrative Procedures Act. First, none of the requirements of A.R.S. § 41-1055(B) are applicable to a Notice of Supplemental Proposed Rulemaking. That subsection sets forth the requirements for the economic, small business and consumer impact statement that must accompany the Notice of Final Rulemaking. See A.R.S. § 41-1052(A); A.A.C. R1-1-602(C)(5). A <i>proposed</i> rulemaking need only include a “preliminary <i>summary</i> of the economic, small business, and consumer impact” (emphasis added). See A.A.C. R1-1-502(B)(12). The required contents of such a summary are listed in A.R.S. § 41-1055(A). The Notice of Supplemental Proposed Rulemaking meets those requirements. Under subsection (A), the summary should identify the conduct and the frequency of occurrence that the rule is designed to change, the harm resulting from the conduct, the likelihood it will continue, the estimated change in frequency, and a summary of the impact statement. However, not every rule has its purpose changing conduct. Consistent with A.R.S. § 36-2903.01(G), the AHCCCS Administration is required to adopt rules regarding payments to hospitals that contract with the AHCCCS Administration. This is what this rulemaking does. State law requires that the AHCCCS Administration, like every State agency, must operate its program within its appropriation. A.R.S. § 36-2903(P). Likewise, federal law requires that the AHCCCS Administration establish payment rates and methodologies that are “consistent with efficiency, <i>economy</i>, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.” 42 U.S.C. 1396a(a)(30)(A). It is a fundamental objective of the AHCCCS program to contain costs and minimize the burden on Arizona taxpayers. The preamble to the Notice of Supplemental Proposed Rulemaking clearly identifies reimbursement of hospital-based FSED as its topic, clearly identifies the AHCCCS Administration’s concern that the growth of FSED will exacerbate the problem of inappropriate and costly use of emergency departments, identifies that taxpayers are currently funding services at FSED that could be provided more economically in other settings, and states that the taxpayers will be harmed if the current billing practice continues.</p>
7.	<p><i>Comment:</i> Arizona law requires that all rulemaking must be evidence-based.</p>
	<p><i>Response:</i> Dignity Health in its own comments acknowledges that this is an inaccurate statement of the law. While a description of the data relied on as part of rulemaking should generally be included in the economic, small business and consumer impact statement included with the Notice of Final Rulemaking, the statute also acknowledges that this is not always possible. See A.R.S. 41-1055(C) (“If for any reason adequate data are not reasonably available to comply with the requirements of subsection B of this section, the agency shall explain the limitations of the data and the methods that were employed in the attempt to obtain the data and shall characterize the probable impacts in qualitative terms. The absence of adequate data, if explained in accordance with this subsection, shall not be grounds for a legal challenge to the sufficiency of the economic, small business and consumer impact statement.”)</p>
8.	<p><i>Comment:</i> Subsection (F) of proposed R9-22-712.90 creates an incentive for a hospital to transfer to a non-affiliated hospital which could negatively impact coordination of care with the patients PCP because a transfer from an FSED to an affiliated hospital results in no payment for the services rendered at the FSED.</p>
	<p><i>Response:</i> The AHCCCS Administration believes it is unlikely that a hospital system would transfer an FSED patient to an unaffiliated hospital when doing so would be contrary to the best interest of the patient, just so the hospital system could bill separately for the ED visit rather than having the cost of the ED reimbursed as part of the inpatient stay at the affiliated hospital. With respect to on-site EDs, it has been the long-standing policy of AHCCCS (as reflected in both the administrative rules applicable to payments under tier and DRG), that the costs for ED services are reflected in the tier/DRG payment when there is an inpatient admission directly from the ED to the “same” hospital. Similarly, when the admission is from a hospital based FSED to a hospital with a common ownership interest, the cost of the FSED visit is recovered through the DRG payment. Based on this comment, AHCCCS will be reviewing its policy of separate reimbursement of on-site ED visits when there is an admission to a physically separate hospital that shares common ownership. Any changes will be reflected in separate rule making.</p>
9.	<p><i>Comment:</i> Dignity Health concludes that AHCCCS has proposed this regulation solely to penalize Dignity Health alone, for participating in the development of FSEDs.</p>
	<p><i>Response:</i> This proposed rulemaking applies to all current and future hospital-based FSEDs. At least four other hospital systems in Arizona also operate FSEDs. The rulemaking is not targeted at Dignity Health.</p>
10.	<p><i>Comment:</i> Subsection E of the proposed rule removes all hospital-based outpatient treatment centers from the outpatient capped fee schedule otherwise applicable under R9-22-712.10 through 712.50. Not all hospital-based OTC’s are FSEDs</p>
	<p><i>Response:</i> The AHCCCS Administration agrees. The preamble to the Notice of Supplemental Proposed Rulemaking reflects the intention of the AHCCCS Administration to establish payment rules for services provided at FSEDs. Subsection (E) was intended to apply only to non-hospital-based FSEDs and not to other hospital-based OTCs. The final rule has been modified to reflect this.</p>
11.	<p><i>Comment:</i> Subsection (D) of the proposed rule appears to establish an exception applicable to only one rural FSED. The rule should not dissuade other hospitals from establishing FSEDs in underserved communities.</p>
	<p><i>Response:</i> The rule exempts prospectively any hospital-based FSED that opens in any rural setting where the only hospital-based ED has closed after January 1, 2015. This addresses the AHCCCS Administration’s concern for ensuring appropriate ED access in light of the national trend of rural hospital closures.</p>
12.	<p><i>Comment:</i> Level 3 FSED visits should be fully compensated because level 3 visits require specialized immediate diagnostic tools that are generally only available in an ED setting.</p>



	<i>Response:</i> The AHCCCS Administration agrees that many – but not all – level 3 visits require the resources found in an ED setting. This is reflected in the lowest percentage reduction (10%). However, not all level 3 visits require those resources. According to the ED Facility Level Coding Guidelines published by the American College of Emergency Physicians, level 3 visits include visits for fevers that respond to antipyretics (e.g., aspirin).
Arizona Hospital & Healthcare Association, September 10, 2016	
13.	<i>Comment:</i> We have serious concern that—while well-intentioned—the proposed rule will harm access to emergency care in medically underserved areas of the state while doing little to address the underlying causes of inappropriate use of emergency department (ED) services by AHCCCS members.
	<i>Response:</i> This rulemaking does not prohibit or restrict the opening of FSEDs in either rural or urban locations. The rule simply establishes the rate of payment for FSED services. Providers are free to make independent business judgments regarding the establishment of new FSEDs. The proposed payment methodology provides for the identical base payment for Levels 4 and 5, which the Administration acknowledges to be emergencies. And for each of Levels 1 -3, the proposed base payment to a FSED is more than the payment for like services when provided in a physician’s office or Urgent Care clinic. The Administration does not believe, nor is there any evidence to support, that this payment methodology will negatively impact access to care to emergency department services. Subsection (D) addresses the concern in rural areas where the only hospital-based ED has closed. This is consistent with other AHCCCS payment methodologies that treat urban and rural settings differently. The rule does not encourage hospitals to establish FSEDs where ED services already exist thereby limiting opportunities for inappropriate use of FSEDs.
14.	<i>Comment:</i> We also dispute a number of assumptions the Administration makes about hospital-based FSEDs in the Preamble, including statements about the capabilities of these facilities, their role within the larger delivery system, and how they hold themselves out to their respective communities. While some of these statements may be true for certain FSEDs in the metro Phoenix area—where the garnering of market share and/or marketing objectives may be a motivating factor—they should not be generalized to all hospital-based FSEDs, particularly those located in rural and medically underserved areas.
	<i>Response:</i> Please see the responses to comment number 1 regarding FSED capabilities, number 5 regarding transportation for inpatient care, and number 4 regarding access to care.
15.	<i>Comment:</i> We have not seen promotional materials that present FSED as an alternative to primary care. We have queried our members as to whether they have held out their FSED services as an appropriate alternative to primary care and they have responded with a resounding “no.”
	<i>Response:</i> Please see the response to comment number 2.
16.	<i>Comment:</i> The proposed payment reductions do not adequately address the fixed costs of all services provided at the FSED, especially those located in rural areas.
	<i>Response:</i> Federal law, 42 CFR 1396a(a)(30)(A) directs the State Medicaid agency to establish rates that are consistent with efficiency, economy, quality care, and access to care. In essence, federal law requires that the State pay no more or no less than necessary to assure adequate access to care. The law does not require the State to establish rates that individually meet the fixed costs of each cost center of a hospital. As the commenter noted, for level 4 and level 5 ED visits the payment to a FSED is the same as the payment to an on-site ED. The Administration does not believe, nor is there any evidence to support, that this payment methodology will materially impact aggregate hospital revenues or, more importantly, negatively impact access to care to emergency department services.
17.	<i>Comment:</i> The Preamble does not identify any data or studies used by the Administration to justify the proposed payment changes, including development of the proposed methodology, which makes it impossible to evaluate the reasonableness of this proposal.
	<i>Response:</i> Please see the response to comment number 7.
18.	<i>Comment:</i> The Administration should explain how it determined the appropriateness of this particular fee schedule, which will allow the public and other stakeholders, including policymakers, to more effectively evaluate the proposal.
	<i>Response:</i> Please see the responses to comments number 4 and 13.
19.	<i>Comment:</i> In subsection (E) it appears the cross-reference to subsection (B) should refer to subsection (A).
	<i>Response:</i> The AHCCCS Administration agrees and has changed the cross-reference in the final rule.
20.	<i>Comment:</i> Subsection (E) states that all hospital-based outpatient treatment centers will be reimbursed based on the non-hospital fee schedule. We recommend limiting the application of subsection (E) to FSED not associated with hospitals.
	<i>Response:</i> Please see the response to comment number 10. Subsection (E) was intended to apply only to non-hospital-based FSEDs and not to other hospital-based OTCs. The final rule has been modified to reflect this.
21.	<i>Comment:</i> Subsection C should clarify whether the proposed schedule for hospital-based FSEDs applies to all CPT codes, including ancillary service codes. We recommend excluding the latter codes and retaining their current reimbursement rate.
	<i>Response:</i> AHCCCS agrees that the entire claim is not subject to the percentage reduction. The reductions are applied only to the evaluation & management procedure codes for Levels 1-3. Subsection C has been modified to reflect this more clearly.
Susan Watchman of Gammage & Burnham, September 6, 2016 (Public Hearing)	
22.	<i>Comment:</i> Subsection (E), as written, sweeps in other kinds of provider-based outpatient clinics and suggests that their billing would change from being UV billers reimbursed under hospital outpatient fee schedule RF133 into 1500 billers



	<i>Response:</i> Please see the response to comments 10 and 20. Subsection (E) was intended to apply only to non-hospital-based FSEDs and not to other hospital-based OTCs. The final rule has been modified to reflect this.
23.	<i>Comment:</i> Subsection (D) carves out a very narrow rule exception that appears to address just one situation. FSEDs can serve a purpose in some of our underserved areas and perhaps even in urban areas, but are so disperse. By narrowing the exception so much you may actually be acting counter to desires to increase access to care in those areas
	<i>Response:</i> Please see the response to comment number 11.
Health System Alliance of Arizona, September 6, 2016.	
	<i>Comment:</i> The proposed rule was promulgated without the historical cost study on impacted systems.
	<i>Response:</i> Please see the response to comments number 3, 4, and 7.
Abrazo Community Health Network, September 6, 2016	
	<i>Comment:</i> Abrazo FSEDs are not designed or marketed as alternatives to primary care or urgent care.
	<i>Response:</i> Please see the response to comment number 2.
	<i>Comment:</i> Abrazo FSEDs are equipped with the same diagnostic equipment as the hospital attached EDs.
	<i>Response:</i> Please see the response to comment number 1.
	<i>Comment:</i> Abrazo is concerned that the proposed reductions to FSED reimbursement will place financial stress on the hospital.
	<i>Response:</i> Please see the response to comment number 16. In addition, please see the economic, small business and consumer statement submitted to the Governor’s Regulatory Review Council along with the Notice of Final Rulemaking. The AHCCCS Administration estimates that the adjustment to payments to hospital-based FSEDs represents approximately three million dollars annually to all hospitals operating such facilities.
Honor Health Network, September 1, 2016	
	<i>Comment:</i> Savings to AHCCCS as a result of this change in payment methodology should be used to increase reimbursement rates for hospitals in order to enhance quality of care and efficient delivery of services.
	<i>Response:</i> The AHCCCS Administration appreciates the suggestion; however, the use of program savings is beyond the scope of this rulemaking.

12. Other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules.

There are no other matters prescribed by statute applicable to rulemaking specific to this agency, to this specific rule, or to this class of rules.

- 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 rule does not require the provider to obtain a permit or a general 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:**
The rule must comply with 42 U.S.C. 1396a(a)(30)(A). The AHCCCS Administration believes this rule is consistent with state and federal requirements to conserve taxpayer funds while assuring access to quality health care services.
- 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 such 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 rules:

The rule does not include any incorporation by reference of materials as specified in statute.

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:

The rule was not previously made, amended or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 9. HEALTH SERVICES

CHAPTER 22. ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM (AHCCCS) ADMINISTRATION

ARTICLE 7. STANDARDS FOR PAYMENTS

Section

R9-22-712.90. Reimbursement of Hospital-based Freestanding Emergency Departments



ARTICLE 7. STANDARDS FOR PAYMENTS

R9-22-712.90. Reimbursement of Hospital-based Freestanding Emergency Departments

- A.** “Hospital-based freestanding emergency department” (hospital-based FSED) means an outpatient treatment center, as defined in R9-10-101, that: (1) provides emergency room services under R9-10-1019, (2) is subject to the requirements of 42 CFR 489.24, and (3) shares an ownership interest with a hospital, regardless of whether the outpatient treatment center operates under a hospital’s single group license as described in A.R.S. § 36-422.
- B.** A hospital-based FSED shall register with the Administration separately from the hospital with which an ownership interest is shared and shall obtain a separate provider identification number. The Administration shall not charge a separate provider enrollment fee for registration of a hospital-based FSED. The Administration shall accept a hospital’s compliance with the provider screening and enrollment requirements of 42 CFR Part 455 as compliance by the hospital-based FSED.
- C.** For dates of service on and after March 1, 2017, and except as provided in subsection (D), services provided by a hospital-based FSED for evaluation and management CPT codes 99281 through 99285 shall be reimbursed at the following percentages of the amounts otherwise reimbursable under sections R9-22-712.20 through R9-22-712.30. All other covered codes shall be reimbursed in accordance with sections R9-22-712.20 through R9-22-712.30 without a percentage reduction.
 - 1. 60% for a level 1 emergency department visit as indicated by CPT 99281.
 - 2. 80% for a level 2 emergency department visit as indicated by CPT 99282.
 - 3. 90% for a level 3 emergency department visit as indicated by CPT 99283.
 - 4. 100% for a level 4 or 5 emergency department visit as indicated by CPT codes 99284 and 99285.
- D.** A hospital-based FSED located in a city or town in a county with less than 500,000 residents, where the only hospital in the city or town operating an emergency department closed on or after January 1, 2015, shall be reimbursed under sections R9-22-712.20 through R9-22-712.35 using the adjustment in R9-22-712.35 associated with the nearest hospital with which the freestanding emergency department shares an ownership interest.
- E.** Services provided by an outpatient treatment center that provides emergency room services under R9-10-1019, but does not otherwise meet the criteria in subsection A, shall be reimbursed based on the non-hospital AHCCCS capped fee-for-service schedule under R9-22-710.
- F.** The Administration shall not reimburse a hospital for services provided at a hospital-based FSED if the member is admitted directly from a hospital-based FSED to a hospital with an ownership interest in the hospital-based FSED. As provided in R9-22-712.60(B), payments made for the inpatient stay using the DRG methodology shall be the sole reimbursement.



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 this rule.

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:

It is the statutory change enacted by the legislature that has economic impact. The legislation authorizes licensed pharmacists to make opioid antagonists more readily available to individuals at risk of an opioid-related overdose. The economic impact includes the potential for saving the lives of individuals at risk of an opioid-related overdose. The rulemaking, which simply makes the rules required by statute, will have minimal economic impact.

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:

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:

No permit is required.

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 is federal law governing medications and those requiring a prescription order. However there is no federal law specific to the subject matter 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.

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

No material is incorporated by reference.

12. An agency explanation about the situation justifying the rulemaking as an emergency rule:

The rule is necessary as an emergency rule to protect public health, safety, and welfare, which is one of the grounds for an emergency rule provided under A.R.S. § 41-1026(A)(1). The emergency addressed by the rule is not due to agency delay or inaction. The law authorizing licensed pharmacists to dispense opioid antagonists without a prescription order to individuals at risk of an opioid-related overdose went into effect on July 11, 2016. In anticipation of the law going into effect, the Board requested an exemption from Executive Order 2016-03 on May 24, 2016. An exemption was provided by Christina Corieri, Senior Policy Advisor in the Governor's Office, by e-mail dated September 30, 2016.

The U.S. is in the midst of an opioid-use epidemic that has deadly consequences. According to the U.S. Centers for Disease Control and Prevention, approximately 100 individuals die in the U.S. every day from a drug overdose. Prescription drugs are involved in half of those deaths. Opioid pain relievers accounted for almost 17,000 of the deaths. Heroin accounted for 3,000 overdose deaths. In 2010, drug overdose deaths outnumbered deaths from gunshot wounds or motor vehicle crashes (https://www.whitehouse.gov/sites/default/files/ondcp/Fact_Sheets/opioids_fact_sheet.pdf).

In 2014 in Arizona, 1,018 individuals required emergency room treatment for a prescription drug overdose. There were 494 deaths from pharmaceutical opioids and benzodiazepines. That is more than one individual every day. Arizona has the fifth highest opioid prescription rate in the country. The rate of drug-induced deaths in Arizona (15.5 per 100,000 population) exceeds the national average (<http://www.azcentral.com/story/news/local/arizona/2016/03/02/arizona-heroin-prescription-drug-overdoses-escalate/81149658>).

To address this unprecedented opioid epidemic, the U.S. Department of Health and Human Services has established three priority areas. Expanding use of opioid antagonists such as Naloxone is one of those priority areas. The World Health Organization has found that provision of an opioid antagonist to laypersons is associated with a mortality rate from opioid overdose of approximately one percent, which compares favorably with the mortality rate of two to four percent in which an opioid antagonist is unavailable to laypersons. This rulemaking, which seeks to make access to opioid antagonists more widely available, is consistent with the USDHHS priority area and findings of the WHO (<http://www.hhs.gov/sites/default/files/Factsheet-opioids-061516.pdf> and <http://www.medscape.org/viewarticle/835536>).

13. The date the Attorney General approved the rule:

December 15, 2016

14. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY



ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-407.1. Dispensing an Opioid Antagonist

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-407.1. Dispensing an Opioid Antagonist

A. As used in this Section:

1. “Community member” means a person in position to assist an individual at risk of experiencing an opioid-related overdose. This includes emergency first responders, peace officers or other law enforcement personnel, fire department personnel, school district employees, and personnel of a facility or center that provides services to individuals at risk of experiencing an opioid-related overdose.
2. “Opioid antagonist” means any drug approved by the U.S. Food and Drug Administration that binds to opioid receptors, effectively blocking or inhibiting the receptor and preventing the body from responding to the opioid. Naloxone hydrochloride is an opioid antagonist.
3. “Opioid-related overdose” means an acute condition in which the opioid overdose triad of symptoms, decreased level of consciousness, pinpoint pupils, and respiratory depression, is present. Other symptoms may include seizures, muscle spasms, and coma or death. An opioid-related overdose requires medical assistance.

B. Before allowing an opioid antagonist to be dispensed under A.R.S. § 32-1979, a pharmacy permit holder shall have written policies and procedures regarding:

1. Documentation of opioid antagonists dispensed under A.R.S. § 32-1979. The documentation shall:
 - a. Include the information required under R4-23-407(A)(1)(a), (c), (d), (f), and (l) and (A)(2); and
 - b. Include the following:
 - i. Quantity dispensed;
 - ii. Directions for use; and
 - iii. If available, the patient’s name, address, telephone number, and birth date; or
 - iv. Name, address, telephone number, and birth date of a family member in position to assist the individual at risk of an opioid-related overdose; or
 - v. Name, address, telephone number, and entity at which employed of a community member in position to assist an individual at risk of an opioid-related overdose; and
 - vi. Name of the individual providing the education required under subsection (B)(2);
2. Education to be provided to the individual to whom the opioid antagonist is dispensed. The education shall include:
 - a. How to prevent an opioid-related overdose;
 - b. How to recognize an opioid-related overdose;
 - c. How to administer an opioid antagonist safely to an individual experiencing an opioid-related overdose;
 - d. Precautions regarding:
 - i. Potential side effects, and
 - ii. Possible adverse events associated with administration of the opioid antagonist; and
 - e. Importance of seeking emergency medical assistance for the individual experiencing an opioid-related overdose before or after administering the opioid antagonist; and
3. Confidentiality, security, and privileged nature of documentation of opioid antagonists dispensed under A.R.S. § 32-1979.

C. Before dispensing an opioid antagonist under A.R.S. § 32-1979(A), a licensed pharmacist shall:

1. Complete an opioid prevention and treatment training program that includes the following information:
 - a. How to recognize the symptoms of an opioid-related overdose.
 - b. How to respond to a suspected opioid-related overdose.
 - c. How to administer all preparations of an opioid antagonist, and
 - d. The information needed by an individual to whom an opioid antagonist is dispensed, and
2. Comply fully with the policies and procedures developed under subsection (B).

D. A pharmacist who has completed an opioid prevention and treatment training program described in subsection (C):

1. May administer an opioid antagonist to an individual the pharmacist believes is experiencing an opioid-related overdose, and
2. Is exempt from civil liability under the terms of A.R.S. § 36-2267(B).

E. Dispensing an opioid antagonist under A.R.S. § 32-1979 by invoice to a community member is not wholesale distribution as defined at A.R.S. § 32-1981.



NOTICES OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

This section of the Arizona Administrative Register contains Notices of Expiration of Rules. Under A.R.S. § 41-1056(J), if an agency does not file a five-year rule review report with the Governor's Regulatory Review Council (including a revised report); or if an agency does not file an extension before the due date of the report; or if an agency files an extension but does not submit a report

within the extension period; the rules scheduled for review expire.

The Council is required to notify the Secretary of State that the rules have expired and are no longer enforceable. The notice is published in the Register, and the rules are removed from the Code.

GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

ARIZONA STATE RETIREMENT SYSTEM

[R16-274]

- 1. Agency name: Arizona State Retirement System
2. Title and its heading: 2, Administration
3. Chapter and its heading: 8, State Retirement System Board
4. Articles and their headings: 2, State Retirement Defined Contribution Program
5. As required by A.R.S. § 41-1056(J), the Council provided notice that the following Sections expired as of May 31, 2015:

- R2-8-201. Definitions
R2-8-207. Return of Contributions

- 6. Signature is of Bret H. Parke Date of Signing Aug. 4, 2015
/s/ Brett H. Parke
G.R.R.C. Chair (at the time of signing)

GOVERNOR'S REGULATORY REVIEW COUNCIL

NOTICE OF EXPIRATION OF RULES UNDER A.R.S. § 41-1056(J)

ARIZONA DEPARTMENT OF TRANSPORTATION

[R16-275]

- 1. Agency name: Arizona Department of Transportation
2. Title and its heading: 17, Transportation
3. Chapter and its heading: 4, Department of Transportation - Title, Registration, and Driver Licenses
4. Articles and their headings: 7, Hazardous Materials Endorsement
5. As required by A.R.S. § 41-1056(J), the Council provides notice that the following rules have expired as of June 30, 2016:

- R17-4-703. General Provisions
R17-4-711. HME on CDL Learner's Permit

- 6. Signature is of Nicole A. Ong Date of Signing Dec. 9, 2016
/s/ Nicole A. Ong
G.R.R.C. Chair



NOTICES OF PROPOSED DELEGATION AGREEMENTS

This section of the Arizona Administrative Register contains Notices of Proposed Delegation Agreements.

The Administrative Procedure Act requires the publication of notices of proposed delegation agreements in the Register. A delegation agreement is an agreement between an agency and a political subdivision that authorizes the political subdivision to exercise functions, powers, or duties conferred on the delegating agency by a provision of law.

Delegation agreements are not intergovernmental agreements pursuant to A.R.S. Title 11, Chapter 7, Article 3. For at least 30 days after publication of the Notice of Proposed Delegation Agreement in the Register, the agency shall provide persons the opportunity to submit in writing statements, arguments, data, and views on the proposed delegation agreement and shall provide an opportunity for a public hearing if there is sufficient interest. The delegating agency shall follow the procedures for delegation agreements specified in A.R.S. Title 41, Chapter 6, Article 8.

NOTICE OF PROPOSED DELEGATION AGREEMENT
DEPARTMENT OF ENVIRONMENTAL QUALITY

[M16-297]

1. Name of the agency proposing the delegation agreement:

Arizona Department of Environmental Quality

2. The name of the political subdivision to which functions, powers and duties of the agency are proposed to be delegated:

Maricopa County

3. The name, address, and telephone number of agency personnel to whom persons may direct questions or comments:

Name: Timothy Franquist
Title: Director, Air Quality Division
Address: Arizona Department of Environmental Quality
1110 W. Washington St.
Phoenix, AZ 85007
Phone: (602) 771-2366
E-mail: tsf@azdeq.gov

4. A summary of the delegation agreement and the subjects and issues involved:

Under A.R.S. §§ 11-201(A)(3), 49-107, 41-1081 and 49-402(B), after conferring with the Maricopa County Air Quality Department, the Arizona Department of Environmental Quality proposes to amend the delegation agreement with Maricopa County, the Local Agency (LA), to delegate authority to issue permits under the state air quality permitting program, A.A.C. Title 18, Chapter 2, Articles 3 and 4, for the Intel Ocotillo Campus, 4500 S. Dobson Road, Chandler, Arizona 85248 (the Intel facility).

Pursuant to A.R.S. § 49-402(B), ADEQ asserted jurisdiction over the Intel facility on December 15, 2016. The facility is planning a modification of operations that may result in emissions of certain pollutants exceeding the major source threshold for nonattainment new source review (NNSR). The increase itself, however, will be substantially less than the threshold. Under current ADEQ and Maricopa County rules, which are consistent with federal NNSR requirements, this change is exempt from NNSR permitting.

Both the state and Maricopa County formerly had rules that imposed NNSR permitting requirements on any increase in emissions that resulted in a formerly minor source's emissions exceeding the major source threshold. Both ADEQ and Maricopa County have amended their rules to eliminate this requirement as being inconsistent with state law, see A.R.S. § 49-104(A)(17). The state amendment has been approved as a revision to the state implementation plan (SIP), but Maricopa County's is still pending approval. Since the county's amendment is consistent with federal requirements and has already been approved at the state level, ADEQ anticipates that it ultimately will be approved, but when this will occur is not certain.

In the interim, the old rule remains a federally enforceable requirement against any source subject to Maricopa County's permit program. ADEQ has asserted jurisdiction so that the Intel project can proceed under the state's program and is not delayed by an outdated SIP provision. At the same time, ADEQ is proposing to delegate authority to administer permitting for the Intel facility back to Maricopa County in order to avoid any delays that might result from transferring ongoing work from MCAQD to the state.

Both the assertion of jurisdiction and the proposed delegation will terminate on the effective date of approval by the U.S. Environmental Protection Agency of the April 22, 2016 Maricopa County New Source Review State Implementation Plan.

ADEQ proposes to add language to the signature page to memorialize the date of approval by the County Board of Supervisors. All other delegated program elements remain the same as the current delegation agreement.

**5. Copies of the proposed delegation agreement may be obtained from the agency as follows:**

An electronic copy of the existing Agreement and proposed amendment may be downloaded from the following web site address:
<http://legacy.azdeq.gov/function/permits/delegated.html>

Or contact: Sherri Zendri, Administrative Counsel
Arizona Department of Environmental Quality
Office of Administrative Counsel
1110 W. Washington
Phoenix, AZ 85007
Telephone: (602) 771-2242
E-mail: slz@azdeq.gov

6. The schedule of public hearings on the proposed delegation agreement:

1:00 p.m., February 6, 2017
Conference Room 3100B
1110 W. Washington St.
Phoenix, AZ 85007

ADEQ will accept written statements, arguments, data, and views on the proposed delegation agreement that are received within 30 days after the date of the publication of this notice in the *Register* by 5:00 p.m. or postmarked not later than that date.

After the conclusion of the public comment period and hearing, if any, the agency shall prepare a written summary responding to the comments received, whether oral or written. The agency shall consider the comments received from the public in determining whether to enter into the proposed delegation agreement. The agency shall give written notice to those persons who submitted comments of the agency's decision on whether to enter into the proposed delegation agreement.



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 PROPOSED FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 352: GASOLINE DELIVERY VESSEL TESTING AND USE

[M16-291]

PREAMBLE

- 1. Rule affected: Rule 352: Gasoline Delivery Vessel Testing and Use
2. Statutory authority for the rulemaking: Authorizing statutes: A.R.S. §§ 49-474, 49-479, and 49-480
3. The effective date of the rule: Date of adoption: November 2, 2016
4. List of public notices addressing this rulemaking: Notice of Briefing to Maricopa County Manager: May 2015
5. Name and address of department personnel with whom persons may communicate regarding the rulemaking: Name: Cheri Dale or Hether Krause
6. Explanation of the rule, including the department's reasons for initiating the rulemaking: Summary: Rule 352 (Gasoline Delivery Vessel Testing and Use) limits the emission of volatile organic compounds (VOCs) from gasoline delivery vessels...



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 Products.

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 MCAPCD 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 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, 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. Both MACT standards included requirements for gasoline cargo tanks, the industry term now used for delivery vessels.

Rule 352 Rulemaking Background: Rule 352 was revised in 1992 and 1999 in order for the county to comply with RACT and other policy statements published by the EPA. In 2013, a limited scope rulemaking clarified the definition of volatile organic compounds within all of the Maricopa County Air Quality rules. In this rulemaking, the Maricopa County Air Quality Department (department) revised rule language to improve the clarity of the gasoline loading requirements and updated the test methods. This rulemaking included revisions to improve the clarity and enforceability of the regulatory requirements for gasoline cargo tanks.

Other revisions included in this rulemaking were the relocation of any exemptions previously found in Section 300 to a new section in Section 100; the inclusion of definitions specific to the gasoline industry and in line with terms defined in the Code of Federal Regulations; the clarification of the regulatory requirements for loading gasoline at bulk terminals, bulk plants and gasoline dispensing facilities; increased the amount of notification time in advance of gasoline cargo tank testing; and the addition of the use of optical gas imaging as an alternative work practice to monitor and identify leaking equipment.

Issues Raised and Discussed During this Rulemaking Process:

Prior to Stakeholder workshops, one Stakeholder submitted a written request to the department concerning the notification time for testing of gasoline cargo tanks. Rule 352 requires the owner or operator or tester of a gasoline cargo tank to notify the Control Officer "...no more than 24 hours in advance of [vapor tightness] testing." The Stakeholder expressed concern that gasoline cargo tanks operating in different regulatory jurisdictions require different notification requirements; this presented a challenge for the Stakeholder when conducting vapor tightness testing for gasoline cargo tanks that operate outside of Maricopa County. The department acknowledged this "challenge presented by the inconsistency of our [the department] testing notification periods compared to those required by other jurisdictions." (Department letter to Massey's Truck and Tank Repair, June 11, 2014) At that time, the department conditionally agreed to allow the notification time of up to 72 hours in advance of the gasoline cargo tank testing. This rule revision now allows up to 72 hours notification time prior to gasoline cargo tank testing.

The department held three Stakeholder workshops: June 30, 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.

The current definitions of "bulk tank" and "bulk terminal" were confusing. Stakeholders recommended clarification of the terms and their applicability to be consistent throughout the department's rules that pertain to gasoline. The department acknowledged the inconsistencies between the "gasoline rules" and revised the rules accordingly.

Stakeholders questioned if non-gasoline cargo tanks were subject to the required pressure testing requirements of Rule 352. The rule did not seem clear if there were any exceptions to this pressure test requirement. Rule 352, Section 305.1 does provide an exemption from the pressure testing requirements if a gasoline cargo tank meets all of the conditions listed in the section. The rule retains the same exemptions previously located in Section 305.1 and now located in Section 103 (Partial Exemptions). Additional questions were asked concerning the rule's applicability to a cargo tank that only loads aviation gasoline. The MACT standards that include requirements for cargo tanks exempt the following: "...transfer of aviation gasoline within the airport, is not subject to this subpart. (40 CFR 63.11081(d))



and 40 CFR 63.11111(g).” Maricopa County included an exemption from Rule 352 for cargo tanks that load only the following fuels: aviation fuel, diesel fuel and liquefied petroleum gas.

Description of Rule 352 Amendments:

Amended the following throughout the rule:

- Changed the term “transfer” to “loading”
- Changed the term “delivery vessel” to “gasoline cargo tank”
- Deleted the word “person” and inset 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)
- Revised Section 102 (Applicability)
- Added Section 103 (Exemptions)

Amended the following in Section 200:

- Deleted the definition 2-POINT SYSTEM
- Added the definition AVIATION GASOLINE (AVGAS)
- Added the definition BULK GASOLINE PLANT
- Added the definition BULK GASOLINE TERMINAL
- Added the definition COAXIAL VAPOR BALANCE SYSTEM
- Added the definition DUAL-POINT VAPOR BALANCE SYSTEM
- Revised the definition of EXCESS GASOLINE DRAINAGE
- Revised the definition of GASOLINE
- Deleted the definition GASOLINE DELIVERY VESSEL
- Added the definition GASOLINE CARGO TANK
- Added the definition GASOLINE DISPENSING FACILITY
- Revised the definition of LEAK FREE
- Revised the definition of MARICOPA COUNTY (MC) PRESSURE VAPOR TIGHTNESS TEST
- Revised the definition of PURGING
- Revised the definition of STAGE 1 VAPOR RECOVERY SYSTEM (VR SYSTEM)
- Added the definition SUBMERGED FILL
- Revised the definition of SWITCH LOADING

Amended the following in Section 300:

- Deleted Section 301 PREVENT LEAKS AND SPILLS
- Deleted Section 302 GASOLINE DELIVERY VESSEL LEAK TEST REQUIRED
- Deleted Section 303 DISPLAY A VALID DECAL
- Deleted Section 304 PURGING PROHIBITED
- Deleted Section 305 EXEMPTIONS
- Added Section 301 GASOLINE CARGO TANK REQUIREMENTS
- Added Section 301.1 Gasoline Cargo Tank Integrity
- Added Section 301.2 Maricopa County Air Pollution Vapor Tightness Certification
- Added Section 301.3 Purging
- Added Section 302 LOADING OF GASOLINE
- Added Section 302.1 Loading of Gasoline into a Gasoline Cargo Tank from a Bulk Plant
- Added Section 302.2 Loading of Gasoline at a Bulk Terminal
- Added Section 302.3 Loading of Gasoline into a Stationary Gasoline Storage Tank at a Non-Retail Gasoline Dispensing Facility
- Added Section 302.4 Loading of Gasoline into a Stationary Gasoline Storage Tank at a Retail Gasoline Dispensing Facility

Amended the following in Section 400:

- Revised Section 401 MARICOPA COUNTY AIR POLLUTION VAPOR TIGHTNESS TESTING
- Revised Section 401.1 Notification of Required Testing
- Revised Section 401.2 Registration
- Revised Section 401.3 Expiration
- Revised Section 401.4 Loss, Defaced or Destroyed Maricopa County Vapor Tightness Certification Decal
- Revised Section 402 TIME FRAME FOR INSTALLATION OF CONTROL DEVICE

Amended the following in Section 500:

- Renumbered Section 501 RECORDKEEPING AND REPORTING REQUIREMENTS to Section 502
- Added Section 501 GASOLINE CARGO TANK VAPOR TIGHTNESS TESTING REQUIREMENT
- Renumbered Section 502 MONITORING FOR LEAKS to Section 503
- Added Section 503.1 Combustible Gas Detector or an Organic Vapor Analyzer (OVA)
- Added Section 503.1 Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3
- Added Section 503.3 Optical Gas Imaging
- Renumbered Section 503 COMPLIANCE to Section 504
- Renumbered Section 504 TEST METHODS to Section 505



- Added Section 505.1 Optical Gas Imaging
- Added Section 505.2 EPA Method 21
- Renumbered Section 504.1 EPA Method 27 to Section 505.3
- Renumbered Section 504.2 American Society for Testing Materials...to Section 505.4 and revised
- Renumbered Section 504.3 Test of Internal Vapor Valves to Section 505.5
- Renumbered Section 504.4 Delivery Vessel Vapor Tightness Test to Section 505.6

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 complied 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 352 included Reasonably Available Control Technology (RACT).

The department complies with A.R.S. § 49-112(B) in that the amendments to Rule 352 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 352 (Gasoline Delivery Vessel Testing and Use). Rule 352 was re-titled: Gasoline Cargo Tank Testing and Use.

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

The persons who will be directly affected by and bear the costs of this rulemaking to revised Rule 352 will be facilities in Maricopa County that have a gasoline cargo tank which is used to load gasoline, and to all persons who own, operate, maintain, repair, or test such a gasoline cargo tank. Revised Rule 352 does not impose new requirements on facilities that provide or receive testing per Rule 352 and no costs would be incurred for compliance with the rule revisions.

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:

- Added definitions specific to the gasoline industry and in line with terms defined the Code of Federal Regulations;
- Clarified the regulatory requirements for loading gasoline at bulk terminals, bulk plants and gasoline dispensing facilities;
- Increased the amount of notification time in advance of gasoline cargo tank testing;
- Added optical gas imaging as an alternative work practice to monitor and identify leaking equipment.

Revised Rule 352 did not impose new requirements on facilities that provide testing per Rule 352 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 352 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 will 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 have a gasoline cargo tank which is used to load gasoline, and own, operate, maintain, repair, or test such a gasoline cargo tank.

(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 proposed 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 will 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. 1242), the department included the following additional amendments:

- Deleted the term “vessel” or “delivery vessel” and replaced with the words “gasoline cargo tank” to maintain consistency throughout rule. The following sections were revised:
 - Section 103.3
 - Section 208
 - Section 211
 - Section 301.2.b(2)
 - Section 401.2
 - Section 501.1(b)
 - Section 502
 - Section 505.5(a) and (b)
 - Section 506.6
- Changed “solely in another state” to “outside of Arizona” in Section 103.2(b)(1)
- Re-structured Section 103.4(a)(1) to delete “when” at the end of the introductory statement, to add “when” to the beginning of Section 103.4(a)(1)(a) and to change Section 103.4(a)(1)(b) from “A gasoline cargo tank has stopped” to “After a gasoline cargo tank has come to a complete stop”
- Deleted the term “tanks” from Section 215.1
- Deleted Section 215.3 (Definition of “Submerged Fill”) text regarding API Standard 650 Compliant, because such provision is applicable to organic liquids not gasoline.
- Changed the text in Section 302.3(i) to be consistent with the text in Section 302.2(e) regarding capturing and collecting spilled gasoline
- Added new Section 302.3(j) to be consistent with the text in Section 302.4(b) regarding the conditions under which a stationary gasoline storage tank shall be loaded with gasoline
- Changed the text in Section 302.4(a) to be consistent with the text in Section 302.2(a) regarding verifying and maintaining the gasoline cargo tank integrity
- Changed the title of the application for a Maricopa County Vapor Tightness Certification decal.
- Deleted the phrase “or a designee of the Control Officer,” in Section 502.1
- Added “the gasoline cargo tank unit number” to Section 502.2(a) regarding information that must be included in the “Maricopa County Vapor Tightness Certification Decal Application”
- Included text in Sections 504 and 505 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.
- Deleted Section 504.3 (Test Methods-Test of Internal Vapor Valves) because requirements are in Sections 504.1 (Compliance-Pressure and Vacuum Tests) and 504.2 (Compliance-Test of Internal Vapor Valves)
- Deleted Section 504.4 (Test Methods-Delivery Vessel Vapor Tightness Test) because requirements are in Section 503.1 (Monitoring for Leaks-Combustible Gas Detector or an Organic Vapor Analyzer)

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

No comments were received during the comment period.

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 352, Section 505:

- Optical Gas Imaging: Alternative Work Practice for Monitoring Equipment Leaks, 40 CFR 60.18(g)
- EPA Method 21 - Determination of Volatile Organic Compound Leaks
- EPA Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test
- ASTM D323-15a “Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)

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 352
GASOLINE DELIVERY VESSEL CARGO TANK TESTING AND USE
INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
102 APPLICABILITY
103 PARTIAL EXEMPTIONS

SECTION 200 – DEFINITIONS

- 201 2-POINT SYSTEM
201 AVIATION GASOLINE
202 BULK GASOLINE PLANT
203 BULK GASOLINE TERMINAL
204 COAXIAL VAPOR BALANCE SYSTEM
205 DUAL-POINT VAPOR BALANCE SYSTEM
202 206 EXCESS GASOLINE DRAINAGE
203 207 GASOLINE
204 204 GASOLINE DELIVERY VESSEL
208 208 GASOLINE CARGO TANK
209 209 GASOLINE DISPENSING FACILITY (GDF)
205 210 GASOLINE VAPORS
206 211 LEAK FREE
207 212 MARICOPA COUNTY (MC) PRESSURE VAPOR TIGHTNESS TEST
208 213 PURGING
209 214 STAGE 1 VAPOR RECOVERY SYSTEM (VR SYSTEM)
210 215 SUBMERGED FILL
210 216 SWITCH LOADING
211 217 VAPOR TIGHT

SECTION 300 – STANDARDS

- 301 PREVENT LEAKS AND SPILLS
302 GASOLINE DELIVERY VESSEL LEAK TEST REQUIRED
303 DISPLAY A VALID DECAL
304 PURGING PROHIBITED
305 EXEMPTIONS
301 GASOLINE CARGO TANK REQUIREMENTS
302 LOADING OF GASOLINE

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 MARICOPA COUNTY (MC) VAPOR TIGHTNESS TESTING TEST
402 TIME FRAME FOR INSTALLATION OF CONTROL DEVICE

SECTION 500 – RECORDS AND MONITORING

- 501 MARICOPA COUNTY (MC) GASOLINE CARGO TANK VAPOR TIGHTNESS TESTING REQUIREMENTS
501 502 RECORDKEEPING AND REPORTING REQUIREMENTS
502 503 MONITORING FOR LEAKS
503 504 COMPLIANCE DETERMINATION
504 505 TEST METHODS METHODS INCORPORATED BY REFERENCE

Revised 07/13/88
Revised 11/16/92
Revised 05/05/99
Revised 09/25/13

Revised 07/13/1988; Revised 11/16/1992; Revised 05/05/1999; Revised 09/25/2013; and Revised 11/02/2016

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 352
GASOLINE DELIVERY VESSEL CARGO TANK TESTING AND USE

SECTION 100 – GENERAL

- 101 PURPOSE: To limit emissions of volatile organic compounds (VOC) from gasoline delivery vessels cargo tanks.
102 APPLICABILITY: This rule applies to any gasoline delivery vessel cargo tank which is used to receive or deliver load gasoline within Maricopa County, and to all persons who own, operate, maintain, repair, or test such a vessel gasoline cargo tank.
103 PARTIAL EXEMPTIONS:



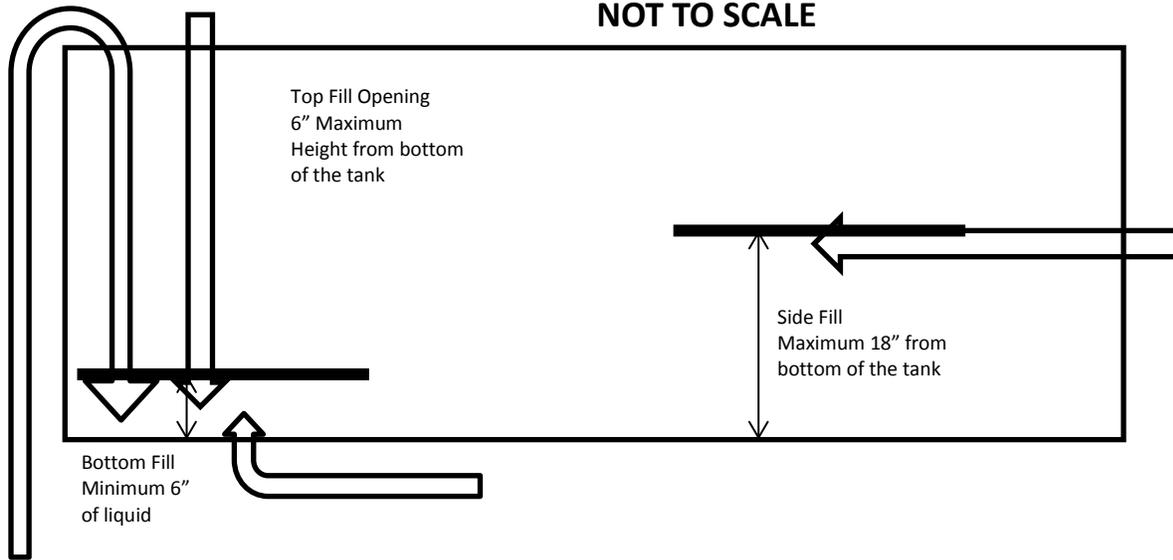
- 103.1** This rule does not apply to a gasoline cargo tank when loading the following fuels:
- Aviation gasoline loaded at airports.
 - Diesel.
 - Liquefied petroleum gas (LPG).
- 103.2** A gasoline cargo tank is exempt from the Maricopa County (MC) Vapor Tightness Test requirements of Section 301 of this rule, if the gasoline cargo tank meets the requirements in Sections 103.1(a), (b), or (c) of this rule.
- A gasoline cargo tank is exempt from the MC Vapor Tightness Test requirements of Section 301 of this rule, if the gasoline cargo tank meets all of the following conditions:
 - The gasoline cargo tank was placed in operation before July 13, 1988; and
 - The gasoline cargo tank transported gasoline within Maricopa County before January 1, 1998; and
 - The gasoline cargo tank never loads at a gasoline terminal; and
 - The gasoline cargo tank serves only farm tanks or those non-resale gasoline dispensing operations having a yearly throughput not exceeding 120,000 gallons of gasoline, verified by monthly records pursuant to Section 500 of this rule; and
 - The owner or operator of the gasoline cargo tank submits a signed affidavit to the Control Officer documenting compliance with Sections 103.1(a) through 103.1(c) of this rule; and
 - The owner or operator has a complete copy of the signed affidavit available in the gasoline cargo tank for inspection by a bulk gasoline plant operator or the Control Officer. Maricopa County will not issue a decal to any gasoline cargo tank claiming this exemption.
 - A gasoline cargo tank is exempt from the MC Vapor Tightness Test requirements of Section 301 of this rule, if at least one of the following conditions is met:
 - The gasoline load originated solely outside of Arizona.
 - The gasoline load originated within Maricopa County but is not delivered within Maricopa County.
 - A gasoline cargo tank is exempt from the MC Vapor Tightness Test requirements of Section 301 of this rule, if the owner or operator of a gasoline cargo tank provides documentation from another agency that attests to the vapor integrity of the gasoline cargo tank and complies with Section 401.2 of this rule.
- 103.3** An owner or operator of a gasoline cargo tank exempted by Section 103.2(a) of this rule is allowed to incidentally purge gasoline vapors from the gasoline cargo tank as a passive result of loading, or briefly when lids or ports must be open for inspection.
- 103.4** **Opening Hatches on Gasoline Cargo Tanks:**
- Owners or operators, their contractors, and authorized government agents may open vapor containment equipment on a gasoline cargo tank while performing operations required by governmental agencies, but shall be restricted as follows, unless approved in advance by the Control Officer:
 - Wait at least 3 minutes before opening its hatch or other vapor seal on a gasoline cargo tank:
 - When loading of gasoline is complete.
 - After a gasoline cargo tank has come to a complete stop.
 - Reclose hatch or other sealing device within 3 minutes of completing the required procedures.
 - Limit wind speed at opened hatch or other opened sealing device to not more than 3 mph (1.34 m/sec), using a barrier if necessary.
 - Loading:** Hatches of a gasoline cargo tank may be open for monitoring to prevent overflow during the period that the gasoline cargo tank is loading gasoline from a tank or other source, if so required by a local fire code or other ordinance.
 - Connecting Coaxial Fittings:** Requirements for first connecting a vapor recovery hose before a gasoline cargo tank loading hose do not apply to coaxial vapor recovery connection fittings.
- 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** ~~2-POINT SYSTEM: A fill pipe and a vapor recovery pipe pair which are in close proximity to one another and are connected directly to and emerge directly above the tank they serve.~~
- 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:
- Loads gasoline from a pipeline, rail, or gasoline cargo tank into a stationary storage tank;
 - Loads gasoline from the stationary storage tank into gasoline cargo tanks for transport to gasoline dispensing facilities; and
 - Has a gasoline throughput of less than 20,000 gallons per day. Gasoline throughput shall be the maximum calculated design throughput which may be limited by compliance with an enforceable condition under Federal, State, or local law, and discoverable by the Control Officer.
- 203** **BULK GASOLINE TERMINAL:** Any gasoline storage and loading facility that meets all of the following:
- Loads gasoline from a pipeline, rail, or gasoline cargo tank into a stationary storage tank;
 - Loads gasoline from the stationary storage tank into gasoline cargo tanks for transport to gasoline dispensing facilities; and
 - Has a gasoline throughput of 20,000 gallons per day or greater. Gasoline throughput shall be the maximum calculated design throughput which 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~~ **204** **COAXIAL VAPOR BALANCE SYSTEM:** A type of vapor balance system in which the gasoline vapors are removed through the same fill pipe connection as which the fuel is delivered.
- ~~205~~ **205** **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.
- ~~202~~ **206** **EXCESS GASOLINE DRAINAGE:** More than 10 milliliters (2 teaspoonsful) of liquid gasoline lost from the end of a loading hose or vapor hose in the process of connecting or disconnecting a gasoline ~~delivery~~ loading hose; or any quantity of gasoline lost during those processes 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.
- ~~203~~ **207** **GASOLINE:** Any petroleum distillate, petroleum distillate/alcohol blend, petroleum distillate/organic compound blend, or alcohol having or blend of petroleum distillate with other combustible liquid(s), such as alcohol, that is used as a fuel for internal combustion engines and has a Reid vapor pressure between 4.0 and 14.7 psi (200–760 mm Hg.) as determined by Section 505 of this rule, and which is used as a fuel for internal combustion engines. For the purposes of this rule, liquefied petroleum gas (LPG) is excluded.
- ~~204~~ **208** **GASOLINE DELIVERY VESSEL:** Any vehicular mounted container such as a tanker truck, tank trailer, cargo tank or any other wheel-mounted container used to transport gasoline. This includes any hoses the vessel carries through which deliveries must be made.
- ~~208~~ **208** **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 gasoline cargo tank carries through which deliveries must be made.
- ~~209~~ **209** **GASOLINE DISPENSING FACILITY:** Any stationary facility which dispenses gasoline into the fuel tank of a motor vehicle, motor vehicle engine, nonroad vehicle, or nonroad engine, including a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment.
- ~~205~~ **210** **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.
- ~~206~~ **211** **LEAK FREE:** Having no single liquid gasoline leak of more than 3 drops per minute from a gasoline ~~delivery vessel~~ cargo tank, including fill hose(s) and vapor hose(s), but not including the disconnecting or connecting of either a gasoline hose from a gasoline fill line or a vapor hose from a vapor line.
- ~~207~~ **212** **MARICOPA COUNTY (MC) PRESSURE VAPOR TIGHTNESS TEST:** The complete pressure, vacuum, and vapor-valve testing of a gasoline ~~delivery vessel~~ cargo tank that is performed according to Maricopa County specifications as described in ~~subsection 302.2~~ Section 501 of this rule.
- ~~208~~ **213** **PURGING:** Removing, cleaning, or scouring out gasoline vapors from all or a portion of a ~~delivery vessel~~ gasoline cargo tank by active or passive means and emitting the vapors into the atmosphere.
- ~~209~~ **214** **STAGE 1 VAPOR RECOVERY SYSTEM (VR SYSTEM):** Any piping, hoses, equipment, and/or devices which are used to collect, store, or process gasoline vapors displaced by the ~~delivery~~ loading of gasoline and also by the onloading of gasoline into a vapor laden ~~delivery vessel~~ gasoline cargo tank.
- ~~215~~ **215** **SUBMERGED FILL:** Any discharge pipe or nozzle which meets the applicable specification as follows:
 - 215.1** **Top-Fill or Bottom-Fill:** 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.
 - 215.2** **Side-Fill:** At its highest point within the storage tank less 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.



**Submerged Fill Diagram
NOT TO SCALE**



- 210 **216** **SWITCH LOADING:** Loading diesel fuel into a ~~delivery vessel~~ gasoline cargo tank whose previous load was gasoline; or loading any liquid not subject to this rule into a ~~delivery vessel~~ gasoline cargo tank whose previous load was gasoline.
- 211 **217** **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 lower explosive limit (LEL) when calibrated with a gas specified by the manufacturer and is used according to the manufacturer's instructions.

SECTION 300 – STANDARDS

301 PREVENT LEAKS AND SPILLS:

- 301.1 **Vessel Integrity:** In Maricopa County, no person shall store or transport gasoline in or otherwise use or operate any gasoline delivery vessel unless such vessel is designed and maintained to be vapor tight and leak free.
- 301.2 **Onloading Measures:**
 - a. At any bulk loading rack, connect a vapor return hose before connecting any loading hose.
 - b. At a bulk plant, connect an additional vapor hose before connecting any additional loading hose, unless an assisted vapor return system is serving the vapor hose that is already connected.
 - e. Use a bucket or other effective capture device to catch any liquid dripping during the connection or disconnection of both the loading hose from the truck and the vapor hose from the loading dock's vapor receiving pipe.
 - (1) Either dispose of the captured liquid in a tank designated for that purpose, or use a receptacle or a material designed to absorb the liquid.
 - (2) Any gasoline that escapes or spills must be collected and contained.
- 301.3 **Prevent Spills and Excess Drainage:** A driver/operator of a gasoline delivery vessel shall:
 - a. Thoroughly drain a fill hose and a vapor recovery hose into the dispensing tank before disconnecting it from the tank's fittings.
 - b. Connect and disconnect fill hoses and vapor recovery hoses in such a way as to prevent excess gasoline drainage (more than 2 teaspoonsful) from escaping from the hose in one connect/disconnect cycle.
 - e. Spills and any gasoline that is deposited in or on an area other than within the dispensing tank shall be collected and contained. This can include, but is not limited to, the correct use of buckets and/or absorbent material designed for the purpose, and the correct disposal of the collected gasoline.
- 301.4 **Vapor Hose use Required at Retail Gas Stations:**
 - a. A driver/operator shall not deliver gasoline to a dispensing tank at a retail gas station unless a vapor hose is first connected from the vessel to a vapor return line serving the tank.
 - b. No delivery shall be made to a retail tank if:
 - (1) it is not served by a vapor return, or
 - (2) if it has a locked cap that cannot be removed, or
 - (3) if broken fittings prevent correct connection of the vapor hose.
- 301.5 **Prevent Vapor Escape During Deliveries:** For gasoline dispensing tanks that are equipped with a Stage 1 vapor recovery system (VR System):
 - a. During delivery, the vessel operator shall not remove the lid of a fill tube unless every other fill tube either has a lid fastened in place or a delivery hose connecting it to the delivery vessel.
 - b. Connect a vapor recovery hose before connecting any gasoline delivery hose.
 - e. Disconnect a delivery hose from a tank before disconnecting the vapor recovery hose.



- d. **Restriction on Multiple Connection:** A delivery vessel shall not simultaneously have more than one gasoline delivery hose connected, unless each delivery hose is connected to a dispensing tank's 2 point system that already has a vapor hose connecting it to the vessel.
- 301.6 **Vapor Recovery Systems Having Remote Vapor Return Lines:** If a delivery vessel's vapor hose is connected to a vapor return line that is not part of a 2 point system, then there shall not be more than one gasoline delivery hose connected to the vessel, and no other hoses connected to a fill tube; viz., no more than one compartment of the delivery vessel shall be emptied at a time.
- 302 **GASOLINE DELIVERY VESSEL LEAK TEST REQUIRED:** A gasoline delivery vessel shall first pass the MC Pressure Test before delivering or unloading gasoline within Maricopa County, and to continue, must pass the MC Pressure Test each year thereafter. This does not apply to loads that originate solely in another state, nor to loads originating in Maricopa County that are not delivered in Maricopa County.
 - 302.1 **Testing:** The MC Pressure Test shall be performed according to subsection 302.2.
 - a. Scheduling and notification of an initial test or annual retest shall be done in accordance with subsection 401.1 and subsection 401.3.
 - b. A tester shall record the results of a Pressure Test according to the format in subsection 501.2.
 - e. A valid Maricopa County Air Quality Department decal shall be affixed to the vessel consequent to passing the MC Pressure Test before the vessel may deliver or unload gasoline.
 - d. An owner or operator of a delivery vessel shall comply with subsection 401.2 registration requirements to obtain a valid Maricopa County Air Quality Department decal after a successful MC Pressure Test.
 - 302.2 **MC Pressure Test:** A vessel that is being MC Pressure Tested shall pass all 3 of the following pressure subtests, in the following order, and use the same vapor hose during the test as will be used for deliveries by that same unit:
 - a. **Positive Pressure Subtest:** Lose no more than 1.0 inch (25.4 mm) of water column in 5.0 minutes, when pressurized to a gauge pressure of 18 inches (45.7 cm) of water in 2 consecutive runs according to procedures in subsections 5.1.1 through 5.2.7 of EPA Method 27, as incorporated by reference in Section 504 of this rule; and
 - b. **Vapor Valve Subtest:** Lose no more than 5.0 inches (127 mm) of water column in 5.0 minutes, measured in the vapor system after the vessel compartments are first collectively pressurized to a gauge pressure of 18 inches (45.7 cm) of water and then the vapor valves are closed, per subsection 503.2 of this Rule 352; and
 - e. **Partial Vacuum Subtest:** Gain no more than 1.0 inch (25.4 mm) of water column in 5.0 minutes, when initially evacuated to a gauge pressure of 6 inches (15.2 cm) of water, in 2 consecutive runs, per subsections 5.3.1 through 5.3.7 of EPA Method 27, as incorporated by reference in Section 504 of this rule.
 - d. **Pressure Instability:** A subtest is invalidated if during either of the pressure subtests, more than 1/2 inch water pressure is gained, or if during the vacuum test the vacuum is increased by more than minus 1/2 inch.
 - 302.3 A vessel shall be repaired, retested, and pass all 3 subtests in the same testing period within 15 days of testing if it does not pass all 3 subtests of subsection 302.2 of this rule.
- 303 **DISPLAY A VALID DECAL:** Each gasoline delivery vessel shall clearly display a valid Maricopa County Air Quality Department decal that is permanently mounted near the front on the right (passenger) side of the vessel.
- 304 **PURGING PROHIBITED:**
 - 304.1 No person shall purge gasoline vapors into the atmosphere from a delivery vessel unless the following conditions are met:
 - a. VOC emissions shall be reduced at least 90% by weight, including capture and processing, by a control device having a Maricopa County Air Pollution Permit; and
 - b. Such purging shall be done only after all delivery valves are opened and any liquid gasoline outflow is captured in a container having an attached lid which is kept closed when not receiving or pouring gasoline.
 - 304.2 An operator of a delivery vessel shall not purge gasoline vapors from such vessel as a passive result of switch loading, except for vessels exempted by subsection 305.1.
- 305 **EXEMPTIONS:**
 - 305.1 A delivery vessel is exempt from pressure test requirements of Section 302 if all of the following conditions are met:
 - a. The vessel was placed in operation before July 13, 1988; and
 - b. The vessel transported gasoline within Maricopa County before January 1, 1998; and
 - e. The vessel never loads at a gasoline terminal; and
 - d. The vessel serves only farm tanks and/or those non-resale dispensing operations having a yearly throughput not exceeding 120,000 gallons of gasoline, verified by monthly records pursuant to subsection 501.1a; and
 - e. The vessel either has a sticker affixed to it that indicates to a bulk plant operator that the vessel may be loaded in Maricopa County, or has an affidavit signed by an owner or officer of the operating company filed with the Maricopa County Air Quality Department, with a complete copy of the signed affidavit available in the vehicle for inspection by a bulk plant operator or the Control Officer.
 - 305.2 An operator of a delivery vessel exempted by subsection 305.1 is allowed to incidentally purge gasoline vapors from such vessel as a passive result of loading, or briefly when lids/ports must be open for inspection.
 - 305.3 **Opening Hatches on Non-Exempt Vessels:**
 - a. **Required by Rule:** Owners/operators, their contractors, and authorized government agents may open vapor containment equipment on a nonexempt gasoline delivery vessel while performing operations required by governmental agencies, but shall be restricted as follows, unless approved in advance by the Control Officer:



- (1) Wait at least 3 minutes after unloading is complete and after a delivery vessel has stopped before opening its hatch or other vapor seal.
 - (2) Reclose hatch or other sealing device within 3 minutes of completing the required procedures.
 - (3) Limit windspeed at opened hatch or other opened sealing device to not more than 3 mph (1.34 m/sec), using a barrier if necessary.
- b. Defueling: Hatches of a delivery vessel may be open for monitoring to prevent overflow during the period that the vessel is receiving gasoline from a tank or other source, if so required by a local fire code or other ordinance.
- e. Connecting Coaxial Fittings: Requirements for first connecting a vapor hose before a gasoline delivery hose do not apply to coaxial VR connection fittings.

301 GASOLINE CARGO TANK REQUIREMENTS:

301.1 Gasoline Cargo Tank Integrity: In Maricopa County, an owner or operator of a gasoline cargo tank shall not store or transport gasoline in or otherwise use or operate any gasoline cargo tank unless:

- a. The gasoline cargo tank is designed and maintained to be vapor tight and leak free.
- b. The gasoline cargo tank passes the MC Vapor Tightness Test unless exempted by Section 103 of this rule.
- c. A valid, permanently mounted Maricopa County Vapor Tightness Certification decal is clearly displayed near the front right (passenger) side of the gasoline cargo tank, if not exempted by Section 103 of this rule.

301.2 MC Vapor Tightness Test: A gasoline cargo tank shall pass the MC Vapor Tightness Test before loading gasoline within Maricopa County, unless exempted by Section 103 of this rule.

- a. **Testing:** The MC Vapor Tightness Test shall be performed according to Section 501 of this rule.
- (1) Scheduling and notification of a gasoline cargo tank MC Vapor Tightness Test shall be done in accordance with Section 401.1 of this rule.
 - (2) A tester shall record the results of the MC Vapor Tightness Test according to Section 502.2 of this rule.
 - (3) If a gasoline cargo tank does not pass all three (3) subtests of the MC Vapor Tightness Test as listed in Section 502.2 of this rule, the gasoline cargo tank shall be repaired, retested, and pass all 3 subtests in the same testing period within 15 days of initial testing.
- b. **Maricopa County Vapor Tightness Certification Decal:** An owner or operator of a gasoline cargo tank shall:
- (1) Comply with Sections 401.1 and 401.2 of this rule for notification and registration requirements to obtain a valid Maricopa County Vapor Tightness Certification decal after passing the MC Vapor Tightness Test; and
 - (2) Each gasoline cargo tank shall clearly display a valid Maricopa County Vapor Tightness Certification decal that is permanently mounted near the front on the right (passenger) side of the gasoline cargo tank, unless exempted by Section 103 of this rule.

301.3 Purging:

- a. An owner or operator is allowed to purge gasoline vapors from a gasoline cargo tank if the following conditions are met:
- (1) VOC emissions shall be reduced at least 90% by weight, including capture and processing, by a control device having a Maricopa County Air Pollution Permit; and
 - (2) Such purging shall be done only after all loading valves are opened and any liquid gasoline outflow is captured in a container having an attached lid which is kept closed when not receiving or pouring gasoline.
- b. An owner or operator of a gasoline cargo tank shall not purge gasoline vapors from such tank as a passive result of switch loading, except for gasoline cargo tanks exempted by Section 103 of this rule.

302 LOADING OF GASOLINE:

302.1 Loading of Gasoline into a Gasoline Cargo Tank from a Bulk Plant: An owner or operator of a gasoline cargo tank shall only load gasoline at a bulk gasoline plant loading rack when the following conditions are met:

- a. The gasoline cargo tank integrity is maintained and verified by:
 - (1) The display of a Maricopa County Vapor Tightness Certification decal on the gasoline cargo tank; or
 - (2) An affidavit per Section 103.2(a)(6) of this rule is readily available.
- b. A vapor recovery hose shall be connected prior to the connection of any gasoline loading hose at any bulk loading rack.
- c. Connect an additional vapor recovery hose before connecting any additional gasoline loading hose, unless an assisted vapor recovery system is serving the vapor hose that is already connected.
- d. Disconnect loading hoses and vapor recovery hoses in such a way as to prevent excess gasoline drainage (more than 2 teaspoonsful) from escaping from the hose in one connect/disconnect cycle.
- e. Use a bucket or other effective capture device to catch any gasoline dripping during the connection or disconnection of both the gasoline loading hose from the gasoline cargo tank and the vapor hose from the loading dock's vapor receiving pipe.
 - (1) Spills and any gasoline that is deposited in or on an area other than within the gasoline cargo tank shall be collected and contained. This can include, but is not limited to, the correct use of buckets and/or absorbent material designed for the purpose and the correct disposal of the collected gasoline.
 - (2) Any gasoline that escapes, spills, or leaks must be collected and contained in a manner that will prevent evaporation into the atmosphere.

302.2 Loading of Gasoline at a Bulk Terminal: An owner or operator of a gasoline cargo tank shall only load gasoline at a gasoline bulk terminal when the following conditions are met:

- a. The gasoline cargo tank integrity shall be maintained and verified by the display of a Maricopa County Vapor Tightness Certification decal on the gasoline cargo tank.



- b. A vapor recovery hose shall be connected prior to the connection of any gasoline loading hose at any bulk loading rack.
- c. Connect an additional vapor recovery hose before connecting any additional gasoline loading hose, unless an assisted vapor return system is serving the vapor hose that is already connected.
- d. Disconnect loading hoses and vapor recovery hoses in such a way as to prevent excess gasoline drainage (more than 2 teaspoonsful) from escaping from the hose in one connect/disconnect cycle.
- e. Use a bucket or other effective capture device to catch any gasoline dripping during the connection or disconnection of both the gasoline loading hose from the gasoline cargo tank and the vapor hose from the loading dock's vapor receiving pipe.
 - (1) Spills and any gasoline that is deposited in or on an area other than within the gasoline cargo tank shall be collected and contained. This can include, but is not limited to, the correct use of buckets and/or absorbent material designed for the purpose and the correct disposal of the collected gasoline.
 - (2) Any gasoline that escapes, spills, or leaks must be collected and contained in a manner that will prevent evaporation into the atmosphere.

302.3 Loading of Gasoline into a Stationary Gasoline Storage Tank at a Non-Retail Gasoline Dispensing Facility: An owner or operator of a gasoline cargo tank shall only load gasoline at a non-retail gasoline dispensing facility when the following conditions are met:

- a. The gasoline cargo tank integrity is maintained and verified by:
 - (1) The display of a Maricopa County Vapor Tightness Certification decal on the gasoline cargo tank; or
 - (2) An affidavit per Section 103.2(a)(6) of this rule is readily available.
- b. A vapor recovery hose shall be connected prior to the connection of any gasoline loading hose if the stationary gasoline storage tank is configured to include a vapor return connection.
- c. Vapor Recovery Systems Having Remote Vapor Return Lines: If a gasoline cargo tank's vapor recovery hose is connected to a vapor return line that is not part of a dual-point vapor balance system, then there shall not be more than one gasoline loading hose connected to the gasoline cargo tank, and no additional hoses connected to a fill pipe.
- d. An owner or operator shall not remove the lid of a fill pipe unless every other fill pipe either has a lid fastened in place or a loading hose connecting it to the gasoline cargo tank.
- e. A portable fill pipe shall be used to load gasoline into any stationary gasoline storage tank that is not equipped with a permanent submerged fill pipe.
- f. Restriction on Multiple Connections: A gasoline cargo tank shall not simultaneously have more than one gasoline loading hose connected, unless each loading hose is connected to a gasoline cargo tank's dual-point vapor balance system that already has a vapor recovery hose connecting it to the gasoline cargo tank.
- g. A loading hose and a vapor recovery hose shall be thoroughly drained into the gasoline cargo tank before disconnecting the gasoline cargo tank from the gasoline cargo tank's fittings.
- h. The loading hoses and vapor recovery hoses shall be disconnected in such a way as to prevent excess gasoline drainage (more than 2 teaspoonsful) from escaping from the hose in one connect/disconnect cycle.
- i. A bucket or other effective capture device shall be used to catch any gasoline dripping during the connection or disconnection of both the gasoline loading hose from the gasoline cargo tank and the vapor hose from the loading dock's vapor receiving pipe.
 - (1) Spills and any gasoline that is deposited in or on an area other than within the gasoline cargo tank shall be collected and contained. This can include, but is not limited to, the correct use of buckets and/or absorbent material designed for the purpose and the correct disposal of the collected gasoline.
 - (2) Any gasoline that escapes, spills, or leaks must be collected and contained in a manner that will prevent evaporation into the atmosphere.
- j. An owner or operator of a gasoline cargo tank shall only load gasoline into a stationary gasoline storage tank when:
 - (1) The stationary gasoline storage tank is equipped with a vapor return poppetted valve.
 - (2) Any locked cap can be removed.
 - (3) The stationary gasoline storage tank does not have any broken or damaged fitting that prevent the correct connection of a loading hose or a vapor hose.

302.4 Loading of Gasoline into a Stationary Gasoline Storage Tank at a Retail Gasoline Dispensing Facility: An owner or operator of a gasoline cargo tank shall only load gasoline at a retail gasoline dispensing facility when the following conditions are met:

- a. The gasoline cargo tank integrity shall be maintained and verified by the display of a Maricopa County Vapor Tightness Certification decal on the gasoline cargo tank.
- b. An owner or operator of a gasoline cargo tank shall only load gasoline into a stationary gasoline storage tank when:
 - (1) The stationary gasoline storage tank is equipped with a vapor return poppetted valve.
 - (2) Any locked cap can be removed.
 - (3) The stationary gasoline storage tank does not have any broken or damaged fitting that prevent the correct connection of a loading hose or a vapor hose.
- c. An owner or operator shall not load gasoline to a stationary gasoline storage tank at a retail gasoline dispensing facility unless a vapor hose is first connected from the gasoline cargo tank to a vapor return-line serving the stationary gasoline storage tank.



- d. Vapor Recovery Systems Having Remote Vapor Return Lines: If a gasoline cargo tank's vapor hose is connected to a vapor return line that is not part of a dual-point vapor balance system, then there shall not be more than one gasoline delivery hose connected to the gasoline cargo tank, and no additional hoses connected to a fill tube.
- e. An owner or operator shall not remove the lid of a fill tube unless every other fill tube either has a lid fastened in place or a delivery hose connecting it to the gasoline cargo tank.
- f. Restriction on Multiple Connection: A gasoline cargo tank shall not simultaneously have more than one gasoline delivery hose connected, unless each delivery hose is connected to a gasoline cargo tank's dual-point vapor balance system that already has a vapor hose connecting it to the gasoline cargo tank.
- g. Thoroughly drain a loading hose and a vapor recovery hose into the gasoline cargo tank before disconnecting it from the gasoline cargo tank's fittings.
- h. Disconnect a loading hose from a stationary gasoline storage tank before disconnecting the vapor recovery hose.
- i. Disconnect Loading hoses and vapor recovery hoses in such a way as to prevent excess gasoline drainage (more than 2 teaspoonsful) from escaping from the hose in one connect/disconnect cycle.
- j. Spills and any gasoline that are deposited in or on an area other than within the gasoline cargo tank shall be collected and contained. This can include, but is not limited to, the correct use of buckets and/or absorbent material designed for the purpose, and the correct disposal of the collected gasoline.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 MARICOPA COUNTY (MC) VAPOR TIGHTNESS TESTING TEST: Testing required by ~~subsections 302.2a, b, and c~~ Section 301.2 of this rule, shall be conducted by the owner or operator of the ~~delivery vessel~~ gasoline cargo tank, ~~or by a consultant, at the expense of the owner or operator.~~ The Control Officer may at any time observe the tests. An owner or operator shall comply with the following provisions:

- 401.1** Notification of Required Testing: The owner, operator, or tester shall notify the Control Officer as follows for each ~~vessel~~ gasoline cargo tank being tested to meet requirements of ~~Section 302 or subsection 301.2~~ Section 301.2 of this rule:
- a. Contact the Control Officer during normal business hours of the Department at least 4 hours prior to gasoline cargo tank vapor tightness testing; ~~and~~
 - b. ~~Give~~ Provide an estimated start time that is no more than 1 hour prior to actual gasoline cargo tank vapor tightness testing start time;
 - c. Except for weekend testing, the Control Officer shall be notified no more than ~~24 hours in advance of~~ 72 hours prior to gasoline cargo tank vapor tightness testing;
 - d. For weekend testing, the notification shall be given, along with the date of testing, prior to 2 PM on Friday (or Thursday, if Friday is a County holiday);
 - e. Give the location of the testing;
 - f. Any testing that is performed in the 8 hour period between 9 PM and 5 AM is not valid for purposes of satisfying Section ~~302~~ 301.2 of this rule requirements, except if the Control Officer gives specific, advance permission for a particular occasion.
- 401.2** Registration: To obtain a Maricopa County Vapor Tightness Certification decal, ~~do~~ the following information shall be submitted to the Control Officer for each ~~vessel~~ gasoline cargo tank that passes the required ~~annual~~ gasoline cargo tank vapor tightness test:
- a. ~~Assemble in 1 packet the following 3 items: (1) A properly~~ A completed "APPLICATION FOR AIR POLLUTION VAPOR RECOVERY TIGHTNESS CERTIFICATION MARICOPA COUNTY VAPOR TIGHTNESS CERTIFICATION DECAL APPLICATION" (also called "The Application" application), and that includes, at a minimum, all of the following information required by Section 502.2 of this rule.
 - (2) b. A properly completed copy of the MCESD "Maricopa County Air Quality Department Gasoline Cargo Tank Vapor Tightness "Tank Truck Leak Certification Check List" (checklist), and
 - (3) c. The annual fee remittance. (The fee amount appears as listed in Rule 280.)
 - ~~b. Send or convey this single packet to the Maricopa County Air Quality Department at the address on the top of the application.~~
 - e. d. Upon receipt of these 3 properly completed items the completed application, checklist and fee remittance, a Maricopa County Vapor Tightness Certification decal will be issued by the Control Officer.
- 401.3** Expiration:
- a. A Maricopa County Vapor Tightness Certification decal that is issued to a ~~vessel~~ gasoline cargo tank that passed its test in the 4-month period between March 1 through June 30 shall expire at 11:59 PM on June 30 of the following year.
 - b. A Maricopa County Vapor Tightness Certification decal that is issued to a ~~vessel~~ gasoline cargo tank that passed its test in the period after June 30 of the previous year and before March 1 of the current year shall expire at 11:59 PM on June 30 of the following year. ~~For example, if the test is passed between July 1, 2000, through February 28, 2001, the decal expires on June 30, 2001.~~
- 401.4** Lost, Defaced or Destroyed Maricopa County Vapor Tightness Certification Decal:
- a. An owner or operator shall notify the Control Officer immediately if a ~~valid decal/sticker~~ Maricopa County Vapor Tightness Certification decal is lost, defaced, or destroyed.
 - b. The Control Officer may require a demonstration of need for decal replacement.



- c. If Rule 280 so provides, the Control Officer may charge a fee for reissue or substitute issue of a lost, defaced, or destroyed ~~decal/sticker~~ Maricopa County Vapor Tightness Certification decal, if the Control Officer determines that the Department is not at fault.

402 ~~TIME FRAME FOR INSTALLATION OF CONTROL DEVICE:~~ An owner or operator of a ~~vessel~~ gasoline cargo tank testing operation who chooses to comply with the Section ~~304~~ 301.3 of this rule purging provisions through the use of a control device shall submit ~~by August 1, 1999,~~ an application for a Maricopa County Air Pollution Control Permit and an Operation and Maintenance Plan for the control device. ~~The device shall be fully functioning by May 1, 2000.~~

SECTION 500 – RECORDS AND MONITORING

501 MARICOPA COUNTY (MC) GASOLINE CARGO TANK VAPOR TIGHTNESS TESTING REQUIREMENT:

501.1 Each gasoline cargo tank shall pass all of the vapor tightness tests in the listed order of Section 501.1 of this rule, using the same vapor hose during each test as will be used for loading. If more than one vapor recovery hose is used for loading, the sequence of tests shall be performed for each vapor hose.

- a. Pressure Test: Lose no more than 1.0 inch (25.4 mm) of water column in 5.0 minutes, when pressurized to a gauge pressure of 18 inches (45.7 cm) of water in 2 consecutive runs according to procedures in subsections 5.1.1 through 5.2.7 of EPA Method 27, as incorporated by reference in Section 505 of this rule; and
- b. Vapor Valve Loss Test: Lose no more than 5.0 inches (127 mm) of water column in 5.0 minutes, measured in the vapor system after the gasoline cargo tank compartments are first collectively pressurized to a gauge pressure of 18 inches (45.7 cm) of water and then the vapor valves are closed, per Section 504.2 of this rule; and
- c. Vacuum Test: Gain no more than 1.0 inch (25.4 mm) of water column in 5.0 minutes, when initially evacuated to a gauge pressure of 6 inches (15.2 cm) of water, in 2 consecutive runs, per subsections 5.3.1 through 5.3.7 of EPA Method 27, as incorporated by reference in Section 505 of this rule.
- d. Pressure Instability: A test is invalidated if during the positive pressure test or the vapor valve loss test, more than ½ inch water pressure is gained. A test is invalid if during the vacuum test the vacuum is increased by more than minus ½ inch.

501.2 A gasoline cargo tank shall be repaired, retested, and pass all three (3) subtests in the same testing period within 15 days of testing if it does not pass all three (3) subtests of Section 501.1 of this rule.

501 **502** RECORDKEEPING AND REPORTING REQUIREMENTS:

501.1 The owner or operator of a gasoline ~~delivery vessel~~ cargo tank subject to this rule shall maintain records of all certification, testing, and repairs.

- a. Such records must be maintained in a legible, readily available condition for at least 5 years after the date the testing and repair is completed.
- b. Upon verbal or written request by the Control Officer, ~~or a designee of the Control Officer,~~ records shall be provided within a reasonable time. If the Control Officer is at the site where requested records are kept, records shall be provided without delay.

501.2 The records of the gasoline cargo tank vapor tightness certification testing required by Section ~~302~~ 301.2 of this rule, must be recorded in both of the following documents: the “Application for Air Pollution Vapor Recovery Certification” “Maricopa County Vapor Tightness Certification Decal Application” and the “Maricopa County Air Quality Department Gasoline Cargo Tank Vapor Tightness”~~“Tank Truck Leak Certification Check List”~~. Pressure and vacuum shall be recorded to no less than the nearest quarter inch or half-centimeter of water column. The minimum requirements for each of these 2 documents follow:

- a. For the “Application for Air Pollution Vapor Recovery Certification” “Maricopa County Vapor Tightness Certification Decal Application”:
 - (1) Owner’s name and address.
 - (2) ~~Tank ID number, the location of the test, the time of the test, and the date of the test. The manufacturer’s Tank ID~~ gasoline cargo tank serial number.
 - (3) The gasoline cargo tank unit number.
 - (4) The location of the test.
 - (5) The time of the test.
 - (6) The date of the test.
 - (7) For the pressure ~~subtest~~ test, ~~2~~ two (2) readings: the change in pressure (in inches ~~H₂O~~ of water) for Run 1 and the change in pressure for Run 2.
 - (8) For the vapor-valve ~~loss test~~ ~~subtest~~ (subsection ~~302.2b~~), ~~1~~ one (1) reading: the total change in pressure during the test.
 - (9) For the vacuum test, ~~2~~ two (2) readings: the total change in vacuum during Run 1 and the same for Run 2.
 - (10) The signature of the person conducting the vapor tightness test.
- b. The “Maricopa County Air Quality Department Gasoline Cargo Tank Vapor Tightness”~~“Tank Truck Leak Certification Check List”~~ (or its successor document) shall contain at least the following information:
 - (1) ~~The same information required in subsections a(1) and a(2) of this subsection 501.2; and~~
 - (2) ~~The time the subtest began, the initial pressure of the subtest, the finish time, the final pressure of the subtest, and the pressure change between the start and end of the subtest; the vessel’s unit number, manufacturer’s serial number, the tank capacity, whether the tank was purged of gasoline vapors, and the date of the next leakage test if the set of 3 subtests are not all passed.~~



- (3) If the initial pressure test was not passed, one set of readings in the row "Initial Test", also giving the elapsed time if the pressure reached zero before 5 minutes. For example, the row marked "Initial Test" will normally contain the results of the initial failed subtest if any repairs were made subsequent to any pressurization or evacuation of the tank.
- (1) Owner's name and address.
 - (2) Manufacturer's gasoline cargo tank serial number.
 - (3) The gasoline cargo tank unit number.
 - (4) The gasoline cargo tank capacity.
 - (5) Whether the gasoline cargo tank was purged of gasoline vapors.
 - (6) The location of the test.
 - (7) The time of the test.
 - (8) The date of the test.
 - (9) Initial testing information:
 - (a) The time the test began.
 - (b) The initial pressure in inches of water.
 - (c) The finish time of the test.
 - (d) The final pressure of the test.
 - (e) The pressure change between the start and end of the test.
 - (f) If the initial pressure test failed:
 - (i) Record one set of readings in the row "Initial Test."
 - (ii) Record the elapsed time if the pressure reached zero before five (5) minutes.
 - (iii) Record any repairs conducted.
 - (10) Testing Information for each test:
 - (a) The time the test began.
 - (b) The initial pressure in inches of water.
 - (c) The finish time of the test.
 - (d) The final pressure of the test; and
 - (e) The pressure change between the start and end of the test.
 - (11) The date of the next leakage test if the set of three (3) subtests are not all passed.
 - (12) The signature of the person conducting the vapor tightness test.

502 **503** **MONITORING FOR LEAKS:** The Control Officer may at any time monitor a delivery vessel gasoline cargo tank, including the vapor collection system, for vapor and liquid leaks to ascertain if it is vapor tight and leak free. Leakage of vapor exceeding 1/5 of the lower explosive limit, or 10,000 ppm as methane, when performed according to subsection 504.4, shall be an exceedance of the vapor tight standard of subsection 301.1. The Control Officer shall follow the test procedure in Section 503.1 of this rule and shall use one or more of the methods in Sections 503.2 and 503.3 of this rule to determine vapor tight and leak free conditions:

503.1 Combustible Gas Detector (CGD) or an Organic Vapor Analyzer (OVA) - Test Procedure:

- a. **Calibration:** Within four (4) hours prior to monitoring, the CGD or OVA shall be properly calibrated for a 20 percent 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 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.
- 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.

503.2 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 503.1 of this rule, shall be used to verify if a vapor leak exists.

503.3 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 503.1 of this rule shall be used to verify if a vapor leak exists.



- 503 **504** **COMPLIANCE:** When more than one test method is permitted for a determination, an exceedance of the limits established in the rule determined by any of the applicable test methods constitutes a violation of this rule.
- 503.1 **504.1** **Pressure and Vacuum Tests:** The tests to determine compliance with ~~subsection 302.2a and subsection 302.2e~~ Section 501.1 of this rule shall be performed according to EPA Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test, except that the definition of gasoline shall be according to this ~~Rule 352~~ rule.
- 503.2 **504.2** **Test of Internal Vapor Valves:** The tests to determine compliance with ~~subsection 302.2b~~ Section 501.1 of this rule, shall be performed immediately after successfully passing the pressure subtest (~~pursuant to subsection 302.2a~~), without performing any intervening maintenance or repair on the vapor valves.
- 503.3 **504.3** Confirmation of a vapor leak detected on a ~~vessel~~ gasoline cargo tank during ~~onloading~~ loading shall be determined by properly deploying a pressure tap adapter that conforms to Method 27 provisions, and demonstrating the leak according to ~~subsection 504.4~~ Section 503 of this rule, while the pressure is less than 20 inches of water column.
- 503.4 **504.4** Pursuant to Section 203, Reid vapor pressure shall be determined using American Society for Testing and Materials (ASTM) Method D 323-90 ASTM D323 - 15a: Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).
- 504 **505** **TEST METHODS INCORPORATED BY REFERENCE:** The EPA test method as it exists in the Code of Federal Regulations (CFR) (July 1, 1998), as listed below, is 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. Copies of test methods referenced in this Section 504 are available at the Maricopa County Air Quality Department, 1001 N. Central Ave., Phoenix, Arizona 85004. The following test methods are approved for use for the purpose of determining compliance with this rule. The test methods are adopted 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.
- 505.1** **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.
- 505.2** EPA Method 21 – Determination of Volatile Organic Compound Leaks.
- 504.1 **505.3** EPA Method 27 (“Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test.”) in 40 CFR 60, Appendix A.
- 504.2 **505.4** American Society for Testing and Materials (ASTM) Method D 323-90, 1990 (Reid vapor pressure). ASTM D323 - 15a: Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).
- 504.3 **Test of Internal Vapor Valves:**
- a. Pressurize the delivery vessel to 18 inches (45.7 cm) of water column, using the first 2 procedures of the “Pressure Test” section of EPA Method 27.
 - b. Close all the vessel’s internal valves, including the internal vapor valves, thereby isolating the vapor system (vapor return line plus vapor manifold) from the compartments.
 - c. Relieve the pressure in the vapor return line (to atmospheric pressure).
 - d. Seal the vapor return line and after 5.0 minutes record the pressure present in the vapor system.
- 504.4 **Delivery Vessel Vapor Tightness Test:** A vapor tight condition will be determined for vessels by the following method:
- a. Calibration: Within 4 hours prior to monitoring, the combustible gas detector or organic vapor analyzer shall be suitably calibrated for a 20 percent LEL response, or to 10,000 ppm with methane.
 - b. Probe Distance: The probe inlet shall be 1 inch (2.5 cm) or less from the potential leak source when searching for leaks. The probe inlet shall be 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 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 a potential or actual 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 a leak such that the central axis of the probe tube inlet shall be positioned coaxially with the path of the most concentrated vapors.
 - e. 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.



**NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION III – CONTROL OF AIR CONTAMINANTS
RULE 353: GASOLINE IN STATIONARY DISPENSING TANKS**

[M16-292]

PREAMBLE

- | <u>1.</u> | <u>Rule affected</u> | <u>Rulemaking action</u> |
|------------------|--|---------------------------------|
| | Rule 353: Gasoline in Stationary Dispensing Tanks | 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. 1257, 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 | |

6. Explanation of the rule, including the department's reasons for initiating the rulemaking:

Summary: Rule 353 (Gasoline in Stationary Dispensing Tanks) limits the emission of volatile organic compounds (VOCs) from gasoline stored in stationary dispensing tanks and from gasoline delivered into such tanks. Revisions to Rule 353 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 Maricopa County Air Quality Department (department) revised Rule 353 to be consistent with current gasoline industry terms and definitions, clarified the storage and loading requirements of an underground storage tank and an above ground storage tank, updated test methods to be consistent with state and federal test methods, and clarified the inspection requirement for gasoline dispensing facilities that receive gasoline less than once per week.

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 do 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: In the early 1970’s, the United States Environmental Protection Agency (EPA) issued transportation control plans that included requirements to control VOC emissions during the loading of gasoline into a storage tank. In 1978, the EPA followed up by issuing a Control Techniques Guideline (CTG) for the “Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems.” The purpose of this CTG was to “...define leak tight conditions and related test procedures for vapor collection systems and tank trucks while loading and unloading ...” The CTG represented the reasonably available control technology (RACT) that could be applied to existing facilities. The CTG was issued to provide a guideline for areas of nonattainment for the NAAQS.

The Clean Air Act Amendments (CAAA) of 1990 required ozone nonattainment areas to implement RACT to control VOC emissions. This RACT determination for the associated industry was to be incorporated into the SIP. RACT is defined by the EPA 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 FR53761, September 17, 1979) To assist state and local agencies in determining RACT, the EPA issues CTGs for specific sources. A CTG describes the “presumptive norm” for RACT and includes a review of current knowledge, technology and costs of a variety of emission control techniques. These guidelines provide state and local environmental agencies a guide in establishing RACT regulations for gasoline dispensing operations. The state or local agency can then use the presumptive norm for RACT or develop more stringent measures to meet the established ozone standards.

On January 10, 2008, the EPA issued the National Emission Standards for Hazardous Air Pollutant (NESHAP) for Source Category: Gasoline Dispensing Facilities (73 FR 1945). The NESHAP set forth national emission limits and identified management practices for the gasoline dispensing facilities. Most importantly, the NESHAP did not exclude any gasoline storage tank from the management practices, no matter what the gasoline storage tank capacity.

Rule 353 Rulemaking Background: Maricopa County drafted the first county-wide air quality rules pertaining to the storage and loading of gasoline in the 1970’s. Rule 33 put into rule requirements for the storage and handling of petroleum products. In the 1980’s,



Rule 33 was broken into specific sections to address bulk loading facilities, delivery vessels, and loading into stationary storage tanks. Rule 33.3 (Loading into Stationary Storage Containers) specifically addressed the control of VOC emissions from gasoline service stations (now referred to as gasoline dispensing facilities). Rule 33.3 was submitted for inclusion in the 1982 Arizona State Implementation Plan (SIP). The rule included requirements for loading to include the use of submerged fill and the capture of at least 90% of the gasoline vapors displaced during the loading of gasoline. Gasoline storage tanks that were used “exclusively for the fueling of implements of normal cultural farm practices...” were exempted from the rule. Partial exemptions provided for storage tanks with under 1,000 gallon capacity; non-resale gasoline storage tanks; and tanks installed prior to specific dates. In 1985, Rule 33.3 was again submitted to the EPA for inclusion into the SIP. Per the department evaluation on February 11, 1986, Rule 33.3 was consistent with the requirements in the Clean Air Act and 40 CFR 51.22.

The department again revised Rule 33 in order to submit the rules as part of the NAAQS SIP. On July 13, 1988, the Maricopa County Board of Supervisors adopted revisions to Rule 33.3 to include the renumbering of Rule 33.3 to Rule 353 (Transfer of Gasoline into Stationary Storage Tanks); and the reformatting of the rule.

In 1992, the department revised Rule 353 to be consistent with the RACT guidance documents issued by the EPA in 1978. These revisions included the incorporation of EPA policy statements that were issued after the promulgation of the RACT guidance documents. The 1999 revisions by the department clarified the responsibility of owners and operators of gasoline dispensing facilities with respect to vapor recovery equipment. The fill pipe and vapor recovery return provisions were expanded. A dual point vapor recovery system was required to be installed in each new gasoline storage tank or when a major modification occurred. California Air Resources Board (CARB) certified equipment was required for Stage I vapor recovery systems. The installation of poppetted valves was required. Standards were included for spill containment devices. Leak detection test procedures were spelled out in detail. Record retention was expanded to five years. These revisions currently are in place.⁷

A limited scope revision to Rule 353 was drafted in 2013 (19 A.A.R. 3636, November 22, 2013) to delete the definition of non-precursor organic compound. The department relocated the list of EPA recognized “non-precursor organic compounds” (40 CFR 51.100(s)) into Maricopa County Air Pollution Control Regulations, Appendix G (Incorporated Materials) to provide a means to expeditiously update any revisions to the EPA definition of VOC.

Issues Raised and Discussed During this Rulemaking Process:

The department held three Stakeholder Workshops: June 30, 2015, September 14, 2015, and February 22, 2016. Stakeholders included representatives from APS, Caljet, CDM Smith, Cemex, City of Glendale, City of Mesa, City of Phoenix, EnCore Consulting, EnviroSure Solutions, Kiewit, Pinal County, SRP, Washington Elementary School, and the EPA.

The department revised Rule 353 definitions for consistency with current gasoline industry terms and definitions; clarified the storage and loading requirements of an underground storage tank and an above ground storage tank; updated test methods to be consistent with state and federal test methods; and clarified the inspection requirement for gasoline dispensing facilities that receive gasoline less than once per week.

Previously (December 20, 2000) the department had issued a technical guidance, #TG00-002, addressing the issue of inspection of gasoline dispensing tanks that receive a load of gasoline once per week. Per the discussion in the document, “The intended purpose of requiring inspections... is to assure both that the fill and vapor return assemblies are fit to receive gasoline and that the integrity of these assemblies is maintained so as to prevent gasoline evaporation between deliveries.” The guidance concluded that if gasoline was loaded at a frequency of less than once per week, that the inspection and recording of the inspection could be conducted at the time of each gasoline delivery. The department incorporated the inspection frequency for less than weekly gasoline deliveries into Section 401.2(b) of this rule and rescinded #TG00-002.

The department revised the rule title to “Storage and Loading of Gasoline at Gasoline Dispensing Facilities” to clarify the specific site activities that this rule applies to. In addition, the purpose and applicability sections were revised to further add clarification in the rule. Current rule language and definitions were not consistent between the county rules relating to gasoline nor with the federal language for gasoline dispensing facilities. The department revised rule language and definitions to be consistent with other Maricopa County rules and federal rule language. This provides consistency between regulatory agencies and between rules to provide clear and consistent definitions and terms for Stakeholders. At the workshops, it was discussed as to how many terms used in the federal regulations should or are reasonable to include in local rules. The Stakeholders and department staff recommended that definitions that are applicable to the county should be included but not necessarily all the federal definitions.

During the initial phase of the Rule 353 rulemaking process, the department initially proposed to consolidate Rule 352 (Gasoline Delivery Vessel Testing and Use) and Rule 353. At the workshops, Stakeholders expressed confusion and questioned the reasoning as to why the two rules should be combined. The department initially felt that combining the two rules would clarify the responsibilities of the cargo tank operators especially when loading gasoline into and out of stationary gasoline storage tanks. Further discussions with Stakeholders and department staff indicated the proposed consolidation of the two rules added confusion rather than clarified responsibilities. The department agreed and revised Rule 352 and Rule 353 as separate rules.

Prior to the opening of the rule for revisions, Stakeholders were questioning the specific requirements for an above ground storage tank. Questions centered around the requirement and use of a spill containment receptacle for the fill pipe on an above ground storage tank. To clarify all the requirements for both the above ground storage tanks and the underground storage tanks, the department drafted separate rule sections for each.

The department revised Section 503.4 to require records to be made available to the Control Officer within 24 hours upon verbal or written request. This provides a specific time frame for the owner or operator of a gasoline dispensing facility to remotely access records stored off-site. This also provides consistency within the department when requesting records. There was no discussion brought up at any of the Stakeholder Workshops on this revision.



The department defined “submerged fill” to be consistent throughout the gasoline rules. The department included a graphic depicting the types of fill piping in the definition. Stakeholders agreed the graphic added value to the definition and recommended including it in the rule.

Description of Proposed Amendments:

Amended the following throughout the rule:

- Deleted the wording “stationary dispensing operation” and replaced with “gasoline dispensing facility”
- Deleted the word “transfer” and replace with “load”
- Deleted the wording “2-Point” and replace with “dual-point”
- Deleted the word “person” and replace with “owner or operator”
- Deleted past compliance dates
- Added or revised specific rule section references
- Added “stationary” to describe the type of storage tank

Amended the following in Section 100:

- Revised Section 101 (Purpose) to include the storage and loading of gasoline at gasoline dispensing facilities
- Revised Section 102 (Applicability) to apply to an owner or operator of a gasoline dispensing facility
- Added Section 103 (Exemptions)

Amended the following in Section 200:

- Added the definition AVIATION GASOLINE (AVGAS)
- Revised the definition CARB-CERTIFIED
- Added the definition COAXIAL VAPOR BALANCE SYSTEM
- Deleted the definition DISPENSING TANK
- Added the definition DUAL-POINT VAPOR BALANCE SYSTEM
- Revised the definition EXCESS GASOLINE DRAINAGE
- Revised the definition GASOLINE
- Deleted the definition GASOLINE DELIVERY VESSEL
- Added the definition GASOLINE CARGO TANK
- Deleted the definition GASOLINE DISPENSING OPERATION
- Added the definition GASOLINE DISPENSING FACILITY
- Deleted the definition INSTALLER
- Added the definition MARICOPA COUNTY (MC) VAPOR TIGHTNESS TEST
- Deleted the definition OFFSET FILL LINE
- Revised the definition POPPETTED DRY BREAK
- Added the definition PURGING
- Deleted the definition SIDE FILL PIPE
- Revised the definition STAGE I VAPOR RECOVERY
- Added the definition STATIONARY GASOLINE DISPENSING TANK
- Added the definition SUBMERGED FILL
- Deleted the definition TOP FILL or VERTICAL FILL PIPE
- Revised the definition VAPOR LOSS CONTROL DEVICE
- Revised the definition VAPOR TIGHT

Amended the following in Section 300:

- Deleted Section 300 (Standards-Vapor Loss Control Measures Required)
- Deleted Section 301 (Basic Tank Integrity)
- Deleted Section 302 (Fill Pipe Requirements)
- Deleted Section 303 (Vapor Recovery System)
- Deleted Section 304 (Equipment Maintenance and Use Required)
- Deleted Section 305 (Exemptions)
- Added Section 300 (Standards)
- Added Section 301 (Manufacturers, Suppliers and Owner or Operator)
- Added Section 302 (General Housekeeping Requirements)
- Added Section 303 (Gasoline Storage Equipment and Operation Requirements)
- Added Section 303.1 (Underground Storage Tank (UST))
- Added Section 303.2 (Above Ground Storage Tank (AST))
- Added Section 304 (Loading of Gasoline)
- Added Section 305 (Control of VOC Vapors)
- Added Section 305.1 (Gasoline vapors displaced...)
- Added Section 305.2 (Stage 1 Vapor Recovery System Configuration)
- Added Section 305.3 (Equipment Maintenance and Use Required)

Amended the following in Section 400:

- Deleted Section 401 (Tanks that Lost Their Exemption)
- Added Section 401 (Inspections)
- Revised Section 402.1 (Proving Exempt Status)



- Revised Section 402.2 (Providing Proof of Equipment Compliance)
- Revised Section 403 (CARB Decertification)
- Revised Section 404 (Other Agencies Requirements)

Amended the following in Section 500:

- Renumbered Section 501 (Compliance Inspections) to Section 502
- Added Section 501 (Determining Vapor Tight Status)
- Added Section 501.1 (Combustible Gas Detector or Organic Vapor Analyzer - Test Procedure)
- 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)
- Renumbered Section 502 (Recordkeeping) to Section 503 (Gasoline Dispensing Facility Recordkeeping) and Revised
- Renumbered Section 503 to Section 504 and Revised
- Renumbered Section 503.1 to Section 504.1 and Revised
- Renumbered Section 503.2 to Section 504.2 and Revised
- Renumbered Section 503.3 to Section 504.3 and Revised
- Deleted Section 503.4
- Renumbered Section 504 (Test Methods) to Section 505 and Revised
- Renumbered Section 504.1 (EPA Test Methods) to Section 505.1 and Revised
- Renumbered Section 505.2 (Gasoline Vapor Pressure) and Renumbered Section 505.2 (ASTM Standards) and Revised
- Deleted Section 504.3 (Leak Detection Test Method)
- Renumbered Section 504.4 to Section 505.3 (CARB Certification and Test Procedures for Gasoline Vapor Recovery Systems) and Revised
- Added Section 505.5 (Additional 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 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 353 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 353 include Reasonably Available Control Technology (RACT).

The department complies with A.R.S. § 49-112(B) in that the amendments to Rule 353 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.

An identification of the rulemaking.

This rulemaking revised Rule 353 (Gasoline in Stationary Dispensing Tanks). The revised rule is titled: Storage and Loading of Gasoline at Gasoline Dispensing Facilities.

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

The persons who will be directly affected by and bear the costs of this rulemaking to revised Rule 353 will be facilities in Maricopa County that own or operate a gasoline dispensing facility, including those located at airports. The department has issued a Title V or a Non-Title V permit to 165 facilities subject to Rule 353. The economic summary is based on the number of Title V and Non-Title V permits issued by the Maricopa County Air Quality Department.

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:

- Clarification of the storage and loading requirements of an underground storage tank and an above ground storage tank;
- Updated test methods to be consistent with state and federal test methods;
- Clarification of the inspection requirement for gasoline dispensing facilities that receive gasoline less than once per week;
- Correction of typographical or other clerical errors and made minor grammatical changes to improve readability or clarity;
- Modification of the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules.

The sources subject to revised Rule 353 already have permits in which these requirements are addressed. Therefore, this revised rule does 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 do 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 353 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 own or operate a gasoline dispensing facility.

(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 proposed amendments to the regulated entities and the implementing agency and deemed that none of the rule revisions had 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 will 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 1257), the department has made the following additional amendments:

- Throughout the rule, included both English and metric units of measure for consistency.
- Section 101 (Purpose): Made the purpose statement more succinct by deleting “from gasoline”.
- Section 102 (Applicability): Retained original text regarding Rule 353 applying to stationary gasoline dispensing tanks with a capacity of more than 250 gallons.
- Section 103.5: Revised the wording from “...shall remain subject to such provisions even if annual emissions ” to “...shall remain subject to such provisions even if the annual amount of gasoline received...” The 120,000 gallon threshold is a quantity of gasoline delivered and not an emission threshold.
- Section 202: The original definition of a DISPENSING TANK was added and struck out because the definition was deleted. In Section 215, added the definition of STATIONARY GASOLINE DISPENSING TANK, now shown as new language and underlined. The Notice of Proposed Rulemaking indicated that Section 202 was “moved” to Section 215. Since the strikeout of Section 202 occurred later in Section 200, it appeared that numbering was out of sequence. To avoid any confusion as to what happened to the original Section 202 DISPENSING TANK definition, Section 202 DISPENSING TANK definition was re-inserted in sequential order and struck out as deleted. Section 215 was added to indicate a new definition and now is underlined. There were no revisions between the definition found in the Notice of Proposed Rulemaking and the definition in this document.
- Section 213 (Renumbered to 214): Deleted the term “delivery vessel” and inserted the term “gasoline cargo tank” to be consistent throughout rule.
- Section 216.3: Deleted, in definition of “Submerged Fill”, text regarding API Standard 650 Compliant, because such provision is applicable to organic liquids not gasoline.
- Section 208: Added the acronym (GDF) to the definition of a GASOLINE DISPENSING FACILITY since the acronym is used in Section 300.
- Section 215: Added the word “GASOLINE” to the definition of a STATIONARY GASOLINE DISPENSING TANK for consistency throughout rule.
- Section 216: Deleted the word “tanks” from “Top-Fill or Bottom-Fill” definition.
- Section 303.1: Revised the wording to clarify the size of gasoline storage tank the section applies to. The revised wording of Section 303.1: “Underground Storage Tank (UST): An UST with a capacity more than 250 gallons (946 l) must meet all of the following conditions ...” The revision will maintain consistency throughout the rule with the applicable standards. This also maintains the previous Rule 353 gasoline storage tank capacity; therefore, there is no rule relaxation or additional requirement with this revision.
- Section 404 (Other Agencies’ Requirements): Struck out the wording “Arizona Department of Weights and Measures.” The Arizona Department of Weights and Measures name was changed to “Arizona Department of Agriculture, Weights and Measures Services Division” on July 1, 2016.



- Section 501: The title was revised from MONITORING FOR LEAKS to DETERMINING VAPOR TIGHT STATUS to clarify the intent of the section is not to monitor for vapor leaks but to provide a means of determining if a vapor leak is occurring. The owner or operator or the Control Officer is the person or persons that determine the vapor tight status.
- Section 501.1: Added the acronyms for combustible gas detector (CGD) and organic vapor analyzer (OVA)
- Section 503.4: Retained original text regarding records having to be made available without delay instead of having to be made available within 24 hours.
- Sections 504 and 505: Included text in Sections 504 and 505 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.
- Section 505.4(a): The text in this section was not shown as new text (underlined); this has been corrected.

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. 1257), the department received comments from the Arizona Public Service Company (APS) and the U.S. Environmental Protection Agency (EPA). The comments and the department's responses are provided below.

Comment #1: Section 103.4 (Exemptions-Stationary Gasoline Dispensing Tanks for Farm Operations)

The EPA commented that the exemption for stationary gasoline dispensing tanks for farm operations should be removed from the rule.

Response #1: Section 103.4 (Exemptions-Stationary Gasoline Dispensing Tanks for Farm Operations)

For stationary gasoline dispensing tanks for farm operations, the department is retaining the exemption. Based upon information provided by the Arizona Farm Bureau, annual gasoline throughput has been estimated to be approximately 180,000 gallons per year (i.e., 150 250-gallon tanks with 100 gallons per month throughput). A loading loss emission factor of 0.909 lbs VOC/1000 gallons was calculated using the equation provided in Section 5.2.2.1.1 of AP-42. In addition, a breathing and emptying emission factor of 1.0 lbs VOC/1000 gallons was obtained from Table 5.2-7 of AP-42. Combining these two emission factors with the annual gasoline throughput of the agricultural tanks results in annual VOC emissions of 344 lbs/year (or 0.172 tons/year). These data are included in a spreadsheet dated July 3, 2016 named "AST fuel estimates.xlsx". The spreadsheet also includes emissions for displacement and spillage; these are Stage II emission sources which are not covered under Rule 353. Also, the 2014 National Emissions Inventory (NEI) emissions used for comparison only included Stage I emission sources. Therefore, the displacement and spillage emissions were excluded from this analysis. For comparison purposes, the Maricopa County gasoline station VOC emissions (i.e., total Stage I and tank breathing and emptying) are 1,781.6 tons in the 2014 National Emissions Inventory (NEI). Thus, the VOC emissions from the agricultural gasoline tanks are less than 0.01 percent of the VOC emissions from gasoline stations. Compared to the gasoline station (and overall inventory) VOC emissions, VOC emissions from the agricultural gasoline tanks are negligible. The VOC emissions from the agricultural gasoline tanks are 0.0005% of the annual VOC emissions for all area sources in Maricopa County per the draft 2014 Periodic Emissions Inventory for Ozone Precursors.

Comment #2: Section 501 (Determining Vapor Tight Status)

APS commented that it is unclear whether monitoring requirements found in Section 501 are required to be completed by the owner/operator and if so, how frequently.

Response #2: Section 501 (Determining Vapor Tight Status)

Sections 303.1 and Section 303.2 (Standards-Gasoline Storage Equipment and Operation Requirements) both include provisions for the storage tanks to be maintained to prevent vapors from escaping into the atmosphere. Section 401 (Administrative Requirements-Inspections) addresses the inspections and frequency of such inspections. Section 503 (Gasoline Dispensing Facility Recordkeeping) addresses the recordkeeping requirements for the inspection records. The purpose of Section 501 in Rule 353 is to provide easy methods for owners, operators and the Control Officer to quickly identify if a component is leaking vapors into the atmosphere. A component may be leaking vapors into the atmosphere but still be considered "vapor tight" per the definition in Section 200 of the rule. For a component to be vapor tight, by definition, the component cannot "leak" 10,000 ppmv or more than 1/5 the lower explosive level of vapor. Basically, a component may have a vapor leak and still be considered vapor tight. Providing additional methods for the identification of any type of vapor leak (the optical gas imaging and the soapy solution spray) allows for the quick identification and location of a vapor leak without the expense and time it takes to calibrate and check for leaks using a combustible gas detector (CGD) or organic vapor analyzer (OVA). If the optical gas imaging or soapy water methods do not identify any potential "vapor leaks" there is no need to check for leaks using a CGD or OVA, but the option is still available. To determine the "vapor tight" status of a component, a CGD, OVA, or a calibrated optical gas imaging device operated by a certified operator can be used to identify how much vapor is escaping, answering the question if the component is vapor tight. The title of Section 501 "Monitoring for Leaks" is somewhat misleading and implies that one is required to check for leaks using at least one of the three vapor leak detection procedures listed in the rule, thus APS's question/comment. To clarify the intent Section 501 to apply to the determination of a vapor tight status, the department added an introductory statement in Section 501 to read: "If a determination of vapor tight status is to be made on a VR System or spill containment equipment at a stationary gasoline dispensing facility or on 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". Changing the wording 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. Through the required periodic inspections and recordkeeping requirements specified in Sections 401 and 503, the owner or operator will be able to identify any leaks, both liquid and vapor, in a timely manner to prevent gasoline vapors from escaping. If there is a question as to how much a component is leaking, at that time a determination of the vapor tight status should be made. If the component is leaking vapors that are above the limits identified in the definition of "Vapor Tight" then the component is not vapor tight. If a component is leaking vapors but is under the limits specified in the definition, then the component does have a vapor leak but is considered vapor tight.



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 EPA Test Methods are incorporated by reference in Rule 353, Section 504:

- 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
- EPA Method 25 (“Determination of Total Gaseous Nonmethane Organic Emissions as Carbon”) and its submethods (40 CFR 60, Appendix A)
- EPA Method 27 (“Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test”) in 40 CFR 60, Appendix A
- 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 21to monitor for equipment volatile organic compound leaks
- ASTM D323-15a “Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method)
- ASTM D4953-15 “Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)
- 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
- California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase I Adaptors
- 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
- CARB Test Procedure TP-201.1A - “Determination of Efficiency of Phase I Vapor Recovery Systems of Dispensing Facilities with Assist Processors”
- California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves
- California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly
- 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
- 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
- Bay Area Air Quality Management District Source Test Procedure ST-30—Static Pressure Integrity Test—Underground Storage Tanks

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 353

STORAGE AND LOADING OF GASOLINE IN STATIONARY DISPENSING TANKS AT GASOLINE DISPENSING FACILITIES
INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
- 102 APPLICABILITY
- 103 EXEMPTIONS

SECTION 200 – DEFINITIONS

- 201 AVIATION GASOLINE (AVGAS)
- 202 CARB-CERTIFIED
- 202 DISPENSING TANK
- 203 COAXIAL VAPOR BALANCE SYSTEM
- 204 DUAL-POINT VAPOR BALANCE SYSTEM
- 203 205 EXCESS GASOLINE DRAINAGE
- 204 206 GASOLINE
- 205 206 GASOLINE DELIVERY VESSEL
- 207 GASOLINE CARGO TANK
- 206 206 GASOLINE DISPENSING OPERATION
- 208 GASOLINE DISPENSING FACILITY (GDF)
- 207 209 GASOLINE VAPORS
- 208 208 INSTALLER



- ~~209~~ 210 LEAK-FREE
- 211 MARICOPA COUNTY (MC) VAPOR TIGHTNESS TEST
- ~~214~~ 210 ~~OFFSET FILL LINE~~
- ~~214~~ 212 POPPETTED DRY BREAK
- ~~213~~ 213 PURGING
- ~~213~~ 212 ~~SIDE FILL PIPE~~
- ~~213~~ 214 STAGE 1 VAPOR RECOVERY SYSTEM (VR SYSTEM)
- ~~214~~ 215 STATIONARY GASOLINE DISPENSING TANK
- ~~214~~ 216 SUBMERGED FILL
- ~~214~~ 217 TANK CAPACITY
- ~~216~~ 215 ~~TOP FILL OR VERTICAL FILL PIPE~~
- ~~217~~ 218 VAPOR LOSS CONTROL DEVICE EQUIPMENT
- ~~217~~ 219 VAPOR TIGHT

SECTION 300 – STANDARDS

- ~~301~~ 301 BASIC TANK INTEGRITY
- ~~302~~ 302 FILL PIPE REQUIREMENTS
- ~~303~~ 303 VAPOR RECOVERY SYSTEM
- ~~304~~ 304 EQUIPMENT MAINTENANCE AND USE REQUIRED
- ~~305~~ 305 EXEMPTIONS
- 301 MANUFACTURERS, SUPPLIERS AND OWNER OR OPERATOR
- 302 GENERAL HOUSEKEEPING REQUIREMENTS
- 303 GASOLINE STORAGE EQUIPMENT AND OPERATION REQUIREMENTS
- 304 LOADING OF GASOLINE
- 305 CONTROL OF VOC VAPORS

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- ~~401~~ 401 TANKS THAT LOST THEIR EXEMPTION
- ~~402~~ 401 BURDEN OF PROOF
- ~~403~~ 402 CARB DECERTIFICATION
- ~~404~~ 403 OTHER AGENCIES' REQUIREMENTS

SECTION 500 – MONITORING AND RECORDS

- ~~501~~ 501 COMPLIANCE INSPECTIONS
- ~~502~~ 502 RECORDKEEPING
- 501 DETERMINING VAPOR TIGHT STATUS
- 502 COMPLIANCE INSPECTIONS
- 503 GDF RECORDKEEPING
- ~~503~~ 504 COMPLIANCE DETERMINATION
- ~~504~~ 505 TEST METHODS INCORPORATED BY REFERENCE

Revised 07/13/88
 Revised 04/06/92
 Revised 06/16/99
 Revised 09/25/13

Revised 07/13/1988; Revised 04/06/1992; Revised 06/16/1999; Revised 09/25/2013; and Revised 11/02/2016

**MARICOPA COUNTY
 AIR POLLUTION CONTROL REGULATIONS
 REGULATION III – CONTROL OF AIR CONTAMINANTS
 RULE 353**

STORAGE AND LOADING OF GASOLINE IN STATIONARY DISPENSING TANKS AT GASOLINE DISPENSING FACILITIES

SECTION 100 – GENERAL

- 101** **PURPOSE:** To limit ~~VOC (volatile organic compound)~~ emissions of volatile organic compounds (VOCs) from gasoline stored in stationary dispensing tanks and from gasoline delivered into such tanks, during storage and loading of gasoline at gasoline dispensing facilities.
- 102** **APPLICABILITY:** This rule applies to an owner or operator who operates a ~~is applicable to gasoline stored in or transferred into any~~ stationary dispensing tank with a capacity of more than 250 gallons (946 l). This includes gas stations and other gasoline dispensing facility (GDF) at which gasoline is stored in and loaded into stationary gasoline dispensing tanks with a capacity of more than 250 gallons (946 l), including those located at airports.
- 103** **EXEMPTIONS:**
 - 103.1** This rule does not apply to the storage and loading of the following fuels:
 - a.** Diesel.
 - b.** Liquefied petroleum gas (LPG).
 - 103.2** **Aviation Gasoline Loaded at Airports:** 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 and Section 305.1 of this rule. The storage of aviation gas at airports is subject to this rule.



- 103.3** **Bulk Gasoline Plant or Bulk Gasoline Terminal:** This rule does not apply to a bulk gasoline plant or a bulk gasoline terminal as defined in Rule 351 of these rules.
- 103.4** **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 302 (General Housekeeping Requirements), but is exempt from all other requirements of this rule.
- 103.5** **Stage 1 Vapor Recovery System (VR System):** The VR System provisions of Section 305 of this rule shall not apply to the following stationary gasoline dispensing tanks:
 - a.** **Non-Resale Gasoline Dispensing Facilities:** Any stationary GDF receiving less than 120,000 gallons (454,250 l) of gasoline in any twelve (12) consecutive calendar months, dispensing no resold gasoline, and having each stationary gasoline dispensing tank equipped with a permanent submerged fill pipe, is exempt from Section 305 of this rule. A facility shall become subject to the provisions of Section 305 of this rule by exceeding the 120,000 gallon (454,250 l) threshold and shall remain subject to such provisions even if annual amount of gasoline received later falls below this threshold.
 - b.** **Stationary Gasoline Dispensing Tanks of 1000 Gallons (3785 l) or Less:** Any stationary gasoline dispensing tank having a capacity of 1000 gallons (3785 l) or less which was installed prior to October 2, 1978, provided that such tank is equipped with a permanent submerged fill pipe is exempt from Section 305 of this rule. 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 six (6) inches (15.24 cm) of the tank bottom.
- 103.6** **Loading of Gasoline:** The owner or operator of a stationary GDF that is unattended or when there is only one owner or operator under control of the stationary GDF present, the owner or operator of the stationary GDF is exempt from Section 304 of this rule.

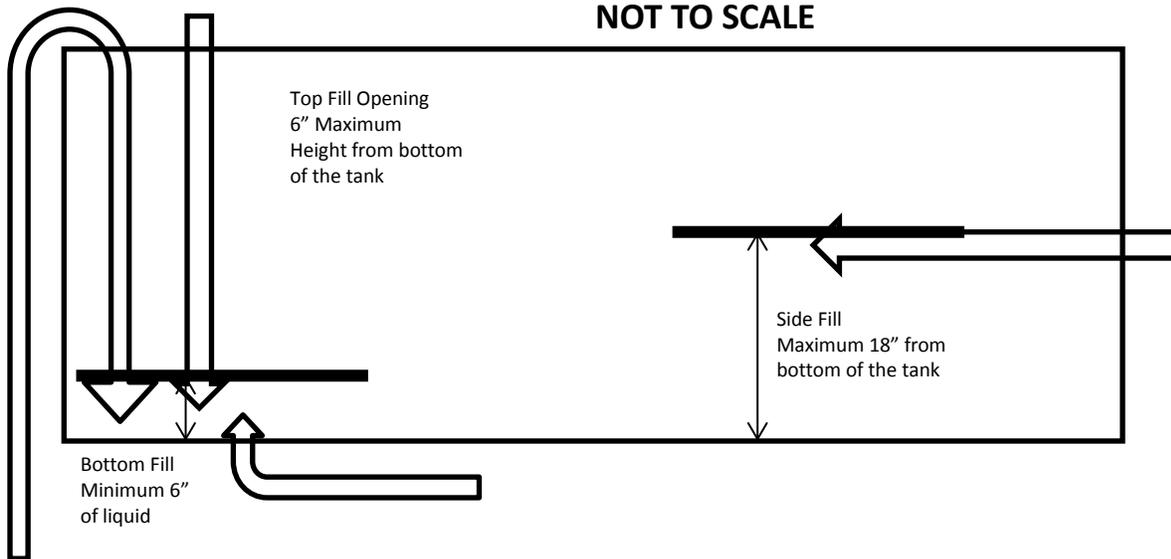
SECTION 200 – DEFINITIONS: For the purpose of this rule, the following definitions shall apply, in addition to those definitions found in Rule 100 (General Provisions and Definitions) of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the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

- 201** **AVIATION GASOLINE (AVGAS):** A type of gasoline used to fuel a piston engine aircraft.
- 202** **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. Such orders are included in CARB’s publication, “Gasoline Facilities Phase I & II”, which is available as set forth in subsection 503.4.
- 203** **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.
- 202** **DISPENSING TANK:** Any stationary tank which dispenses gasoline into a motorized vehicle’s fuel tank that directly fuels its engine(s). This includes aircraft.
- 204** **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.
- 203** **205** **EXCESS GASOLINE DRAINAGE:** More than 10 milliliters (2 teaspoonsful) of liquid gasoline lost from the end of a fill hose or vapor 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 tube’s pipe’s spill containment receptacle.
- 204** **206** **GASOLINE:** Any petroleum distillate or blend of petroleum distillate with other combustible liquid(s), such as alcohol, that, 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 Section 504.2 of this rule, and which is used as a fuel for internal combustion engines. and has a vapor pressure between 4.0 and 14.7 psi (200–760 mm Hg.), as determined by the applicable method pursuant to subsections 503.2 and 504.2. For the purposes of this rule, liquefied petroleum gas (LPG) is excluded.
- 205** **GASOLINE DELIVERY VESSEL:** Any vehicular mounted container such as a tanker truck, tank trailer, cargo tank or any other wheel-mounted container used to transport gasoline. This includes any hoses the vessel carries through which deliveries must be made.
- 207** **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.
- 206** **GASOLINE DISPENSING OPERATION :** 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 under common control).
- 208** **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 a nonroad vehicle or nonroad engine used solely for competition. These facilities include, but are not limited to, facilities that dispense gasoline into on- and off-road, street, or highway motor vehicles, lawn equipment, boats, test engines, landscaping equipment, generators, pumps, and other gasoline fueled engines and equipment.
- 207** **209** **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.
- 208** **INSTALLER:** The person, as defined in Rule 100, that installs VOC control equipment at a dispensing facility.
- 209** **210** **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.
- 211** **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 Rule 352 of these rules.
- 210** **OFFSET FILL LINE:** Any dispensing tank’s gasoline fill line (piping and fittings) which contains one or more bends.



- 211 **212** **POPPETTED DRY BREAK:** A ~~Stage 1 vapor recovery device~~ 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 gasoline dispensing tank before the vapor ~~return~~ recovery line is connected.
- 213** **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.
- ~~212~~ **213** **SIDE-FILL PIPE:** A fill pipe that enters a dispensing tank through the tank's side.
- 214** **215** **STAGE 1 VAPOR RECOVERY SYSTEM (VR SYSTEM):** At a ~~gasoline dispensing facility~~ stationary GDF, the use of installed vapor recovery equipment designed to reduce by at least ~~90%~~ 95% the VOC vapor that would otherwise be displaced into the atmosphere from a stationary gasoline dispensing tank when gasoline is delivered into the tank by a ~~delivery vessel~~ gasoline cargo tank. This reduction may be done either by capturing the displaced vapors within the ~~delivery vessel~~ gasoline cargo tank, and or by processing the vapors on site with an emission processing device. ~~(such as a VOC oxidizer).~~
- 215** **STATIONARY GASOLINE 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).
- 216** **SUBMERGED FILL:** Any discharge pipe or nozzle which meets the applicable specification as follows:
 - 216.1** **Top-Fill or Bottom-Fill:** 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.
 - 216.2** **Side-Fill:** At its highest point within the stationary gasoline dispensing tank less 2,000,000 gallon capacity, 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.

**Submerged Fill Diagram
NOT TO SCALE**



- 214 **217** **TANK CAPACITY:** The maximum volume of liquid gasoline a particular tank is allowed to store while still complying with all applicable rules, including local, state, and Federal rules.
- ~~215~~ **217** **TOP-FILL OR VERTICAL FILL PIPE:** A fill pipe that enters a dispensing tank through its top.
- ~~216~~ **218** **VAPOR LOSS CONTROL DEVICE 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~~ facility.
- ~~217~~ **219** **VAPOR TIGHT:** A condition in which an organic vapor analyzer (OVA) or a combustible gas detector (CGD) at a potential VOC leak source shows either less than 10,000 ppm when calibrated with methane, or less than 1/5 of the lower explosive limit, when prepared according to the manufacturer and used according to subsection 504.3 of this rule. 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 lower explosive limit (LEL) when calibrated with a gas specified by the manufacturer and used according to the manufacturer's instructions.
- SECTION 300 STANDARDS VAPOR LOSS CONTROL MEASURES REQUIRED:** No person shall transfer or permit the transfer of gasoline from any delivery vessel into any stationary dispensing tank located above or below ground with a capacity of more than 250 gallons (946 l) unless the following conditions are met:
 - 301** **BASIC TANK INTEGRITY:** No vapor or liquid escapes are allowed through a dispensing tank's outer surfaces, nor from any of the joints where the tank is connected to pipe(s), wires, or other system.
 - 301.1** **VOC Emission Standard:**
 - a. Gasoline delivery operations shall be vapor tight, as defined in Section 218, except for tanks exempted by Section 305 from Stage 1 vapor recovery requirements.
 - b. Tanks and their fittings shall be vapor tight except for the outlet of a pressure/vacuum relief valve on a dispensing tank's vent pipe. Specifically, this means that at a probe tip distance of 1 inch (2.5 cm) from a surface, no vapor escape shall



exceed 1/5 of the lower explosive limit. This applies to tanks containing gasoline regardless of whether they are currently being filled, and to caps and other tank fittings.

301.2 Leakage Limits—Liquid Leaks and Spills:

- a. Gasoline storage and receiving operations shall be leak free. Specifically, no liquid gasoline escape of more than 3 drops per minute is allowed. This includes leaks through the walls of piping, fittings, fill hose(s), and vapor hose(s).
- b. There shall be no excess gasoline drainage from the end of a fill hose or a vapor hose. Specifically, not more than 2 teaspoonsful of gasoline shall be lost in the course of a connect or disconnect process.

301.3 Spill Containment Equipment: The entire spill containment system including gaskets shall be kept vapor tight.

- a. The Spill Containment Receptacle:
 - (1) The outer surface of the spill containment receptacle shall have no holes or cracks and shall allow no vapors to pass from the dispensing tank through it to the atmosphere.
 - (2) Spill containment receptacles shall be kept clean and free of foreign material at all times.
 - (3) Spill containment receptacles shall be inspected at least weekly. Records of inspection and cleaning shall be kept according to subsection 502.2.
- b. If the spill containment is equipped with a passageway to allow material trapped by the containment system to flow into the interior of the dispensing tank:
 - (1) The passageway shall be kept vapor tight at all times, except during the short period when a person opens the passageway to immediately drain material trapped by the containment system into the tank.
 - (2) The bottom of the receptacle shall be designed and kept such that no puddles of gasoline are left after draining through the passageway has ceased.
- e. The dispensing tank owner/operator is responsible for assuring that before a delivery vessel leaves the premises after a delivery:
 - (1) Any gasoline in a dispensing tank's spill containment receptacle has been removed.
 - (2) Any gasoline that a person has taken out of a spill receptacle, as a free liquid or as absorbed into/onto other material removed from the receptacle, shall be contained in such a way that VOC emission is prevented; disposal in conformance with applicable hazardous waste rules is sufficient to meet this requirement.
 - (3) Any plunger/stopper assembly is unimpeded and sealing correctly.
- d. Criteria Of Violation/Exceedance for Spill Containment Receptacles: A reading on a CGD or OVA exceeding 1/5 LEL (10,000 ppm as methane) is an exceedance. The procedure for performing a determination is set forth in subsection 504.3.

302 FILL PIPE REQUIREMENTS:

302.1 Each fill line into a stationary dispensing tank shall be equipped with a permanent submerged fill pipe that has a discharge opening which is completely submerged when the liquid level is 6 inches above the tank bottom.

- a. Threads, gaskets, and mating surfaces of the fill pipe assembly shall be designed and maintained tight. There shall be no liquid or vapor leakage at the joints of the assembly.
- b. An owner/operator is responsible to assure that external fittings of a fill pipe assembly shall be inspected weekly to assure that cap, gasket, and piping are intact and are not loose.
 - (1) A record of the inspection shall be made according to subsection 502.2.
 - (2) An owner/operator shall act to prevent driver/deliverers from connecting the delivery hose coupling to a fill pipe coupling with so much twisting force that the fill pipe assembly is loosened. One method of complying is to have a CARB-certified swivel coupling as part of the fill pipe assembly (reference subsection 503.4 for CARB).

302.2 Fill Pipe Caps:

- a. The cap shall have a securely attached, intact gasket.
- b. The cap and its gasket shall always function properly, latch completely so that it cannot then be easily twisted by hand, and have no structural defects.
- e. The cap of a gasoline fill pipe shall always be fastened securely on the fill pipe except immediately before, during, and immediately after:
 - (1) "Sticking" the tank to measure gasoline depth.
 - (2) Delivering gasoline into the tank.
 - (3) Doing testing, maintenance or inspection on the gasoline/vapor system.
- d. Do not unfasten or remove a fill pipe cap unless every other fill pipe is either securely capped or connected to a delivery hose, except as otherwise needed for testing, maintenance, or inspection.

302.3 Restrictions on Multiple Fill Pipes:

- a. A tank installed after December 31, 1998, shall not be equipped with more than one fill pipe unless more than one fill pipe is specifically allowed in the Air Pollution Permit and there is a 2-point system having a properly installed vapor return pipe close to each fill pipe.
- b. Restriction on Concurrent Delivery: An owner/operator of a dispensing tank fitted with more than 1 fill pipe shall prevent concurrent delivery of gasoline by a gasoline delivery vessel to more than 1 fill pipe of the tank by locking additional fill pipes shut or by using other permanent means, unless:
 - (1) Concurrent delivery is specifically allowed in the facility's Air Pollution Permit; and
 - (2) All fill pipes in use are part of a 2-point vapor recovery system; and
 - (3) Before making a concurrent delivery through a tank's second fill pipe, an additional vapor return hose from the delivery vessel must first be attached to the vapor return line associated with the second fill pipe.



- 302.4 **Fill Pipe Obstructions:**
 - a. Any type of screen and/or other obstructions in fill pipe assemblies shall be permanently removed by November 1, 1999, unless it is specifically allowed by an Air Pollution Permit or is CARB certified, as referenced in subsection 503.4.
 - b. A screen or other obstruction, allowed by Air Pollution Permit or CARB, shall be temporarily removed by the owner/operator of a dispensing tank prior to inspection by the Control Officer to allow measurements pursuant to this rule.
- 302.5 **Overfill Protection Equipment:** Overfill prevention equipment shall be 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.
- 303 **VAPOR RECOVERY SYSTEM:**
 - 303.1 Gasoline vapors displaced from a dispensing tank by gasoline being delivered shall be handled by a Stage Vapor Recovery System, unless the tank is exempted by Section 305.
 - 303.2 **Stage 1 Vapor Recovery System Configuration (Reference subsection 503.4 for identification of CARB certified components):**
 - a. **Replacement:** After June 16, 1999, no part of a vapor recovery system for which there is a CARB specification shall be replaced with anything but CARB certified components.
 - b. **Vapor Valves:**
 - (1) All vapor return lines from dispensing tanks 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 subsection 502.2.
 - c. **Above Ground Systems:** After June 16, 1999, an above ground dispensing tank shall have CARB certified fittings wherever CARB so specifies.
 - d. **New Systems:** Each new gasoline tank installation shall use CARB certified fittings exclusively wherever CARB so specifies, and:
 - (1) Shall have its own separate, functioning 2 point vapor return line;
 - (2) Is allowed to have a combination vapor recovery system that in addition to having a separate 2 point Stage 1 vapor return line, also has stage 1 vapor piping/fittings linking it to one or more (other) gasoline dispensing tanks.
 - e. **New Coaxial Prohibited:**
 - (1) No coaxial fill pipes shall be installed after June 16, 1999, in new installations; and
 - (2) No coaxial fill pipes shall be reinstalled after June 16, 1999, 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.
- 304 **EQUIPMENT MAINTENANCE AND USE REQUIRED:** All vapor loss control equipment shall be installed as required, operated as recommended by the manufacturer, and maintained leak free, vapor tight and in good working order.
 - 304.1 Both the owner/operator of a dispensing tank and the driver/operator of a delivery vessel delivering gasoline to the fuel dispensing tank equipped with vapor recovery shall have responsibility to assure that vapor recovery equipment (if required by this rule) is properly connected and in use at all times while gasoline is actively being dropped/delivered.
 - 304.2 The owner/operator of a fuel dispensing tank not exempted by Section 305 shall refuse delivery of gasoline from a delivery vessel which does not bear a current pressure test certification decal issued by the Control Officer. This provision does not apply during times when the facility is unattended or there is only one person under control of the dispensing facility present.
 - 304.3 **Coaxial Systems:** Both spring loaded and fixed coaxial fill tubes shall be maintained according to the standards of their manufacturer(s) and be operated so that there is no obstruction of vapor passage from the tank to the delivery vessel.
- 305 **EXEMPTIONS:**
 - 305.1 **Dispensing Tanks for Farm Operations:** Any stationary gasoline dispensing tank used exclusively for the fueling of implements of normal farm operations is exempt from this rule, except for cap, spills, and liquid leak age provisions in Section 301.
 - 305.2 **The Vapor Recovery Provisions of Section 303 of this Rule Shall Not Apply to the Following Stationary Gasoline Dispensing Tanks:**
 - a. **Non-Resale Dispensing Operations From Non-Farm Tanks:** Any stationary gasoline dispensing operation receiving less than 120,000 gallons of gasoline in any 12 consecutive calendar months, dispensing no resold gasoline, and having each gasoline dispensing tank equipped with a permanent submerged fill pipe pursuant to subsection 302.1, is exempt from Section 303. However, any operation shall become subject to the provisions of Section 303 of this rule by exceeding the 120,000 gallon threshold or not abiding by the restrictions, and shall remain subject to such provisions even if annual emissions later fall below this threshold.
 - b. **Dispensing Tanks Of 1000 Gallons Or Less:** Any stationary dispensing tank having a capacity of 1000 gallons (3785 l) 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.
 - c. **Dispensing Tanks with Offset Fill Lines:** Any stationary dispensing tank installed prior to October 2, 1978, where the fill line between the fill connection and tank is offset.

SECTION 300 – STANDARDS

301 MANUFACTURERS, SUPPLIERS, AND OWNER OR OPERATOR:



301.1 A manufacturer, supplier, owner or operator shall not supply, offer for sale, sell, install or allow the installation of an above ground or underground storage tank, any type of VR System or any of its components unless the tank, system and components meet the following:

a. Replacement Components for A VR System: After June 16, 1999, a VR 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; or

b. All vapor recovery lines from stationary gasoline dispensing tanks shall be equipped with CARB-certified, spring-loaded, vapor tight, poppetted dry breaks.

c. After November 2, 2016, each new or rebuilt installed component shall be clearly identified with a permanent identification affixed by the certified manufacturer or rebuilder.

301.2 Only a State of Arizona licensed Vapor Recovery Registered Service Representative (RSR) shall install an above ground or underground storage tank or vapor recovery system components.

301.3 An owner or operator shall not:

a. Install a coaxial fill pipe in a new installation (after June 16, 1999); or

b. Reinstall a coaxial fill pipe during any changes to the stationary gasoline dispensing tank when the top of the tank is exposed and the vapor port bung is pre-configured to accept vapor recovery piping.

301.4 The owner or operator of a stationary gasoline dispensing tank shall verify that vapor recovery equipment (unless exempted by this rule) is properly connected and in use at all times while gasoline is actively being loaded. If the stationary GDF is unattended or there is only one owner or operator under control of the stationary GDF on-site, the owner or operator of the gasoline cargo tank is responsible for the proper connection and use of the vapor recovery equipment (unless exempted by this rule) while gasoline is being actively loaded.

301.5 An owner or operator shall only load, allow the loading, or provide equipment for the loading of gasoline from only a gasoline cargo tank identified with a valid Maricopa County (MC) Vapor Tightness Test decal into any stationary gasoline storage tank.

302 **GENERAL HOUSEKEEPING REQUIREMENTS:** An owner or operator shall not store gasoline or permit the loading of gasoline in any stationary gasoline dispensing tank located above or below ground unless all of the following conditions are met:

302.1. Minimize gasoline spills;

302.2 Clean up spills as expeditiously as practicable;

302.3 Cover all open gasoline containers and all gasoline storage tank fill-pipes with a gasketed seal when not in use;

302.4 Minimize gasoline sent to waste collection systems that collect and transport gasoline to reclamation and recycling equipment, such as oil/water separators;

302.5 Properly dispose of any VOC containing material.

303 **GASOLINE STORAGE EQUIPMENT AND OPERATION REQUIREMENTS:**

303.1 **Underground Storage Tank (UST):** By December 2, 2016, an UST with a capacity more than 250 gallons (946 l) must meet all of the following conditions unless exempt from the VR System requirements per Section 103.5 of this rule:

a. The UST is equipped and maintained according to Section 301 of this rule;

b. For an existing stationary GDF, maintain a dual-point VR System or a coaxial vapor balance system. For new installations (after June 16, 1999) or modifications to an existing stationary GDF (after June 16, 1999), install and maintain a dual-point vapor balance system with separate fill and vapor connection points;

c. A pressure-vacuum vent is installed and maintained per manufacturer's specifications;

d. The VR 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;

e. 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;

f. Each fill pipe is equipped with gasketed vapor tight cap;

g. After December 2, 2016 each poppetted dry break is equipped with vapor tight seal and gasketed vapor tight cap;

h. 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;

i. The fill pipe assembly, including fill pipe, fittings and gaskets, is maintained to prevent vapor leakage from any portion of the VR System; and

j. 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 UST. The drain valve shall be maintained closed and free of vapor emissions at all times except when the valve is actively in use.

303.2 **Above Ground Storage Tank (AST):** By November 2, 2016, an AST with a capacity more than 250 gallons (946 l) must meet all of the following conditions:

a. 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 (18") above the tank bottom;

b. A pressure-vacuum vent is installed and maintained per manufacturer's specifications;

c. Each fill pipe is equipped with a gasketed vapor tight cap;



- d. All threads, gaskets, and mating surfaces of the fill pipe assembly shall prevent liquid or vapor leakage at the joints of the assembly;
- e. Each gasketed vapor tight cap is maintained in a closed position except when actively in use;
- f. Prior to November 2, 2016, 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. On or after December 2, 2016, a newly installed AST shall be equipped with a spill containment receptacle that is maintained to be free of standing liquid, debris and other foreign matter;
- g. A spill containment receptacle is installed at each fill pipe; and
- h. 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.

304 LOADING OF GASOLINE: Prior to accepting a load of gasoline, an owner or operator of a stationary GDF shall verify all of the following unless exempted in Section 103 of this rule:

304.1 The gasoline cargo tank clearly displays a valid Maricopa County Vapor Tightness Certification decal that is permanently mounted near the front on the right (passenger) side of the vessel.

304.2 The owner or operator of the gasoline cargo tank connects the vapor recovery hose prior to connecting loading hose.

305 CONTROL OF VOC VAPORS:

305.1 Gasoline vapors displaced from a stationary gasoline dispensing tank while being loaded shall be handled by a VR System, unless the tank is exempted by Section 103.5 of this rule.

305.2 VR System Configuration:

a. Replacement: After June 16, 1999, no part of a VR System for which there is a CARB specification shall be replaced with anything but CARB-certified components.

b. Vapor Valves:

(1) All vapor recovery lines from a stationary gasoline dispensing tank shall be equipped with CARB-certified, spring-loaded, vapor-tight, poppetted dry breaks.

(2) Vapor valves shall be inspected pursuant to Section 401 of this rule to determine if closure is complete and gaskets are intact; a record shall be made pursuant to Section 502 of this rule.

c. AST: After June 16, 1999, an AST shall have CARB-certified fittings wherever CARB so specifies.

d. By December 2, 2016, each AST and UST 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 recovery line, also has vapor piping/fittings linking it to one or more (other) stationary gasoline dispensing tanks.

305.3 Equipment Maintenance and Use Required:

a. 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.

b. 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 stationary gasoline dispensing tank to the gasoline cargo tank.

SECTION 400 – ADMINISTRATIVE REQUIREMENTS

401 TANKS THAT LOST THEIR EXEMPTION: Tanks that were formerly exempt from a provision prior to June 16, 1999, shall come into compliance by December 1, 1999.

401 INSPECTIONS: The owner or operator of a GDF shall conduct inspections. A record shall be made pursuant to Section 503 of this rule.

401.1 The inspection shall include, but is not limited to all of the following:

a. The spill containment receptacle shall be:

(1) Free of cracks, rust and defects;

(2) Free of foreign material;

(3) Empty of liquid, including gasoline;

(4) If necessary, installed with a drain valve that properly seals.

b. 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.

c. 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.

401.2 The inspections shall be conducted:

a. At least once per calendar week; or

b. If the gasoline dispensing facility receives gasoline loads less than once per calendar week, the inspection shall take place upon completion of the receipt of the load of gasoline.

402 BURDEN OF PROOF:



- 402.1 **Proving Exempt Status:** The burden of proof of eligibility for exemption from a provision of this rule is on the ~~applicant~~ owner or operator. ~~Persons~~ An owner or operator seeking such an exemption shall maintain adequate records and furnish them to the Control Officer upon request.
- 402.2 **Providing Proof of Equipment Compliance:** ~~a-~~ It is the responsibility of the ~~installer of vapor control equipment owner or operator,~~ owner or operator, when so required by the ~~Control Officer,~~ to provide proof, when requested by the ~~Control Officer,~~ that a vapor recovery system or its modifications meet the requirements of this Rule 353.
 - ~~b. If the owner/operator or the equipment supplier voluntarily provides such proof, the Control Officer has the option to waive the subsection 402.2a requirement that the installer provide this proof.~~
- 403 **CARB DECERTIFICATION:** ~~A person~~ An owner or operator shall not install or reinstall a component related to vapor recovery that has been decertified by CARB. in ~~“Gasoline Facilities – Phase I & II” publication, referenced in subsection 503.4.~~
- 404 **OTHER AGENCIES’ REQUIREMENTS:** Compliance with this rule does not relieve or otherwise affect ~~a person’s~~ the owner or operator’s obligation to comply with any other applicable federal, state, or local legal requirement, including, but not limited to, rules promulgated by the ~~Arizona Department of Weights and Measures, Arizona Department of Agriculture, Weights and Measures Services Division;~~ local fire department codes; and local zoning ordinances.

SECTION 500 – MONITORING AND RECORDS:

- 501 **DETERMINING VAPOR TIGHT STATUS:** An owner or operator or Control Officer shall follow the test procedure in Section 501.1 of this rule and shall use one or more of the methods listed in Sections 501.2 or 501.3 of this rule to determine the vapor tight status on a VR System or spill containment equipment at a stationary GDF or on a gasoline cargo tank.
 - 501.1 **Combustible Gas Detector (CGD) or Organic Vapor Analyzer (OVA) - Test Procedure:** During loading of gasoline into stationary gasoline dispensing tanks, the peripheries of all potential sources of leakage during loading at the GDF 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 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 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.
 - 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 verify 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 verify if a vapor leak exists.
- 502 **COMPLIANCE INSPECTIONS:** Any ~~dispensing tank~~ stationary gasoline dispensing tank required by this rule to be equipped with ~~vapor loss control devices~~ a VR system may be subject to monitoring for vapor tightness and liquid leak tightness during any working hours. Such a tank may be opened for gauging or inspection when loading operations are not in progress, provided that such tank is part of an open system or is served by a positive-pressure relief valve with a relief setting not exceeding +½ lb psig.
- 503 **GDF RECORDKEEPING:** The owner or operator of each ~~gasoline dispensing facility~~ stationary GDF in Maricopa County shall maintain records as follows:
 - 503.1 The total amount of gasoline received each month shall be recorded by the end of the following month.
 - 503.2 The owner or operator of a ~~gasoline dispensing facility~~ stationary GDF shall ~~cause weekly records of fill tube, vapor valve and spill containment inspection to be kept. The findings of such weekly inspections shall be permanently entered in a record or log book by the end of Saturday of the following week.~~ record inspections in a permanent record or log book:
 - a. By the end of Saturday of the following week; or
 - b. If the gasoline dispensing facilities receives gasoline loads less than once per calendar week, the owner or operator shall record the inspection within three days after the receipt of the load of gasoline.
 - 503.3 These records and any reports or supporting information required by this rule or by the Control Officer shall be retained for at least ~~five~~ (5) years.



- 502.4 **503.4** Records of the past ~~12~~ twelve (12) months shall be in a readily accessible location and must be made available to the Control Officer without delay upon verbal or written request.
- 503 **504** **COMPLIANCE DETERMINATION:** ~~The test methods referenced in Section 503 shall be used in the ways given in the subsections that immediately follow. 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. For routine information collection, the Control Officer may accept a manufacturer's data sheet (MSDS), data certified by an officer of the supplying company, or test data for the product of inquiry.~~
- 503.1 **504.1** Control efficiency of vapor ~~recovery systems~~ loss control equipment and vapor collection/ processing systems shall be determined according to EPA Method 2A and either EPA Method 25A or 25B (~~Section 504 and subsection 504.1~~), or by CARB-approved test methods (~~Section 504 and subsection 504.4~~). EPA Method 2B shall be used for vapor incineration devices.
- 503.2 **504.2** Vapor pressure of gasoline (~~reference Section 204~~) shall be determined using ~~American Society for Testing and Materials (ASTM) Method D323-94~~ ASTM D323-15a Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method) or ~~ASTM Method D4953-93~~ D4953-15, Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method). ~~ASTM Method D323-94~~ D323-15a shall be used for gasoline either containing no oxygenates or MTBE (methyl tertiary butyl ether) as the sole oxygenate. ~~Method D4953-93~~ ASTM 4953-15 shall be used for oxygenated gasoline.
- 503.3 **504.3** **Vapor Leaks:**
- If a determination of ~~leak~~ vapor tight status is to be made on ~~Stage 1 a VR system~~ or spill containment equipment at a ~~gasoline dispensing facility stationary GDF~~ or on a ~~delivery vessel gasoline cargo tank~~ at the station, ~~the method in subsection 504.3~~ at least one of the test method's listed in Section 501 of this rule shall be used.
 - ~~Subsection 504.3~~ Section 501.1 of this rule probe distance and movement parameters not with-standing, if it has been established that there are no other interfering vapor escapes, it is an exceedance if a reading by the Control Officer from an established vapor escape above 1/5 LEL (or 10,000 ppm as methane) is sustained for at least ~~5~~ five (5) seconds, and the probe is either consistently further than ~~1~~ one (1) inch from the source and/or the probe is consistently being moved faster than ~~4 cm~~ four centimeters (4 cm) per second.
 - The Control Officer may count it as a failure to perform weekly inspections pursuant to ~~subsection 301.3~~ Section 305.2 of this rule if foreign material is found in a spill containment receptacle and there is no record of an inspection's being performed in the preceding ~~40~~ ten (10) days.
- 503.4 The CARB publication, "Gasoline Facilities – Phase I & II", pursuant to sections 41954 through 41962 of the California Health and Safety Code, is adopted by reference, as it exists on June 16, 1999. This publication is available for reference at the Maricopa County Air Quality Department, 1001 N. Central Ave., Phoenix, AZ, 85004. This publication is available for purchase at the (California) Air Resources Board, PO Box 2815, 2020 L Street, Sacramento, CA, 95812-2815; (916) 323-0255 or (916) 322-2886.
- 504 **505** **TEST METHODS INCORPORATED BY REFERENCE:** The EPA test methods as they exist in the Code of Federal Regulations (CFR) (July 1, 1998 Date of rule adoption), 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 subsection 504.4 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. Copies of test methods referenced in this Section 504 are available at the Maricopa County Air Quality Department, 1001 N. Central Ave., Phoenix, AZ, 85004. The following test methods are approved for use for the purpose of determining compliance with this rule. The test methods are adopted 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 **505.1** **EPA Test Methods:**
- 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"). ~~Both of the foregoing methods are in~~ 40 CFR 60, Appendix A.
 - EPA Method 21 - Determination of Volatile Organic Compound Leaks.
 - EPA Method 21-Determination of Volatile Organic Compound Leaks, Alternative Screening Procedure 8.3.3
 - ~~504.1~~ d. EPA Method 25 ("Determination of Total Gaseous Nonmethane Organic Emissions as Carbon") and its submethods (40 CFR 60, Appendix A).
 - EPA Method 27 ("Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test") in 40 CFR 60, Appendix A.
 - 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.
- 504.2 **505.2** **Gasoline Vapor Pressure: ASTM Standards:**
- American Society for Testing and Materials (ASTM) Method D323-94 (1994) ASTM D323-15a "Standard Test Method for Vapor Pressure of Petroleum Products (Reid Method).



- b. American Society for Testing and Materials (ASTM) Method D4953-93 (1993) ASTM D4953-15 “Standard Test Method for Vapor Pressure of Gasoline and Gasoline-Oxygenate Blends (Dry Method)

504.3 Leak Detection Test Method:

- a. Calibration: Within four hours prior to monitoring, the CGD or OVA shall be suitably calibrated in a manner and with the gas specified by the manufacturer for 20 percent LEL response, or calibrated with methane for a 10,000 ppm response.
- b. Probe Distance: The probe inlet shall be one inch (2.5 cm) or less from the potential leak source when searching for leaks. The probe inlet shall be one 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 inch (2.5 cm) of an actual or potential leak source, the closest practicable probe distance greater than 1 inch 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 a potential or actual 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 a leak, such that the central axis of the probe tube inlet shall be positioned coaxially with the path of the most concentrated vapors.
- e. 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.

504.4 505.3

CARB Certification and Test Procedures for Gasoline Vapor Recovery Systems:

- a. CARB Test Method CP-201, “Certification Procedure for Vapor Recovery Systems of Dispensing Facilities”.
- b. CARB Test Procedure TP-201.1—“Determination of Efficiency of Phase I Vapor Recovery Systems of Dispensing Facilities without Assist Processors”.
- c. CARB Test Procedure TP-201.1A—“Determination of Efficiency of Phase I Vapor Recovery Systems of Dispensing Facilities with Assist Processors”.
- a. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase I Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L Street, Sacramento, California 95812-2815.
- b. 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.
- c. California Air Resources Board Vapor Recovery Test Procedure TP-201.1A - “Determination of Efficiency of Phase I Vapor Recovery Systems of Dispensing Facilities with Assist Processors”.
- d. 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.
- e. 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.
- f. 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.
- g. 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 March 17, 1999.
- h. 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.

505.4 Additional Test Methods:

- a. 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).
- b. San Diego County Air Pollution Control District Test Procedure TP-96-1, March 1996, Third Revision.

REGISTER INDEXES

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

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
FSMM = Final Summary amended Section
FSMR = Final Summary repealed Section
FSM# = Final Summary renumbered Section

EXPEDITED RULEMAKING**PROPOSED EXPEDITED**

PEN = Proposed Expedited new Section
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 RULEMAKING

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

2016 Arizona Administrative Register Volume 22 Page Guide

Issue 1, Jan. 1, 2016.....1-44	Issue 19, May 6, 2016.....1017-1086	Issue 37, Sept. 9, 2016.....2427-2550
Issue 2, Jan. 8, 2016.....45-74	Issue 20, May 13, 2016.....1087-1284	Issue 38, Sept. 16, 2016.....2551-2588
Issue 3, Jan. 15, 2016.....75-100	Issue 21, May 20, 2016.....1285-1336	Issue 39, Sept. 23, 2016.....2589-2678
Issue 4, Jan. 22, 2016.....101-134	Issue 22, May 27, 2016.....1337-1374	Issue 40, Sept. 30, 2016.....2679-2864
Issue 5, Jan. 29, 2016.....135-172	Issue 23, June 3, 2016.....1375-1410	Issue 41, Oct. 7, 2016.....2865-2942
Issue 6, Feb. 5, 2016.....173-214	Issue 24, June 10, 2016.....1411-1585	Issue 42, Oct. 14, 2016.....2943-3008
Issue 7, Feb. 12, 2016.....215-250	Issue 25, June 17, 2016.....1587-1632	Issue 43, Oct. 21, 2016.....3009-3052
Issue 8, Feb. 19, 2016.....251-362	Issue 26, June 24, 2016.....1633-1670	Issue 44, Oct. 28, 2016.....3053-3134
Issue 9, Feb. 26, 2016.....363-406	Issue 27, July 1, 2016.....1671-1722	Issue 45, Nov. 4, 2016.....3135-3174
Issue 10, March 4, 2016.....407-544	Issue 28, July 8, 2016.....1723-1772	Issue 46, Nov. 11, 2016.....3175-3224
Issue 11, March 11, 2016.....545-598	Issue 29, July 15, 2016.....1773-1874	Issue 47, Nov. 18, 2016.....3225-3274
Issue 12, March 18, 2016.....599-662	Issue 30, July 22, 2016.....1875-1936	Issue 48, Nov. 25, 2016.....3275-3356
Issue 13, March 25, 2016.....663-692	Issue 31, July 29, 2016.....1937-2010	Issue 49, Dec. 2, 2016.....3357-3394
Issue 14, April 1, 2016.....693-726	Issue 32, Aug. 5, 2016.....2011-2074	Issue 50, Dec. 9, 2016.....3395-3464
Issue 15, April 8, 2016.....727-800	Issue 33, Aug. 12, 2016.....2075-2162	Issue 51, Dec. 16, 2016.....3465-3560
Issue 16, April 15, 2016.....801-846	Issue 34, Aug. 19, 2016.....2163-2234	Issue 52, Dec. 23, 2016.....3561-3684
Issue 17, April 22, 2016.....847-916	Issue 35, Aug. 26, 2016.....2235-2302	Issue 53, Dec. 30, 2016.....3685-3796
Issue 18, April 29, 2016.....917-1016	Issue 36, Sept. 2, 2016.....2303-2426	

RULEMAKING ACTIVITY INDEX

Rulemakings are listed in the Index by Chapter, Section number, rulemaking activity abbreviation and by volume page number. Use the page guide above to determine the *Register* issue number to review the rule. Headings for the Subchapters, Articles, Parts, and Sections are not indexed.

THIS INDEX INCLUDES RULEMAKING ACTIVITY THROUGH ISSUE 53 OF VOLUME 22.

<p>Accountancy, Board of</p> <p>R4-1-455.03. PM-3565</p> <p>Acupuncture Board of Examiners</p> <p>R4-8-101. PM-697; FM-2175</p> <p>Table 1. PM-697; FM-2175</p> <p>R4-8-203. PM-697; FM-2175</p> <p>R4-8-403. PM-697; FM-2175</p> <p>R4-8-407. PM-697; FM-2175</p> <p>R4-8-411. EXP-14</p> <p>R4-8-412. EXP-14</p> <p>R4-8-502. PM-697; FM-2175</p> <p>Agriculture, Department of - Animal Services Division</p> <p>R3-2-202. PM-1021; FM-2167</p> <p>R3-2-405. EM-1750</p> <p>R3-2-411. FXM-2400</p> <p>R3-2-601. EM-1750</p> <p>R3-2-602. EM-1750</p> <p>R3-2-603. EM-1750</p> <p>R3-2-605. EM-1750</p>	<p>R3-2-606. EM-1750</p> <p>R3-2-608. EM-1750</p> <p>R3-2-609. EM-1750</p> <p>R3-2-610. EM-1750</p> <p>R3-2-611. EM-1750</p> <p>R3-2-617. ER-1750</p> <p>R3-2-618. ER-1750</p> <p>R3-2-702. FXM-2400</p> <p>R3-2-703. FXM-2400</p> <p>R3-2-801. PM-1023; FM-2169</p> <p>R3-2-806. PM-1023; FM-2169</p> <p>Agriculture, Department of - Environmental Services Division</p> <p>R3-3-208. FM-367</p> <p>Agriculture, Department of - Agricultural Councils and Commissions</p> <p>R3-9-105. EXP-1393</p> <p>Agriculture, Department of - Weights and Measures Services Division</p> <p>R3-7-101. RC-2786</p> <p>R3-7-102. RC-2786</p> <p>R3-7-103. RC-2786</p> <p>R3-7-104. RC-2786</p>	<p>R3-7-105. RC-2786</p> <p>R3-7-106. RC-2786</p> <p>R3-7-107. RC-2786</p> <p>R3-7-108. RC-2786</p> <p>R3-7-109. RC-2786</p> <p>R3-7-110. RC-2786</p> <p>R3-7-111. RC-2786</p> <p>R3-7-112. RC-2786</p> <p>R3-7-113. RC-2786</p> <p>R3-7-114. RC-2786</p> <p>R3-7-115. RC-2786</p> <p>R3-7-116. RC-2786</p> <p>R3-7-117. RC-2786</p> <p>R3-7-201. RC-2786</p> <p>R3-7-202. RC-2786</p> <p>R3-7-203. RC-2786</p> <p>R3-7-204. RC-2786</p> <p>R3-7-301. RC-2786</p> <p>R3-7-302. RC-2786</p> <p>R3-7-303. RC-2786</p> <p>R3-7-304. RC-2786</p> <p>R3-7-305. RC-2786</p> <p>R3-7-306. RC-2786</p> <p>R3-7-307. RC-2786</p> <p>R3-7-308. RC-2786</p> <p>R3-7-309. RC-2786</p> <p>R3-7-310. RC-2786</p> <p>R3-7-311. RC-2786</p> <p>R3-7-312. RC-2786</p>
--	--	--

R3-7-313.	RC-2786	R3-7-742.	RC-2786	Arizona Health Care Cost Containment System - Administration		
R3-7-401.	RC-2786	R3-7-743.	RC-2786		R9-22-401.	PN-1289;
R3-7-402.	RC-2786	R3-7-744.	RC-2786			FN-3191
R3-7-403.	RC-2786	R3-7-745.	RC-2786		R9-22-402.	PN-1289;
R3-7-404.	RC-2786	R3-7-746.	RC-2786			FN-3191
R3-7-405.	RC-2786	R3-7-747.	RC-2786		R9-22-403.	PN-1289;
R3-7-406.	RC-2786	R3-7-748.	RC-2786			FN-3191
R3-7-407.	RC-2786	R3-7-749.	RC-2786		R9-22-404.	PN-1289;
R3-7-408.	RC-2786	R3-7-750.	RC-2786			FN-3191
R3-7-409.	RC-2786	R3-7-751.	RC-2786		R9-22-405.	PN-1289;
R3-7-410.	RC-2786	R3-7-751.01.	RC-2786			FN-3191
R3-7-411.	RC-2786	R3-7-752.	RC-2786		R9-22-406.	PN-1289;
R3-7-412.	RC-2786	R3-7-753.	RC-2786			FN-3191
R3-7-501.	RC-2786	R3-7-754.	RC-2786		R9-22-407.	PN-1289;
R3-7-502.	RC-2786	R3-7-755.	RC-2786			FN-3191
R3-7-503.	RC-2786	R3-7-756.	RC-2786		R9-22-408.	PN-1289;
R3-7-504.	RC-2786	R3-7-757.	RC-2786			FN-3191
R3-7-505.	RC-2786	R3-7-758.	RC-2786		R9-22-701.	PM-761;
R3-7-506.	RC-2786	R3-7-759.	RC-2786			FM-2187
R3-7-507.	RC-2786	Table A.	RC-2786		R9-22-712.15.	PM-770
R3-7-601.	RC-2786	R3-7-760.	RC-2786		R9-22-712.35.	PM-761;
R3-7-602.	RC-2786	R3-7-761.	RC-2786			FM-2187
R3-7-603.	RC-2786	R3-7-762.	RC-2786		R9-22-712.60.	FM-2187
R3-7-604.	RC-2786	Table 1.	RC-2786		R9-22-712.61.	PM-761;
R3-7-605.	RC-2786	Table 2.	RC-2786			FM-2187
R3-7-701.	RC-2786	Table 3.	RC-2786		R9-22-712.66.	PM-761;
R3-7-702.	RC-2786	R3-7-801.	RC-2786			FM-2187
R3-7-703.	RC-2786	R3-7-802.	RC-2786		R9-22-712.67.	PM-761;
R3-7-704.	RC-2786	R3-7-803.	RC-2786			FM-2187
R3-7-705.	RC-2786	R3-7-804.	RC-2786		R9-22-712.71.	PM-761;
R3-7-706.	RC-2786	R3-7-805.	RC-2786			FM-2187
R3-7-707.	RC-2786	R3-7-806.	RC-2786		R9-22-712.75.	PM-761;
R3-7-708.	RC-2786	R3-7-807.	RC-2786			FM-2187
R3-7-709.	RC-2786	R3-7-808.	RC-2786		R9-22-712.90.	SPN-1945
R3-7-710.	RC-2786	R3-7-809.	RC-2786		R9-22-730.	FXM-2050
R3-7-711.	RC-2786	R3-7-810.	RC-2786			
R3-7-712.	RC-2786	R3-7-811.	RC-2786			
R3-7-713.	RC-2786	R3-7-812.	RC-2786			
R3-7-714.	RC-2786	R3-7-901.	RC-2786			
R3-7-715.	RC-2786	R3-7-902.	RC-2786			
R3-7-716.	RC-2786	R3-7-903.	RC-2786			
R3-7-717.	RC-2786	R3-7-904.	RC-2786			
R3-7-718.	RC-2786	R3-7-905.	RC-2786			
R3-7-719.	RC-2786	R3-7-906.	RC-2786			
R3-7-720.	RC-2786	R3-7-907.	RC-2786			
R3-7-721.	RC-2786	R3-7-908.	RC-2786			
R3-7-722.	RC-2786	R3-7-909.	RC-2786			
R3-7-723.	RC-2786	R3-7-910.	RC-2786			
R3-7-724.	RC-2786	R3-7-911.	RC-2786			
R3-7-725.	RC-2786	R3-7-912.	RC-2786			
R3-7-726.	RC-2786	R3-7-913.	RC-2786			
R3-7-727.	RC-2786	R3-7-1001.	RC-2786			
R3-7-728.	RC-2786	R3-7-1002.	RC-2786			
R3-7-729.	RC-2786	R3-7-1003.	RC-2786			
R3-7-730.	RC-2786	R3-7-1004.	RC-2786			
R3-7-731.	RC-2786	R3-7-1005.	RC-2786			
R3-7-732.	RC-2786	R3-7-1006.	RC-2786			
R3-7-733.	RC-2786	R3-7-1007.	RC-2786			
R3-7-734.	RC-2786	R3-7-1008.	RC-2786			
R3-7-735.	RC-2786	R3-7-1009.	RC-2786			
R3-7-736.	RC-2786	R3-7-1010.	RC-2786			
R3-7-737.	RC-2786	R3-7-1011.	RC-2786			
R3-7-738.	RC-2786	R3-7-1012.	RC-2786			
R3-7-739.	RC-2786	R3-7-1013.	RC-2786			
R3-7-740.	RC-2786	Table 1.	RC-2786			
R3-7-741.	RC-2786					
				Arizona Health Care Cost Containment System - Arizona Long-term Care System		
				R9-28-702.	PM-2015;	
					FM-3332	
				Arizona Health Care Cost Containment System - Behavioral Health Services for Persons with Serious Mental Illness		
				R9-21-101.	PM-731;	
					FM-2019	
				R9-21-102.	PM-731;	
					FM-2019	
				R9-21-103.	PM-731;	
					FM-2019	
				R9-21-104.	PM-731;	
					FM-2019	
				R9-21-105.	PM-731;	
					FM-2019	
				R9-21-106.	PM-731;	
					FM-2019	
				R9-21-201.	PM-731;	
					FM-2019	
				R9-21-203.	PM-731;	
					FM-2019	
				R9-21-204.	PM-731;	
					FM-2019	

R9-21-205.	PM-731; FM-2019	R9-30-401.	PR-805	R7-5-507.	PN-3057
R9-21-206.	PM-731; FM-2019	R9-30-402.	PR-805	R7-5-508.	PN-3057
R9-21-206.01.	PM-731; FM-2019	Behavioral Health Examiners, Board of		R7-5-509.	PN-3057
R9-21-208.	PM-731; FM-2019	R4-6-101.	FXM-3238	R7-5-510.	P#-3057; PM-3057
R9-21-209.	PM-731; FM-2019	R4-6-205.	FXM-3238	R7-5-601.	P#-3057; PM-3057
Exhibit A	PM-731; FM-2019	R4-6-211.	FXM-3238	R7-5-602.	PN-3057
R9-21-301.	PM-731; FM-2019	R4-6-212.	FXM-3238	R7-5-603.	PN-3057
R9-21-303.	PM-731; FM-2019	R4-6-212.01.	FXM-3238	R7-5-604.	PN-3057
R9-21-307.	PM-731; FM-2019	R4-6-214.	FXM-3238	R7-5-605.	PN-3057
R9-21-309.	PM-731; FM-2019	R4-6-301.	FXM-3238	R7-5-606.	PN-3057
R9-21-310.	PM-731; FM-2019	R4-6-304.	FXM-3238	R7-5-607.	PN-3057
R9-21-311.	PM-731; FM-2019	R4-6-306.	FXM-3238	Child Safety, Department of - Foster Home and Child Welfare Agency Facility Safety	
R9-21-401.	PM-731; FM-2019	R4-6-402.	FXM-3238	R21-8-112.	PM-3181
R9-21-402.	PM-731; FM-2019	R4-6-403.	FXM-3238	R21-8-113.	PM-3181
R9-21-403.	PM-731; FM-2019	R4-6-502.	FXM-3238	Clean Elections Commission, Citi- zens	
R9-21-404.	PM-731; FM-2019	R4-6-503.	FXM-3238	R2-20-101.	PXM-3016
R9-21-405.	PM-731; FM-2019	R4-6-601.	FXM-3238	R2-20-104.	PXM-3018
R9-21-406.	PM-731; FM-2019	R4-6-602.	FXM-3238	R2-20-105.	PXM-3021
R9-21-407.	PM-731; FM-2019	R4-6-603.	FXM-3238	R2-20-107.	PXM-3023
R9-21-408.	PM-731; FM-2019	R4-6-701.	FXM-3238	R2-20-109.	PXM-1744; PXM-1777; PXM-1883; FXM-2892; PXM-3025
R9-21-409.	PM-731; FM-2019	R4-6-702.	FXM-3238	R2-20-110.	PX#-1888; PXM-1888; FXM-2897; PXM-3096
R9-21-410.	PM-731; FM-2019	R4-6-703.	FXM-3238	R2-20-111.	PX#-1891; PXM-1891; FXM-2899; PXM-3098
Arizona Health Care Cost Contain- ment System - Medicare Part D Pre- scription Coverage Extra Help Subsidy Program		R4-6-704.	FXM-3238	R2-20-112.	PXM-3100
R9-30-201.	PM-805	R4-6-705.	FXM-3238	R2-20-114.	PX#-1893; PXN-1893; FXN-2902
R9-30-202.	PR-805	R4-6-802.	FXM-3238	R2-20-115.	PX#-1895; PXN-1895; FXN-2904; PXM-3102
R9-30-203.	PM-805	Barbers, Board of		R2-20-402.01.	PXM-3104
R9-30-204.	PR-805; PN-805	R4-5-103.	PR-3179	R2-20-402.02.	PXN-3106
R9-30-205.	PR-805	Charter Schools, State Board for		R2-20-702.	PXM-1897; FXN-2906
R9-30-206.	PR-805	R7-5-101.	PM-3057	R2-20-703.	PXM-3107
R9-30-207.	PM-805	R7-5-201.	PM-3057	Contractors, Registrar of	
R9-30-208.	PR-805	R7-5-202.	PM-3057	R4-9-102.	PM-3689
R9-30-209.	PM-805	R7-5-203.	PM-3057	Corporation Commission - Fixed Utilities	
R9-30-210.	PR-805	R7-5-204.	PM-3057	R14-2-802.	PM-411; FM-1949
R9-30-211.	PR-805	R7-5-205.	PM-3057	Corporation Commission - Trans- portation	
R9-30-212.	PM-805	R7-5-206.	PM-3057	R14-5-202.	EM-5; EM-1637; FM-2869
R9-30-213.	PM-805	R7-5-207.	PM-3057		
R9-30-214.	PM-805	R7-5-208.	PN-3057		
R9-30-215.	PM-805	R7-5-301.	P#-3057; PN-3057		
R9-30-216.	PM-805	R7-5-302.	P#-3057; PN-3057		
R9-30-218.	PR-805	R7-5-303.	P#-3057; PN-3057		
		R7-5-304.	P#-3057; PN-3057		
		R7-5-401.	P#-3057; PN-3057		
		R7-5-402.	PN-3057		
		R7-5-403.	PN-3057		
		R7-5-404.	PN-3057		
		R7-5-501.	PR-3057; P#-3057; PM-3057		
		R7-5-502.	PR-3057; P#-3057; PM-3057		
		R7-5-503.	PR-3057; PN-3057		
		R7-5-504.	PR-3057; PN-3057		
		R7-5-505.	PN-3057		
		R7-5-506.	PN-3057		

R14-5-203.	EM-5; EM-1637; FM-2869	R9-26-508.	PM-177; FM-1675	R6-5-6503.01.	EXP-2567
R14-5-204.	EM-5; EM-1637; FM-2869	R9-26-509.	PM-177; FM-1675	R6-5-6504.	EXP-2567
R14-5-205.	EM-5; EM-1637; FM-2869	R9-26-510.	PM-177; FM-1675	R6-5-6505.	EXP-2567
R14-5-207.	EM-5; EM-1637; FM-2869	R9-26-511.	PR-177; PN-177; FR-1675; FN-1675	R6-5-6506.	EXP-2567
Cosmetology, Board of		R9-26-512.	PM-177; FM-1675	R6-5-6507.	EXP-2567
R4-10-108.	PM-1941; FM-3329	R9-26-515.	P#-177; PN-177; F#-1675; FN-1675	R6-5-6508.	EXP-2567
Deaf and the Hard of Hearing, Commission for		R9-26-516.	P#-177; F#-1675	R6-5-6509.	EXP-2567
R9-26-101.	P#-177; F#-1675	R9-26-517.	PM-177; FM-1675	R6-5-6510.	EXP-2567
R9-26-201.	P#-177; PM-177; F#-1675; FM-1675	R9-26-518.	PM-177; FM-1675	R6-5-6511.	EXP-2567
R9-26-202.	P#-177; PM-177; F#-1675; FM-1675	Dental Examiners, State Board of		R6-5-6601.	EXP-2567
R9-26-203.	P#-177; PM-177; F#-1675; FM-1675	R4-11-201.	FM-371	R6-5-6602.	EXP-2567
R9-26-204.	P#-177; PM-177; F#-1675; FM-1675	R4-11-202.	FM-371	R6-5-6603.	EXP-2567
R9-26-205.	P#-177; PM-177; F#-1675; FM-1675	R4-11-203.	FM-371	R6-5-6604.	EXP-2567
R9-26-206.	P#-177; F#-1675; FM-1675	R4-11-204.	FM-371	R6-5-6605.	EXP-2567
R9-26-207.	P#-177; PN-177 F#-1675; FN-1675	R4-11-301.	FM-371	R6-5-6606.	EXP-2567
R9-26-301.	PR-177; P#-177; PM-177; FR-1675; F#-1675; FM-1675	R4-11-302.	FR-371	R6-5-6607.	EXP-2567
R9-26-302.	PR-177; P#-177; FR-1675; F#-1675	R4-11-303.	FM-371	R6-5-6608.	EXP-2567
R9-26-303.	PR-177; P#-177; PM-177; FR-1675; F#-1675; FM-1675	R4-11-304.	FM-371	R6-5-6609.	EXP-2567
R9-26-304.	P#-177; PM-177; F#-1675; FM-1675	R4-11-305.	FM-371	R6-5-6610.	EXP-2567
R9-26-501.	PM-177; FM-1675	R4-11-401.	PM-2307; FM-3697	R6-5-6611.	EXP-2567
R9-26-502.	PM-177; FM-1675	R4-11-402.	PM-2307; FM-3697	R6-5-6612.	EXP-2567
R9-26-503.	PM-177; FM-1675	R4-11-403.	PN-2307; FN-3697	R6-5-6613.	EXP-2567
R9-26-504.	PM-177; FM-1675	R4-11-405.	PM-2307; FM-3697	R6-5-6614.	EXP-2567
R9-26-505.	PM-177; FM-1675	R4-11-406.	PM-2307; FM-3697	R6-5-6615.	EXP-2567
R9-26-506.	PM-177; FM-1675	Economic Security, Department of - Developmental Disabilities		R6-5-6616.	EXP-2567
R9-26-507.	PM-177; FM-1675	R6-6-1401.	EXP-14	R6-5-6617.	EXP-2567
		Economic Security, Department of - Social Services		R6-5-6618.	EXP-2567
		Appendix A.	FXR-1603; FXN-1603; FXR-1607; FXN-1607	R6-5-6619.	EXP-2567
		R6-5-5201.	PM-1029; FM-3185	R6-5-6620.	EXP-2567
		R6-5-5202.	PM-1029; FM-3185	R6-5-6621.	EXP-2567
		R6-5-5207.	PM-1029; FM-3185	R6-5-6622.	EXP-2567
		R6-5-5217.	PM-1029; FM-3185	R6-5-6623.	EXP-2567
		R6-5-5218.	PM-1029; FM-3185	R6-5-6624.	EXP-2567
		R6-5-5219.	PM-1029; FM-3185	R6-5-6701.	EXP-2567
		R6-5-6501.	EXP-2567	R6-5-6702.	EXP-2567
		R6-5-6502.	EXP-2567	R6-5-6703.	EXP-2567
		R6-5-6503.	EXP-2567	R6-5-6704.	EXP-2567
				R6-5-6705.	EXP-2567
				R6-5-6706.	EXP-2567
				R6-5-6707.	EXP-2567
				R6-5-6708.	EXP-2567
				R6-5-6709.	EXP-2567
				R6-5-6710.	EXP-2567
				R6-5-6711.	EXP-2567
				R6-5-6712.	EXP-2567
				R6-5-6713.	EXP-2567
				R6-5-7001.	EXP-2567
				R6-5-7002.	EXP-2567
				R6-5-7003.	EXP-2567
				R6-5-7004.	EXP-2567
				R6-5-7005.	EXP-2567
				R6-5-7006.	EXP-2567
				R6-5-7007.	EXP-2567
				R6-5-7008.	EXP-2567
				R6-5-7009.	EXP-2567
				R6-5-7010.	EXP-2567
				R6-5-7011.	EXP-2567
				R6-5-7012.	EXP-2567
				R6-5-7013.	EXP-2567
				R6-5-7014.	EXP-2567
				R6-5-7015.	EXP-2567
				R6-5-7016.	EXP-2567
				R6-5-7017.	EXP-2567
				R6-5-7018.	EXP-2567
				R6-5-7019.	EXP-2567
				R6-5-7020.	EXP-2567

R6-5-7021. EXP-2567
 R6-5-7022. EXP-2567
 R6-5-7023. EXP-2567
 R6-5-7024. EXP-2567
 R6-5-7025. EXP-2567
 R6-5-7026. EXP-2567
 R6-5-7027. EXP-2567
 R6-5-7028. EXP-2567
 R6-5-7029. EXP-2567
 R6-5-7030. EXP-2567
 R6-5-7031. EXP-2567
 R6-5-7032. EXP-2567
 R6-5-7033. EXP-2567
 R6-5-7034. EXP-2567
 R6-5-7035. EXP-2567
 R6-5-7036. EXP-2567
 R6-5-7037. EXP-2567
 R6-5-7038. EXP-2567
 R6-5-7039. EXP-2567
 R6-5-7040. EXP-2567
 R6-5-8001. EXP-2567
 R6-5-8002. EXP-2567
 R6-5-8003. EXP-2567
 R6-5-8004. EXP-2567
 R6-5-8005. EXP-2567
 R6-5-8006. EXP-2567
 R6-5-8007. EXP-2567
 R6-5-8008. EXP-2567
 R6-5-8009. EXP-2567
 R6-5-8010. EXP-2567

**Economic Security, Department of -
The JOBS Program**

R6-10-118. EXP-1393
 R6-10-125. EXP-1393
 R6-10-126. EXP-1393
 R6-10-304. EXP-1393

Education, State Board of

R7-2-201. FXM-2239
 R7-2-300. FXN-143
 R7-2-301. FXM-143
 R7-2-302. FXM-143;
 FNM-197
 R7-2-302.01. FXR-143
 R7-2-302.02. FXR-143
 R7-2-302.04. FXR-143
 R7-2-302.05. FX#-111;
 FXN-111
 R7-2-302.06. FX#-111;
 FXR-143
 R7-2-302.07. FX#-111;
 FXR-143
 R7-2-302.08. FX#-111;
 FXR-143
 R7-2-302.09. FX#-111;
 FXR-143
 R7-2-302.10. FX#-111;
 FXN-111;
 FXM-143;
 FXR-197
 R7-2-317. FXN-3367
 R7-2-603. FXM-3369
 R7-2-607. FXM-648
 R7-2-612.01. FXN-2617

R7-2-614. FXM-667;
 FXM-2617
 R7-2-615. FXM-219;
 FXM-227;
 FXM-233;
 FXM-670;
 FXM-1912;
 FXM-2241
 R7-2-616. FXM-219
 R7-2-619. FXM-648;
 FXM-2246
 R7-2-621. FXM-219;
 FXM-227;
 FXM-2248

**Environmental Quality, Department
of - Air Pollution Control**

R18-2-611. FXM-987
 R18-2-611.01. FXM-987
 R18-2-709. EXP-15
 R18-2-711. EXP-15
 R18-2-712. EXP-15
 R18-2-713. EXP-15
 R18-2-717. EXP-15
 R18-2-732. EXP-15
 R18-2-101. PM-2431
 R18-2-102. PM-2431
 R18-2-201. PM-2431
 R18-2-203. PM-2431
 R18-2-217. PM-2431
 R18-2-218. PM-2431
 R18-2-301. PM-2431
 R18-2-302. PM-2431
 R18-2-302.01. PM-2431
 R18-2-303. PM-2431
 R18-2-304. PM-2431
 R18-2-306. PM-2431
 R18-2-306.01. PM-2431
 R18-2-306.02. PM-2431;
 EXP-2982
 R18-2-307. PM-2431
 R18-2-311. PM-2431
 R18-2-312. PM-2431
 R18-2-319. PM-2431
 R18-2-320. PM-2431
 R18-2-324. PM-2431
 R18-2-326. PM-2431
 R18-2-327. PM-2431
 R18-2-330. PM-2431
 R18-2-332. PM-2431
 R18-2-334. PM-2431
 R18-2-401. PM-2431
 R18-2-402. PM-2431
 R18-2-403. PM-2431
 R18-2-404. PM-2431
 R18-2-405. PM-2431
 R18-2-406. PM-2431
 R18-2-407. PM-2431
 R18-2-408. PM-2431
 R18-2-410. PM-2431
 R18-2-411. PN-2431
 R18-2-412. PM-2431
 R18-2-502. PM-2431
 R18-2-503. PM-2431
 R18-2-504. PM-2431
 R18-2-507. PR-2431

R18-2-508. PR-2431
 R18-2-512. PM-2431
 R18-2-513. PM-2431
 R18-2-514. PN-2431
 R18-2-515. PN-2431
 R18-2-715. PM-3279
 R18-2-715.01. PM-3279
 Appendix 14. PN-3279
 Appendix 15. PN-3279
 R18-2-1205. PM-2431
 Appendix 1. PR-2431
 R18-2-B1301. PN-3279
 R18-2-B1301.01. PN-3279
 R18-2-B1302. PN-3279
 R18-2-C1301. PN-3279
 R18-2-C1302. PN-3279

**Environmental Quality, Department
of - Hazardous Waste Management**

R18-8-201. EXP-2983

**Environmental Quality, Department
of - Safe Drinking Water**

R18-4-102. FM-379
 R18-4-103. FM-379
 R18-4-105. FM-379
 R18-4-121. FM-379
 R18-4-126. FN-379
 R18-4-210. FM-379

**Environmental Quality, Department
of - Solid Waste Management**

R18-13-902. EXP-2983
 R18-13-2701. EXP-2984
 R18-13-2702. EXP-2984
 R18-13-2703. EXP-2984

**Environmental Quality, Department
of - Underground Storage Tanks**

R18-12-802. EXP-2983

**Environmental Quality, Department
of - Water Pollution Control**

R18-9-704. FM-1696

**Environmental Quality, Department
of - Water Quality Standards**

R18-11-106. TM-343;
 PM-255;
 FM-2328
 R18-11-109. TM-343;
 PM-255;
 FM-2328
 R18-11-110. TM-343;
 PM-255;
 FM-2328
 R18-11-112. TM-343;
 PM-255;
 FM-2328
 R18-11-115. TM-343;
 PM-255;
 FM-2328
 R18-11-121. TM-343;
 PM-255;
 FM-2328

R4-19-511. PM-2947
 R4-19-801. FXM-1900;
 PM-2947
 R4-19-802. FXM-1900;
 PM-2947
 R4-19-804. FXM-1900
 R4-19-806. FXM-1900
 R4-19-807. FXM-1900
 R4-19-808. FXM-1900
 R4-19-809. FXM-1900
 R4-19-810. FXM-1900
 R4-19-811. FXM-1900
 R4-19-812. FXM-1900
 R4-19-813. FXM-1900
 R4-19-814. FXM-1900
 R4-19-815. FXM-1900

Optometry, Board of

R4-21-101. FM-328
 R4-21-102. FM-328
 R4-21-103. FM-328
 R4-21-201. FM-328
 R4-21-202. FM-328
 R4-21-203. FM-328
 R4-21-205. FM-328
 R4-21-205.1. FN-328
 R4-21-206. FM-328
 R4-21-208. FM-328
 R4-21-209. FM-328
 R4-21-210. FM-328
 R4-21-211. FM-328
 R4-21-213. FR-328
 R4-21-302. FM-328
 R4-21-305. FM-328
 R4-21-306. FM-328
 R4-21-308. FM-328

Osteopathic Examiners in Medicine and Surgery, Board of

R4-22-104. PM-3229
 Table 1. PM-3229
 R4-22-207. PM-3229

Peace Officer Standards and Training Board, Arizona

R13-4-101. FM-555
 R13-4-102. FM-555
 R13-4-103. FM-555
 R13-4-104. FM-555
 R13-4-105. FM-555
 R13-4-106. FM-555
 R13-4-107. FM-555
 R13-4-108. FM-555
 R13-4-109. FM-555
 R13-4-109.01. FM-555
 R13-4-110. FM-555
 R13-4-111. FM-555
 R13-4-112. FM-555
 R13-4-114. FM-555
 R13-4-116. FM-555
 R13-4-117. FM-555
 R13-4-118. FM-555
 R13-4-201. FM-555
 R13-4-202. FM-555
 R13-4-203. FM-555
 R13-4-204. FM-555

R13-4-205. FM-555
 R13-4-206. FM-555
 R13-4-208. FM-555

Pharmacy, Board of

R4-23-110. FXM-2606
 R4-23-205. FXM-2606
 R4-23-411. PM-2593
 R4-23-703. PM-3693

Physician Assistants, Regulatory Board of

Table 1. PM-2310;
 FM-3700
 R4-17-202. PM-2310;
 FM-3700
 R4-17-203. PM-2310;
 FM-3700
 R4-17-204. PM-2310;
 FM-3700
 R4-17-205. PM-2310;
 FM-3700
 R4-17-206. PM-2310;
 FM-3700
 R4-17-301. PN-2310;
 FN-3700
 R4-17-302. PN-2310;
 FN-3700
 R4-17-303. PN-2310;
 FN-3700
 R4-17-304. PN-2310;
 FN-3700
 R4-17-305. PN-2310;
 FN-3700
 R4-17-306. PN-2310;
 FN-3700

Private Postsecondary Education, Board for

R4-39-101. FM-921
 R4-39-102. FM-921
 R4-39-103. FM-921
 R4-39-104. FM-921
 R4-39-105. FM-921
 R4-39-106. FM-921
 R4-39-107. FM-921
 R4-39-108. FM-921
 R4-39-109. FM-921
 R4-39-110. FM-921
 R4-39-111. FM-921
 R4-39-201. FM-921
 R4-39-301. FM-921
 R4-39-302. FM-921
 R4-39-303. FM-921
 R4-39-304. FM-921
 R4-39-305. FM-921
 R4-39-306. FM-921
 R4-39-307. FM-921
 R4-39-308. FM-921
 R4-39-401. FM-921
 R4-39-402. FM-921
 R4-39-403. FM-921
 R4-39-404. FM-921
 R4-39-405. FR-921
 R4-39-406. FM-921
 R4-39-407. FN-921

R4-39-408. FN-921
 R4-39-501. FM-921
 R4-39-502. FM-921
 R4-39-503. FM-921
 R4-39-504. FN-921
 R4-39-601. FM-921
 R4-39-602. FM-921
 R4-39-603. FM-921

Psychologist Examiners, Board of

R4-26-101. PM-1591;
 FM-3083
 R4-26-108. PM-1591;
 FM-3083
 R4-26-109. PN-1591;
 FM-3083
 R4-26-110. PN-1591;
 FN-3083
 R4-26-111. PN-1591;
 FN-3083
 R4-26-203.03. PM-1591;
 FM-3083
 R4-26-203.04. PN-1591;
 FN-3083
 R4-26-205. PM-1591;
 FM-3083
 R4-26-206. PM-1591;
 FM-3083
 R4-26-207. PM-1591;
 FM-3083
 R4-26-208. FM-3083
 R4-26-210. PM-1591;
 FM-3083
 R4-26-304. PM-1591;
 FM-3083
 R4-26-310. PM-1591;
 FM-3083
 R4-26-401. PM-2318
 R4-26-403. PM-2318
 R4-26-404. PM-2318
 R4-26-404.1. PN-2318
 R4-26-404.2. PN-2318
 R4-26-405. PM-2318
 R4-26-406. PM-2318
 R4-26-407. PM-2318
 R4-26-408. PM-2318
 R4-26-409. PM-2318
 R4-26-410. PM-2318
 R4-26-414. PM-2318
 R4-26-417. PM-2318

Public Safety, Department of - Alcohol Testing

Exhibit E-1. EXP-2054
 Exhibit E-2. EXP-2054
 Exhibit E-3. EXP-2054
 Exhibit E-4. EXP-2054
 Exhibit E-5. EXP-2054
 Exhibit E-6. EXP-2054
 Exhibit F-1. EXP-2054
 Exhibit F-2. EXP-2054
 Exhibit F-3. EXP-2054
 Exhibit F-4. EXP-2054
 Exhibit F-5. EXP-2054

Radiation Regulatory Agency

R20-2-1003.	RC-2786	R20-2-1009.	RC-2786
R20-2-1004.	RC-2786	R20-2-1010.	RC-2786
R20-2-1005.	RC-2786	R20-2-1011.	RC-2786
R20-2-1006.	RC-2786	R20-2-1012.	RC-2786
R20-2-1007.	RC-2786	R20-2-1013.	RC-2786
R20-2-1008.	RC-2786	Table 1.	RC-2786

OTHER NOTICES AND PUBLIC RECORDS INDEX

Other notices related to rulemakings are listed in the Index by notice type, agency/county and by volume page number. Agency policy statements and proposed delegation agreements are included in this section of the Index by volume page number. Public records, such as Governor Office executive orders, proclamations, declarations and terminations of emergencies, summaries of Attorney General Opinions, and county notices are also listed in this section of the Index as published by volume page number.

THIS INDEX INCLUDES OTHER NOTICE ACTIVITY THROUGH ISSUE 53 OF VOLUME 22.

Agency Guidance Document, Notices of

- Health Services, Department of;** pp. 159, 705
- Retirement System, State;** pp. 3141-3149
- Revenue, Department of;** pp. 1857-1858

Agency Ombudsman, Notices of

- Child Safety, Department of;** p. 3375
- Early Childhood Development and Health Board/ First Things First;** p. 353
- Game and Fish Commission;** pp. 62-63, 1649
- Health Services, Department of;** p. 353
- Public Safety, Department of;** p. 2092
- Transportation, Department of;** p. 62
- Water Resources, Department of;** p. 3711

County Notices Pursuant to A.R.S. § 49-112

- Maricopa County;** pp. 431-535, 1116-1273, 1552-1572, 1708, 1958-1995, 2095-2149, 2914-2923, 3418-3446, 3479-3542, 3594-3666, 3714-3751
- Pima County;** pp. 1305-1325, 2631
- Pinal County;** pp. 2253-2288, 3751-3776

Governor’s Office

- Executive Order:** pp. 19-20 (E.O. #2015-11); 20-21 (E.O. #2015-13); 21-22 (E.O. #2015-01); 84 (E.O. #2016-01); 85 (E.O. #2016-02); 86 (E.O. 2015-06); 87 (E.O. #2015-09); 88 (E.O. #2015-12); 426-27 (E.O. #2016-03)
- Declarations:** p. 1703 (M16-176)
- Proclamations:** pp. 23 (M15-350, M15-349); 24 (M15-348); 25 (M15-

- 347); 64 (M15-354, M15-355); 65 (M15-356, M15-357); 66 (M15-358); 123 (M16-04, M16-05); 124 (M16-06, M16-07); 125 (M16-08); 126 (M16-09); 162 (M16-13); 202 (M16-23, M16-24); 203 (M16-25, M16-26); 204 (M16-27); 428 (M16-33, M16-34); 429 (M16-35, M16-36); 430 (M16-430); 585 (M16-38, M16-39); 586 (M16-40, M16-41); 587 (M16-42, M16-43); 588 (M16-44); 653 (M16-45); 678 (M16-50, M16-51); 679 (M16-52, M16-53); 680 (M16-54, M16-55); 681 (M16-57, M16-58); 682 (M16-59); 711 (M16-62, M16-63); 712 (M16-66, M16-56); 713 (M16-67, M16-68); 714 (M16-69, M16-70); 715 (M16-71, M16-72); 788 (M16-64, M16-60); 789 (M16-75); 832 (M16-65, M16-83); 833 (M16-74, M16-84); 834 (M16-86, M16-87); 902 (M16-73, M16-89); 903 (M16-91, M16-85); 904 (M16-76, M16-77); 1002 (M16-88, M16-90); 1003 (M16-92, M16-93); 1004 (M16-94); 1070 (M16-110, M16-111); 1071 (M16-112, M16-113); 1072 (M16-114, M16-115); 1073 (M16-116, M16-117); 1074 (M16-118); 1299 (M16-125, M16-126); 1300 (M16-127, M16-128); 1301 (M16-129, M16-130); 1302 (M16-131, M16-132); 1303 (M16-133, M16-138); 1304 (M16-134); 1359 (M16-143, M16-136); 1360 (M16-144, M16-145); 1361 (M16-137, M16-139); 1549 (M16-147, M16-148); 1550 (M16-149); 1551 (M16-150); 1617 (M16-159, M16-156); 1618 (M16-157, M16-158); 1619 (M16-160, M16-161); 1652 (M16-162, M16-163); 1653 (M16-164, M16-65); 1654 (M16-166, M16-167); 1704 (M16-177, M16-179); 1705 (M16-181, M16-182); 1706 (M16-183, M16-168); 1758 (M16-187, M16-178); 1759 (M16-180); 1922 (M16-188, M16-189); 1923 (M16-190); 2536 (M16-207); 3031 (M16-243, M16-244); 3032 (M16-245, M16-246); 3033 (M16-247, M16-248); 3034 (M16-249, M16-250), 3035 (M16-251, M16-252); 3114 (M16-253, M16-254); 3115

- (M16-255, M16-256); 3153 (M16-257, M16-258); 3154 (M16-259, M16-260); 3155 (M16-261, M16-262, M16-263); 3156 (M16-264, M16-265); 3157 (M16-266); 3204 (M16-270, M16-271); 3205 (M16-272, M16-273); 3206 (M16-274, M16-275); 3207 (M16-276, M16-277)

Governor’s Regulatory Review Council

- Notices of Action Taken at Monthly Meetings:** pp. 96, 97-98, 402-403, 798, 1014, 1406, 1666, 2007-2008, 2231-2232, 2938-2939, 3131-3132, 3271-3272

Proposed Delegation Agreement, Notices of

- Environmental Quality, Department of;** pp. 826, 827, 1545, 3252

Public Information, Notices of

- Arizona Health Care Cost Containment System;** pp. 49, 1067
- Child Safety, Department of;** pp. 160, 2626
- Environmental Quality, Department of;** pp. 49, 1112, 2823
- Environmental Quality, Department of - Pesticides and Water Pollution Control;** pp. 1294-1296
- Environmental Quality, Department of - Safe Drinking Water;** pp. 1348-1349
- Environmental Quality, Department of - Water Pollution Control;** pp. 1112, 3110

- Game and Fish Department;** pp. 1349-1354, 1646, 1919

- Health Services, Department of;** pp. 394, 2572; 2986-2987

- Health Services, Department of - Loan Repayment;** p. 346

- Health Services, Department of - Vital Records and Statistics;** p. 899
- Real Estate, Department of;** pp. 2408, 2844
- Retirement System, State;** p. 3710
- Rulemaking Docket Opening, Notices of**
- Accountancy, Board of;** 4 A.A.C. 1; p. 3588
- Acupuncture Board of Examiners;** 4 A.A.C. 8; p. 703
- Agriculture, Department of - Animal Services Division;** 3 A.A.C. 2; p. 344
- Arizona Health Care Cost Containment System - Administration;** 9 A.A.C. 22; pp. 784-785, 1293
- Arizona Health Care Cost Containment System - Arizona Long-term Care System;** 9 A.A.C. 28; p. 2057
- Arizona Health Care Cost Containment System - Behavioral Health Services for Persons with Serious Mental Illness;** 9 A.A.C. 21; p. 782
- Arizona Health Care Cost Containment System - Medicare Part D Prescription Coverage Extra Help Subsidy Program;** 9 A.A.C. 30; p. 824
- Behavioral Health Examiners, Board of;** 4 A.A.C. 6; p. 2405
- Barbers, Board of;** 4 A.A.C. 5; p. 2625
- Charter Schools, State Board for;** 7 A.A.C. 5; p. 823
- Child Safety, Department of - Foster Care and Child Welfare Agency Facility Safety;** 21 A.A.C. 8; p. 3198
- Child Safety, Department of - Child Welfare Agency Licensing;** 21 A.A.C. 7; p. 999
- Contractors, Registrar of;** 4 A.A.C. 9; p. 3708
- Corporation Commission - Fixed Utilities;** 14 A.A.C. 2; pp. 424-425
- Cosmetology, Board;** 4 A.A.C. 10; p. 1611
- Dental Examiners, State Board of;** 4 A.A.C. 11; p. 2056
- Economic Security, Department of;** 6 A.A.C. 1; p. 2083
- Economic Security, Department of - Cash Assistance Program;** 6 A.A.C. 12; p. 2087
- Economic Security, Department of - Developmental Disabilities;** 6 A.A.C. 6; p. 2085
- Economic Security, Department of - Social Services;** 6 A.A.C. 5; pp. 1065, 2084
- Economic Security, Department of - The JOBS Program;** 6 A.A.C. 10; p. 2086
- Economic Security, Department of - Unemployment Insurance;** 6 A.A.C. 3; p. 2084
- Environmental Quality, Department of - Air Pollution Control;** 18 A.A.C. 2; pp. 998, 3336
- Environmental Quality, Department of - Water Pollution Control;** 18 A.A.C. 9; pp. 16-17
- Environmental Quality, Department of - Water Quality Standards;** 18 A.A.C. 11; pp. 17-18, 345
- Financial Institutions, Department of;** p. 3476
- Game and Fish Commission;** 12 A.A.C. 4; pp. 825, 2569
- Health Services, Department of;** 9 A.A.C. 9; p. 3590
- Health Services, Department of - Communicable Diseases;** 9 A.A.C. 6; p. 1954
- Health Services, Department of - Emergency Medical Services;** 9 A.A.C. 25; pp. 1612, 3197
- Health Services, Department of - Food, Recreational, and Institutional Sanitation;** 9 A.A.C. 8, p. 3589
- Health Services, Department of - Laboratories;** 9 A.A.C. 14; p. 704
- Health Services, Department of - Medical Marijuana Program;** 9 A.A.C. 17; pp. 423-424, 2407
- Health Services, Department of - Occupational Licensing;** 9 A.A.C. 16; pp. 2909-2910
- Industrial Commission of Arizona;** 20 A.A.C. 5; pp. 239, 2570-2571, 3475
- Insurance, Department of;** 20 A.A.C. 6; p. 3708
- Mine Inspector, State - Aggregate Mined Land Reclamation;** 11 A.A.C. 3; p. 2057
- Nursing, State Board of;** 4 A.A.C. 19; 2985
- Osteopathic Examiners in Medicine and Surgery;** 4 A.A.C. 22; p. 3251
- Pharmacy, Board of;** 4 A.A.C. 23; pp. 2406, 3196, 3414-3415
- Psychologist Examiners, Board of;** 4 A.A.C. 26; pp. 1109-1110
- Public Safety, Department of;** 13 A.A.C. 1; pp. 2910-2911
- Radiation Regulatory Agency;** 12 A.A.C. 1; p. 3591
- Regulatory Board of Physician Assistants, Arizona;** 4 A.A.C. 17; p. 2217
- Retirement System, State;** 2 A.A.C. 8; pp. 822, 823, 1063-1064, 1918, 2055, 2082, 2568
- Secretary of State, Office of;** 2 A.A.C. 12; pp. 121-122; 239
- Secretary of State - Rules and Rulemaking;** 1 A.A.C. 1; p.121
- State Lottery Commission -** 19 A.A.C. 3; p. 582
- Technical Registration, Board of;** 4 A.A.C. 30; pp. 1110-1111
- Transportation, Department of - Administration;** 17 A.A.C. 1; p. 3139
- Transportation, Department of - Commercial Programs;** 17 A.A.C. 5; pp. 1347, 2089-2090, 2569
- Transportation, Department of - Oversize and Overweight Special Permits;** 17 A.A.C. 6; p. 3140
- Transportation, Department of - Title, Registration, and Driver Licenses;** 17 A.A.C. 4; p. 2088
- Water Resources, Department of;** 12 A.A.C. 15; p. 3475
- Substantive Policy Statement, Notices of**
- Behavioral Health Examiners, Board of;** pp. 706, 3199
- Environmental Quality, Department of;** pp. 58-59; 161, 1356, 1614, 2091
- Health Services, Department of;** pp. 2627, 2988
- Insurance, Department of;** p. 3200
- Peace Officers Standards and Training Board;** p. 348
- Psychologist Examiners, Board of;** pp. 1355, 1647-1648
- Real Estate Department;** pp. 829, 2409, 2845-2846
- Registrar of Contractors;** pp. 60-61, 706-707
- Retirement System, State;** pp. 707-708
- Revenue, Department of;** pp. 1859-1860
- Technical Registration, Board of;** pp. 348

Transportation, Department of, p.
3150

Water Infrastructure Finance
Authority; pp. 349-352



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.

Table with 12 columns: January (Date Filed, Effective Date), February (Date Filed, Effective Date), March (Date Filed, Effective Date), April (Date Filed, Effective Date), May (Date Filed, Effective Date), June (Date Filed, Effective Date). Rows list dates from 1/1 to 1/31 and corresponding effective dates.



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
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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 5 p.m. 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 2017

DEADLINE FOR PLACEMENT ON AGENDA	FINAL MATERIALS SUBMITTED TO COUNCIL	DATE OF COUNCIL STUDY SESSION	DATE OF COUNCIL MEETING
Tuesday November 22, 2016	Tuesday December 20, 2016	Wednesday December 28, 2016	Wednesday January 4, 2017
Tuesday December 27, 2016	Tuesday January 24, 2017	Tuesday January 31, 2017	Tuesday February 7, 2017
Tuesday January 24, 2017	Tuesday February 21, 2017	Tuesday February 28, 2017	Tuesday March 7, 2017
Tuesday February 21, 2017	Tuesday March 21, 2017	Tuesday March 28, 2017	Tuesday April 4, 2017
Tuesday March 21, 2017	Tuesday April 18, 2017	Tuesday April 25, 2017	Tuesday May 2, 2017
Tuesday April 25, 2017	Tuesday May 23, 2017	Wednesday May 31, 2017	Tuesday June 6, 2017
Tuesday May 23, 2017	Tuesday June 20, 2017	Tuesday June 27, 2017	Thursday July 6, 2017
Tuesday June 20, 2017	Tuesday July 18, 2017	Tuesday July 25, 2017	Tuesday August 1, 2017
Tuesday July 25, 2017	Tuesday August 22, 2017	Tuesday August 29, 2017	Wednesday September 6, 2017
Tuesday August 22, 2017	Tuesday September 19, 2017	Tuesday September 26, 2017	Tuesday October 3, 2017
Tuesday September 26, 2017	Tuesday October 24, 2017	Tuesday October 31, 2017	Tuesday November 7, 2017
Tuesday October 24, 2017	Tuesday November 21, 2017	Tuesday November 28, 2017	Tuesday December 5, 2017
Tuesday November 21, 2017	Tuesday December 19, 2017	Wednesday December 27, 2017	Wednesday January 3, 2018

*Materials must be submitted by 5 PM on dates listed as a deadline for placement on a particular agenda. Placement on a particular agenda is not guaranteed.