

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

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ARTICLE 1. ADMINISTRATION AND PROCEDURES

R20-2-101. Definitions

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

1. "ADEQ" means the Arizona Department of Environmental Quality.
2. "Administrative order" means a corrective action notice that the Department issues for a violation of A.R.S. Title 41, Chapter 15, or this Chapter, that orders a person to:
 - a. Remove from use or sale, or dispose of, a commercial device, commodity, or liquid fuel;
 - b. Stop selling a commodity or liquid fuel until the person provides documentation to the Department that the weight, measure, fuel quality, or price posting complies with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
 - c. Stop using a commercial device, commodity, liquid fuel, vapor recovery system, or vapor recovery system component, until the person provides documentation to the Department that the weight, measure, fuel, vapor recovery system, or component complies with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
 - d. Stop performing weighmaster, deputy weighmaster, registered service agency, or registered service representative licensed duties until the person provides documentation to the Department that the person is complying with the requirements of A.R.S. Title 41, Chapter 15, and this Chapter;
 - e. Maintain labeling, policies, and cash register indicator displays according to A.R.S. Title 41, Chapter 15, and this Chapter;
 - f. Stop constructing or modifying a vapor recovery system until the person complies with A.R.S. Title 41, Chapter 15, and this Chapter;
 - g. Excavate a vapor recovery site according to R20-2-104(L);
 - h. Comply with scheduling a test according to R20-2-104(L); or
 - i. Retake a competency examination under A.R.S. § 41-2094.
3. "Application" means, for purposes of R20-2-108, forms designated as applications and all documents and additional information the Department requires an applicant to submit with an application.
4. "ASTM" means American Society for Testing and Materials.
5. "CARB" means the California Air Resources Board.
6. "CARB certified" means, with respect to a vapor recovery system, that the system has been certified in an executive order of the CARB.
7. "Certified prover" means a calibrated device, traceable to the National Institute of Standards and Technology, used for measuring liquid volume.
8. "Completion of construction" means the point when a gasoline dispensing site is placed into or returned into service following installation or modification of an approved vapor recovery system.
9. "Construction commenced" means the point in time when construction of a gasoline dispensing site begins:
 - a. At a location where there was not one previously;
 - b. To replace all gasoline storage tanks; or
 - c. To replace, repair, or modify at least 75% of the facility's gasoline dispensing equipment.
10. "EPA" means the United States Environmental Protection Agency.
11. "Gasoline vapors" means volatile organic compounds in a gaseous state.
12. "Handbook 44" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001

(2003~~7~~ edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.

13. "Handbook 112" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2002~~7~~ edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
14. "Handbook 130" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (2003~~7~~ edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
15. "Handbook 133" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Printing Office, Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001 (January 2003~~7~~ edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions and amendments.
16. "NCWM" means the National Conference on Weights and Measures.
17. "Malfunction" means any failure of gasoline vapor recovery equipment to operate in the normal and usual manner.
18. "Modification" means adding to, replacing, or upgrading a site's stage II vapor recovery system, but does not include the repair or replacement of like parts.
19. "Monthly throughput" means the total amount of gasoline transferred into or dispensed from a gasoline dispensing site during one calendar month.
20. "Motor vehicle" means any vehicle equipped with a spark-ignited internal combustion engine, except vehicles that run on or are guided by rails, and vehicles that are designed primarily for travel through air or water.
21. "NIST" means the National Institute of Standards and Technology.
22. "Operator" means a person in control of, or having responsibility for, the daily operation of a gasoline dispensing site.
23. "Out-of-service tag" means a red rejection tag that signifies that a commercial device does not meet the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, or this Chapter.
24. "Person" as defined in A.R.S. § 41-2051, means an owner or operator of a commercial device or vapor recovery system, retail seller, wholesaler, registered supplier, pipeline distributor, packer, manufacturer, licensee, transporter, or consignee.
25. "Placed-in-service" means the certification by a registered service agency or representative that a commercial device may be used, unless the Department orders otherwise.
26. "Placed In Service Report" means the form that a registered service representative completes and submits to the Department after placing a commercial device in service.
27. "Product transfer document" means the bill of lading, loading ticket, manifest, delivery receipt, invoice, or other customarily used documentation to denote delivery information for motor fuel.
28. "Retail" means the sale of a commodity to a consumer for profit by someone in the business of selling the commodity.
29. "Seal of authority" means a stamp or press of the Department's official mark, issued to a public weighmaster, certifying the weighmaster's authority to issue weight certificates.
30. "Seizure" means taking into physical possession, or otherwise securing for evidence, a commodity, liquid fuel, weight, measure, commercial device, or component of a device by the Department.
31. "Stop-sale, stop-use tag" means a blue tag or blue tape that signifies that a commercial device, including a vapor recovery system or vapor recovery component, or a commodity or liquid fuel, does not meet the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 130, Handbook 133, CARB Executive Orders, or this Chapter.

32. ~~Third Party Registered Service Agency~~ means a registered service agency that will contract with or perform work for a company or business whether repair, replace or test for money or some type of compensation.

~~32~~ 33. "Underground storage tank" means a tank as described in A.R.S. § 491001(18).

33, 34. "Unit" means a quantity adopted as a standard of measurement.

35. ~~Vapor Recovery Registered Service Representative No. 1~~ means someone Who is licensed by the Department that can conduct all required vapor recovery test procedures and can conduct all required annual vapor recovery tests.

36. ~~Vapor Recovery Registered Service Representative No. 2~~ means someone who is licensed by the Department to conduct specific vapor recovery tests to ensure the equipment that they have performed maintenance or repairs is operating properly.

34 37. "Warning tag" means a yellow tag that signifies a commercial device, vapor recovery system, or vapor recovery component does not comply with A.R.S. Title 41, Chapter 15, Handbook 44, CARB Executive Orders, or this Chapter.

35, 38. "Weight certificate" means a document, issued by a public weighmaster in a form approved by the Department, that certifies the accuracy of the weight of the commodity measured.

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

A. ~~The Department's Metrology Laboratory charges \$80.00 per hour with a minimum charge of \$48.00. the following fees for services:~~

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

2. ~~\$40.00 an hour, or fraction of an hour, after the first hour.~~

B. In addition to the charges in subsection (A), the Department shall charge for travel and per diem at the rates established by A.R.S. §§ 38623(D) and 38624(C) for tests or calibrations conducted outside the Metrology Laboratory.

R20-2-103. Licensing and Fees

A. A license is effective on the first day of the month following the date that the license application is filed with the Department. If an application is filed on the first of a month and is complete and accurate, the license is effective on the first day of that month.

B. A payment is delinquent if the Department does not receive the payment by the due date. The Department shall not process a license or renewal application for which payment is delinquent.

C. The Department shall prorate a license renewal fee if the licensee's first renewal is fewer than 12 months from the date that license is issued.

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

R20-2-104. Administrative Enforcement Action

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

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

C. The person who owns or operates a location inspected by the Department may request a hearing under R20-2-109 to dispute the inspection results, violation, or enforcement action.

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

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

F. Commercial device.

1. The Department shall place out of service an unlicensed commercial device that it determines has been in use for more than 30 days.
2. The Department shall confiscate a commercial device when a person violates an administrative order related to that commercial device, or removes a warning tag, out-of-service tag, or stop-sale, stop-use tag issued to that commercial device without Department authority.
3. The Department shall issue an out-of-service tag or a stop-sale, stop-use tag if a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the person who owns or operates the commercial device.
 - a. A person shall not use a commercial device that has an out-of-service tag until the person repairs the commercial device.
 - b. A person shall not sell or use a commercial device that has a stop-sale, stop-use tag until the commercial device meets the requirements of A.R.S. Title 41, Chapter 15, Handbook 44, and this Chapter.
4. The Department shall issue a warning tag when a commercial device is not in compliance with the requirements in Handbook 44 and the lack of compliance creates a situation favorable to the public. The Department shall issue an out-of-service tag if the commercial device is not repaired by the deadline on the warning tag. A person shall not use a commercial device after the period specified on the warning tag for repair unless the commercial device complies with A.R.S. Title 41, Chapter 15, Handbook 44, and this Chapter.
5. The Department shall issue an out-of-service tag if a commercial device does not have a non-tampering seal affixed.
6. The Department shall issue an out-of-service tag if a Department inspector cannot conduct an inspection of a commercial device because of a potential safety risk that the person who owns or operates the commercial device does not correct within 30 minutes of the attempted inspection.
7. The Department shall issue an out-of-service tag if a commercial device cannot begin weighing, measuring, metering, or counting at zero.
8. The Department shall issue a warning tag if the manufacturer's plate on a commercial device does not contain the information required by Handbook 44, is missing, or is unreadable. The Department shall issue an out-of-service tag if the person who owns or operates a commercial device does not obtain a compliant manufacturer's plate by the 30-day deadline imposed on the warning tag.
9. The Department shall issue a warning tag to a person who did not construct a large-scale approach according to Handbook 44. The Department shall issue a stop-sale, stop-use tag if the large-scale approach is not made compliant by the deadline imposed on the warning tag.
10. In addition to any enforcement action under subsections (F)(1) through (F)(9):
 - a. If the Department finds during an inspection that a commercial device does not comply with the requirements of A.R.S. Title 41, Chapter 15, or this Chapter and the lack of compliance favors the owner or operator of the commercial device:
 - i. The Department shall impose a \$300 civil penalty on the person who owns or operates the commercial device; and
 - ii. The Department shall impose a \$500 civil penalty on the person who owns or operates the commercial device for each reinspection until the commercial device is in compliance.
 - b. If the Department finds during an inspection that a person who weighs a product on a commercial device violates Handbook 44 or does not post rates according to Handbook 44 or this Chapter:
 - i. The Department shall issue an administrative order to the person at the conclusion of the inspection and impose a \$300 civil penalty; and
 - ii. The Department shall issue an administrative order to the person and impose a \$500 civil penalty at each reinspection until the person complies with Handbook 44 and this Chapter.

G. Public and deputy weighmaster.

1. The Department shall issue an administrative order if a public weighmaster's:

- a. Weigh tickets are not in numbered sequence or are missing,
 - b. Seal or press is not readable, or
 - c. Records are not maintained according to R20-2-505.
2. The Department shall issue an administrative order and impose a \$500 civil penalty on a public weighmaster if:
 - a. The public weighmaster's weigh tickets contain inaccurate information,
 - b. The public weighmaster violates an administrative order, or
 - c. The public weighmaster misuses a seal or press or has an unauthorized seal or press.
 3. The Department shall confiscate a seal or press if a public weighmaster violates an administrative order issued to the public weighmaster.
 4. The Department shall suspend, revoke, or refuse to renew a license if a public weighmaster does not comply with an enforcement action under this Section.
 5. The Department shall issue an administrative order to a person who performs public weighmaster duties without a license.
 6. If a public weighmaster permits an unlicensed person to perform deputy weighmaster duties, the Department shall:
 - a. Impose a \$300 civil penalty on the public weighmaster for the first time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties;
 - b. Impose a \$500 civil penalty on a public weighmaster for the second time the public weighmaster permits an unlicensed person to perform deputy weighmaster duties; and
 - c. Confiscate the public weighmaster's records, equipment, and devices if the public weighmaster permits an unlicensed person to perform deputy weighmaster duties more than twice.

H. Package.

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

I. Price verification.

1. The initial inspection of a retail location for price verification is for educational purposes and an enforcement action will not be imposed for a violation identified during the initial inspection.
2. The Department shall issue a stop-sale, stop-use tag to a person who fails a price verification reinspection if the violation cannot be corrected within 30 minutes of the Department completing the reinspection.
 - a. The Department shall impose a \$100 civil penalty per violation on a person who fails a reinspection if the Department finds more than one item at more than its posted price.
 - b. The Department shall impose a \$200 civil penalty per violation on a person who fails a second reinspection. The Department shall increase the per violation civil penalty imposed by \$100 for each subsequent reinspection until the violation is corrected.
3. If the Department receives and substantiates a complaint about a person against whom the Department took an administrative enforcement action under subsection (I)(2) within the 60 days before the date of the complaint, the Department shall issue a stop-sale, stop-use tag and impose a civil penalty that is \$100 more than the civil penalty that the Department previously imposed against this person.

4. The Department shall issue a warning to a person who does not have a written price-error policy. The Department shall impose a \$500 civil penalty if the person does not have a written price-error policy upon reinspection.
5. The Department shall issue a warning to a person who does not have a price display visible to the public at a check-out location. The Department shall issue an out-of-service tag if the person does not have a price display visible to the public at a check-out location upon reinspection.

J. Price posting.

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

K. Fuel quality and labeling.

1. The Department shall issue a warning tag to a person whose fuel dispenser labeling violates A.R.S. Title 41, Chapter 15, or this Chapter. The Department shall issue an out-of-service tag to the person if the person does not correct the fuel dispenser labeling violation within the time specified on the warning tag.
2. The Department shall issue an administrative order to a person whose fuel storage tank labeling or external street signage violates A.R.S. Title 41, Chapter 15, or this Chapter. The Department shall impose a \$300 civil penalty if the person does not correct the labeling or signage violation within the time specified in the administrative order.
3. The Department shall issue an administrative order and impose a \$500 per octane level civil penalty to a person who violates a fuel-quality requirement under A.R.S. Title 41, Chapter 15, or this Chapter. The person shall correct the violation by:
 - a. Removing non-compliant motor fuel from the storage tank and replacing it with compliant motor fuel,
 - b. Selling the motor fuel at the correct octane level,
 - c. Adding sufficient compliant motor fuel to the storage tank to bring the motor fuel in the storage tank into compliance,
 - d. Removing all water from the storage tank, or
 - e. Removing the non-compliant motor fuel to another area within the state if the motor fuel complies with specifications of that area.
4. The Department shall issue an administrative order to a person who does not provide requested product transfer documentation within 24 hours of the Department's request. The Department shall impose a \$300 civil penalty on a person who provides the requested documentation between 24 and 72 hours. The Department shall impose a \$500 civil penalty on a person who does not provide the requested documentation within 72 hours.

L. Vapor recovery.

1. The Department shall issue an administrative order to stop construction at a vapor recovery site and impose a \$500 civil penalty on a person who:
 - a. Begins construction or makes a major modification without an authority to construct plan approval,
 - b. Does not comply with the authority to construct plan approval, or
 - c. Does not obtain an approved change order for construction or major modification of the vapor recovery site unless:
 - i. The vapor recovery system and its components comply with A.R.S. Title 41, Chapter 15, and this Chapter; and

ii. The vapor recovery system passes the required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.

2. The Department shall issue an administrative order requiring a person to excavate a vapor recovery site if the person covers a vapor recovery component before a Department pre-burial inspection and shall impose a \$500 civil penalty if the excavated system does not pass required vapor recovery tests according to A.R.S. Title 41, Chapter 15, and this Chapter.
3. The Department shall issue an administrative order if a person fails to ~~schedule~~ **SUCCESSFULLY PASS** an initial test ~~date~~ within 90 days of opening a vapor recovery site or an annual test date within the person's designated test month for that year. The Department shall issue a stop-sale, stop-use tag if the person does not comply with the administrative order.
4. The Department shall impose a \$100 civil penalty on a person who does not have an authority to construct plan approval available for inspection at the construction site during normal business hours.
5. The Department shall issue a warning tag to a person whose vapor recovery system labeling does not comply with the authority to construct plan approval. The Department shall issue a stop-sale, stop-use tag and impose a \$500 civil penalty on a person who does not correct a labeling violation within the time specified on a warning tag.
6. The Department shall issue a stop-sale, stop-use tag to a person whose vapor recovery system fails a test under R20-2-905 or R20-2-910. If the test failure is isolated to a system component, the Department's stop-sale, stop-use tag shall pertain to that component so the rest of the system may operate.
7. The Department shall impose a \$500 civil penalty and issue another stop-sale, stop-use tag to a person who violates a stop-sale, stop-use tag. The Department shall impose a \$500 civil penalty and revoke, suspend, or refuse to renew a commercial device license if a person removes a stop-sale, stop-use tag without approval.

M. Registered service agency and registered service representative.

1. If a registered service agency submits to the Department an inaccurate or incomplete placed-in-service or test report, the Department shall:
 - a. Return the inaccurate or incomplete placed-in-service or test report to the agency for correction, and
 - b. Impose a \$50 civil penalty on the agency each time the agency resubmits a placed-in-service or test report without making all needed corrections.
2. The Department shall impose a \$300 civil penalty on a registered service representative who incorrectly:
 - a. Installs a commercial device,
 - b. Repairs a commercial device,
 - c. Tests a vapor recovery system, or
 - d. Repairs a vapor recovery system.
3. If an unlicensed person represents itself as a registered service agency, the Department shall:
 - a. Issue an administrative order,
 - b. Impose a \$500 civil penalty and confiscate the unlicensed person's calibration standards if the unlicensed person violates the administrative order, and
 - c. Deny a registered service agency license to the unlicensed person if the unlicensed person fails to comply with the enforcement action under this subsection.
4. The Department shall issue an administrative order to an unlicensed person who performs the duties of a registered service representative. The Department shall impose a \$300 civil penalty on the registered service agency for which the unlicensed individual works.
5. The Department shall issue an administrative order if a registered service representative places a commercial device into service without Department authorization. The Department shall impose a \$500 civil penalty on the registered service agency whose representative places a commercial device into service without Department authorization.

6. The Department shall impose a \$500 civil penalty on a registered service agency whose registered service representative uses a metrology standard or vapor recovery air-to-liquid (A/L) ratio testing equipment that is not certified according to this Chapter. The Department shall confiscate a metrology standard or A/L ratio testing equipment if a registered service representative uses the uncertified standard or equipment after the registered service agency is penalized. The Department shall return the standard or equipment when it is properly certified.
7. The Department shall issue an administrative order to a vapor recovery registered service agency or person who owns a vapor recovery system that does not, according to A.R.S. Title 41, Chapter 15, and this Chapter:
 - a. Notify the Department of a test date and time,
 - b. Begin a test at the approved time,
 - c. Appear for a witnessed test,
 - d. Close a vapor recovery system for repairs if the system fails, or
 - e. Perform a test.
8. The Department shall impose a \$300 civil penalty on a vapor recovery registered service agency that violates subsection (M)(7) twice in 12 months.
9. If a registered service agency's registered service representative does not attach a non-tampering seal on a commercial device that is equipped for a seal, the Department shall:
 - a. Impose a \$300.00 civil penalty on the registered service agency for the first violation, and
 - b. Impose a \$500 civil penalty on the registered service agency for each subsequent violation by the registered service representative.
10. If a registered service representative determines that a vapor recovery system or component is not in compliance with A.R.S. Title 41, Chapter 15, or this Chapter, the registered service representative shall:
 - a. Secure the non-compliant vapor recovery system or component from use before the registered service representative leaves the vapor recovery site or until the system or component passes the tests required by R20-2-910;
 - b. Notify the Department of the secured, non-compliant vapor recovery system or component before leaving the vapor recovery site; and
 - c. Notify the Department of the time of the test required by R20-2-910 by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner.
11. If a registered service representative fails to comply with subsection (M)(10)(b) or (M)(10)(c), the Department shall:
 - a. Impose a \$300 civil penalty on the registered service representative;
 - b. Issue an administrative order, if the registered service representative is penalized under this subsection three times in 12 months, requiring the registered service representative to take and pass the licensing competency examination; and
 - c. Suspend or revoke the license of the registered service agency employing the registered service representative if the registered service representative does not comply with an order issued under subsection (M)(11)(b).

R20-2-108. Time-frames for Licenses, Renewals, and Authorities to Construct

- A. For each type of license, renewal, or authority issued by the Department, the overall time-frame described in A.R.S. § 41-1072(2) is set forth in Table 1.
- B. For each type of license, renewal, or authority issued by the Department, the administrative completeness review time-frame described in A.R.S. § 41-1072(1) is set forth in Table 1 and begins on the date the Department receives an application.
 1. If the application is not administratively complete, the Department shall send a deficiency notice to the applicant.
 - a. The deficiency notice shall state each deficiency and the information needed to complete the application.
 - b. Within the time provided in Table 1 for response to the deficiency notice, the applicant shall submit to the Department the missing information specified in the deficiency notice. The time-frame for the Department to finish the administrative

completeness review is suspended from the date the Department mails the deficiency notice to the applicant until the date the Department receives the missing information.

- c. If the applicant does not submit the missing information within the time to respond to the deficiency notice set forth in Table 1, the Department shall send a written notice to the applicant informing the applicant that the application is deemed withdrawn. An applicant who desires to reapply shall begin the application process anew.
2. If the application is administratively complete, the Department shall send a written notice of administrative completeness to the applicant.
- C. For each type of license, renewal, or authority issued by the Department, the substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the date the Department sends written notice of administrative completeness to the applicant.
 1. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The applicant shall submit the additional information within the time provided in Table 1 for response to a comprehensive written request for additional information. The time-frame for the Department to finish the substantive review is suspended from the date the Department mails the request until the Department receives the information.
 2. If the applicant does not submit the requested additional information within the time-frame in Table 1, the Department shall issue a written notice informing the applicant that the application is deemed withdrawn. The applicant may request in writing that the Department deny the application within 15 days of the date of the notice of withdrawal. An applicant who desires to reapply shall begin the application process anew.
 3. The Department shall issue a written notice of denial of license, renewal, or authority if the Department determines that the applicant does not meet all of the substantive criteria required by A.R.S. Title 41, Chapter 15, and this Chapter for a license, renewal, or authority. The notice of denial shall include:
 - a. Reasons for the denial, with citations to the statutes or rules on which the denial is based; and
 - b. The name and telephone number of a Department employee who can answer questions regarding the application process.
 4. If the applicant meets all of the substantive criteria required by A.R.S. Title 41, Chapter 15, and this Chapter for a license, renewal, or authority the Department shall issue the license, renewal, or authority to the applicant.
- D. The time period for an applicant to respond to a deficiency notice or request for additional information shall commence on the date of personal service or the postmark date.
- E. In computing any time period prescribed in this Section, the day of the act, event, or default shall not be included. The last day of the period shall be included unless it is Saturday, Sunday, or a state holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or state holiday. The computation shall include intermediate Saturdays, Sundays and holidays.
- F. An applicant whose license, renewal, or authority is denied has a right to a hearing, an opportunity for rehearing, and if the denial is upheld, judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

R20-2-109. Administrative Hearing Procedures

A.R.S. Title 41, Chapter 6, Articles 6 and 10 apply to the Department's hearings.

R20-2-110. Motion for Rehearing or Review

- A. Except as provided in subsection (G), any party in a contested case or appealable agency action before the Department who is aggrieved by a decision rendered in the case may file with the Department, a written motion for rehearing or review of the decision, pursuant to A.R.S. Title 41, Chapter 6, Article 10, specifying the particular grounds for the motion.

- B.** A motion for rehearing or review may be amended at any time before it is ruled upon by the Department. A response may be filed within 15 days after service of the motion or amended motion by any other party. The Department may require the filing of written briefs upon the issues raised in the motion and may provide for oral argument.
- C.** A rehearing or review of the decision may only be granted for any of the following reasons materially affecting the moving party’s rights or ability to receive a fair hearing:
1. Any irregularity in the hearing, order, or abuse of discretion by the administrative law judge or the Department.
 2. Misconduct of the Department, the administrative law judge, or the prevailing party.
 3. Accident or surprise that could not have been prevented by ordinary prudence.
 4. Newly discovered material evidence that could not have been discovered with reasonable diligence and produced at the original hearing.
 5. Excessive or insufficient penalties.
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing.
 7. That the decision is not justified by the evidence or is contrary to law.
- D.** The Department may affirm or modify its decision, or grant a rehearing or review. After giving the parties or their counsel notice and an opportunity to be heard, the Department may grant a rehearing or review for a reason not stated in a party’s motion. An order granting a rehearing or review shall specify the grounds on which the rehearing or review is granted. The rehearing or review shall cover only those matters so specified.
- E.** The Department, within the time for filing a motion for rehearing or review under this rule, may order a rehearing or review for any of the reasons set forth in subsection (C), after giving the parties notice and an opportunity to be heard.
- F.** When a motion for rehearing or review is based upon affidavits, the moving party shall serve the affidavits with the motion. An opposing party has 15 days from the date of service to serve opposing affidavits. The Department may extend the period to respond up to 20 days for good cause, or by written stipulation of the parties. If the Department permits reply affidavits, the replying party has five days in which to serve them.
- G.** If the Department makes specific findings that the immediate effectiveness of a decision is necessary for the immediate preservation of the public peace, health, and safety and that a rehearing or review of the decision is impracticable, unnecessary, or contrary to the public interest, the Department may issue the decision as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing or review, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Department’s final decision.

Table 1. Time-frames (in days)

Type of License	Administrative Review Time-frame	Time to Respond to Deficiency Notice	Substantive Review Time-frame	Time to Respond to Request for Additional Information	Overall Time-frame
Commercial Device R20-2-201	10	20	30	20	40
Public Weighmaster R20-2-501	10	20	30	20	40
Registered Service Agency/Representative R20-2-601	10	20	30	20	40
Authority to Construct	10	20	30	20	40

R20-2-904					
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ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

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

A. Registered service agency.

1. To obtain a license as a registered service agency, an applicant shall provide evidence that:
 - a. The applicant’s registered service representative has a thorough knowledge of all appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter;
 - b. The applicant provided its representative with a copy of the portions of A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter relating to registered service representative duties;
 - c. The applicant:
 - i. Possesses the necessary certified standards and testing equipment to service commercial devices; and
 - ii. Possesses the necessary test equipment calibrated annually by the equipment manufacturer to perform an air to liquid (A/L) test of a vapor recovery system or vapor recovery component properly; or
 - iii. Has access to the necessary standards and testing equipment belonging to another registered service agency and has written approval from that agency to use its standards and testing equipment; and
 - d. The applicant shall ensure that its registered service representative operates the equipment according to A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter.
2. The Department shall not issue a registered service agency license until at least one of the applicant’s employees passes a registered service representative competency exam.
3. An applicant for a registered service agency license shall submit an application form, obtained from the Department that provides:
 - a. Name, address, telephone number, electronic mail address, and facsimile number;
 - b. License information from other states;
 - c. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
 - d. A list of all of the applicant’s devices and testing equipment with corresponding serial or identification numbers;
 - e. Branch office information;
 - f. Names of registered service representatives and their experience with other registered service agencies or states;
 - g. License and disciplinary history; and
 - h. Applicant’s signature.

4. A Third Party Registered Service Agency in addition to the requirements above shall:

- a. Hold a valid license issued from the register of contractors;**
- b. Comply with Workers Compensation Insurance Law and show proof of same;**
- c. Maintain liability insurance at a level equal to the value of the job and show proof of same.**

B. Registered service representative.

1. To obtain a license as a registered service representative, an applicant shall provide evidence that:
 - a. The applicant has a thorough knowledge of all appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders, and this Chapter;
 - b. The applicant possesses the necessary training or experience regarding appropriate standards and testing equipment to service the specific commercial device, vapor recovery system, or vapor recovery system component indicated on the application;

- c. The applicant will operate according to appropriate laws within A.R.S. Title 41, Chapter 15, Handbook 44, Handbook 112, CARB Executive Orders; and this Chapter; and
 - d. The applicant has passed a competency examination. An applicant shall bring a copy of Handbook 44 and Handbook 112 to the examination site. An applicant for a vapor recovery registered service representative license shall complete the Department's training class before taking the competency examination.
2. An applicant for a registered service representative license shall submit an application on a form obtained from the Department that provides:
- a. Name, address, telephone number, and facsimile number;
 - b. License information from other states;
 - c. Types of devices serviced, repaired, or installed, or vapor recovery systems or components repaired or tested;
 - d. Work experience with other registered service agencies in Arizona or other states;
 - e. License and disciplinary history; and
 - f. Applicant's signature.

3. A registered service representative No. 1 shall:

- a. Be certified by the manufacture or must be qualified as determined by the department on all vapor recovery systems for which they will be testing.
- b. Be the only ones to conduct annual testing.
- c. Be licensed by the department and shall renew that license on an annual basis.
- d. Participate in manufacturer training that the department offers during the year. The Department when offering the training will offer it tow consecutive days.

4. A registered service representative No. 2 shall:

- e. Only conduct vapor recovery test for which they have a valid licenses issued by the department.
- f. Conduct specific tests when performing maintenance or repairs on a vapor recovery system or component to ensure the equipment is operating according to the manufactures specifications.
- g. Only perform maintenance, repairs or test on equipment for which they have been certified by manufacturer.
- h. Must renew their license once every two years
- i. Participate in manufacturer training that the department offers during the year. The Department when offering the training will offer it tow consecutive days.

C. To renew a vapor recovery registered service representative license, an applicant shall:

- 1. Complete the Department's training class, and
- 2. Take and pass a written vapor recovery examination, administered by the Department.

D. An applicant may not take a registered service representative examination more than two times in six months.

E. An applicant shall complete an examination within the time specified.

F. The Department does not charge a fee to process a change in business name or address.

R20-2-602. Duties

A. Registered service agency.

1. A registered service agency shall:

- a. Maintain all equipment used for commercial device certification according to standards traceable to NIST, and
- b. Maintain and use equipment for testing vapor recovery systems and vapor recovery system components according to this Chapter and manufacturer specifications.

2. When a registered service agency restores or newly places in service a commercial device, the registered service agency shall complete a placed-in-service report form prescribed by the Department.
 - a. The registered service agency shall complete the placed-in-service report in triplicate;
 - b. Within seven calendar days after the commercial device is restored to service or newly placed in service, the registered service agency shall mail the original of the properly completed and signed placed-in-service report to the Department;
 - c. The registered service agency shall give a copy of the placed-in-service report to the person who owns or operates the commercial device;
 - d. The registered service agency shall retain a copy of the placed-in-service report or any required vapor recovery report for one year;
 - e. The registered service agency shall ensure that the placed-in-service report contains the assigned license number of the registered service representative who completes the report;
 - f. The registered service agency shall ensure that the placed-in-service report is completed and signed by the registered service representative noting each rejected commercial device restored to service and each newly installed commercial device placed in service;
 - g. The registered service agency shall ensure that the placed-in-service report includes the serial or identification number of each standard used by the registered service representative to calibrate the commercial device for each rejected device restored to service and for each newly installed device placed in service; and
 - h. The registered service agency shall ensure that the placed-in-service report includes the license number of the registered service representative who installs or repairs the commercial device.
 3. A registered service agency shall have all equipment used for commercial device certification and A/L testing certified annually by the manufacturer.
 4. A registered service agency shall not use new equipment for commercial device certification until it is certified by a NIST-traceable laboratory.
 5. A registered service agency shall ensure that employees do not perform registered service representative duties until licensed. A registered service agency may train an employee in registered service representative duties only if the employee is within the direct line of sight and hearing of a supervising licensed registered service representative.
 6. A registered service agency shall use a form approved by the Department to record vapor recovery test results and violations. The registered service agency shall submit to the Department the summary test report within 24 hours following the test. All other forms relating to the test shall be mailed within seven days after completion of the test.
 7. A registered service agency shall ensure that its registered service representative provides a copy of the Regulatory Bill of Rights, defined in A.R.S. § 41-1001.01, to the owner or operator of a vapor recovery system before beginning a vapor recovery test that is not witnessed by the Department.
 8. A registered service agency shall ensure that its registered service representative provides a vapor recovery system owner or operator with written test preparation instructions, approved by the Department, at least 10 business days before an initial or annual test.
- B. Registered service representative.**
1. A registered service representative shall:
 - a. Install only commercial devices that meet the requirements of this Chapter;
 - b. Perform all vapor recovery tests according to this Chapter;
 - c. Perform all appropriate tests when repairing a commercial device or repairing or replacing a vapor recovery system or component to ensure that the requirements of A.R.S. Title 41, Chapter 15, this Chapter, Handbook 44, Handbook 112, and CARB Executive Orders are met;
 - d. Report to the user equipment or commercial devices that do not conform to NIST standards; and

- e. Complete placed-in-service reports accurately.
- 2. If a vapor recovery registered service representative cannot correct a violation and has to leave the vapor recovery site, the registered service representative shall secure the non-compliant vapor recovery system or component from commercial use. The non-compliant system or component shall not be used for commercial purposes until it is repaired and passes the test required by R20-2-910. The registered service representative shall notify the Department of the stop-sale, stop-use by 6:00 a.m. of the day after the non-compliant vapor recovery system or component is secured or one hour before the test, whichever is sooner, so that the Department can witness the test.

R20-2-603. Grounds for Denying License or Renewal; Disciplinary Action; and Certification of Standards and Testing Equipment

- A. The Department shall not issue a license or renewal until an applicant pays all appropriate fees.
- B. Upon receipt and acceptance of all required documents, fees, and Department certification of standards, the Department shall issue the agency a license or renewal.
- C. The Department shall include on a license an assigned number, that remains effective until either withdrawn by the Department or until it expires. The Department shall issue a license with the agency's assigned license number to each registered service representative employed by the agency who has passed the competency examination.
- D. Neither a registered service agency nor a registered service representative shall transfer a license.
- E. A registered service agency shall submit the renewal fee for the agency license and the agency's representatives' licenses by the first day of the month that each license expires.
- F. The Department may deny a license or renewal for any of the following reasons:
 - 1. Providing false or misleading information;
 - 2. Failure to meet annual certification requirements for standards or testing equipment;
 - 3. Failure to meet the requirements stated in this Article; or
 - 4. For any reason that would be grounds for suspension, revocation, or refusal to renew.
- G. The Department may suspend, revoke, or refuse to renew a license if the applicant is not qualified to perform those duties required or has been found to have violated any provision of A.R.S. Title 41, Chapter 15, or this Chapter.
- H. Every registered service agency and representative shall comply with the Department's metrology laboratory annual schedule for certification of field standards contained in A.R.S. § 412067(F).

R20-2-604. Prohibited Acts

- A. A person shall not:
 - 1. Perform any duty or do any act required to be done by a registered service agency or registered service representative without holding a registered service agency or registered service representative license issued by the Department;
 - 2. Use the title of registered service agency or registered service representative, any similar title, or hold oneself out as a registered service agency or representative without a valid license; or
 - 3. Remove an official out-of-service, warning, or stop-sale, stop-use tag except as authorized in this Chapter, or by the Department.
- B. A registered service agency or registered service representative shall not:
 - 1. Fraudulently complete or file a placed-in-service report;
 - 2. Delegate licensed authority or responsibility to an unlicensed person;
 - 3. Perform a function without certified equipment;
 - 4. Install or place in service a commercial device before satisfying all of the statutory and rule requirements;
 - 5. Fail to report a commercial device to the Department within two business days of finding that device is out of compliance;

6. Install, calibrate, or repair a commercial device without placing a sequentially numbered decal or label on the device as prescribed by the Director;
7. Leave a location where there is a non-compliant commercial device without securing the commercial device from commercial use; or
8. Leave a vapor recovery site where there is a non-compliant system or component without securing the system or component from commercial use.

R20-2-605. Material Incorporated by Reference

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

1. California Air Resources Board Executive Order G-70-17-AD, *Modification of Certification of the Emco Wheaton Balance Phase II Vapor Recovery System*, May 6, 1993, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
2. California Air Resources Board Executive Order G-70-36-AD, *Modification of Certification of the OPW Balance Phase II Vapor Recovery System*, September 18, 1992, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
3. California Air Resources Board Executive Order G-70-52-AM, *Certification of Components for Red Jacket, Hirt, and Balance Phase II Vapor Recovery Systems*, October 4, 1991, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
4. California Air Resources Board Executive Order G-70-70-AC, *Modification of Certification of the Healy Phase II Vapor Recovery System for Gasoline Dispensing Facilities*, June 23, 1992, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
5. California Air Resources Board Executive Order G-70-150-AE, *Modification to the Certification of the Marconi Commerce Systems Inc. (MCS) "Formerly Gibarco" VaporVac Phase II Vapor Recovery System*, July 12, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
6. California Air Resources Board Executive Order G-70-153-AD, *Modification to the Certification of the Dresser/Wayne WayneVac Phase II Vapor Recovery System*, April 3, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
7. California Air Resources Board Executive Order G-70-154-AA, *Modification to the Certification of the Tokheim MaxVac Phase II Vapor Recovery System*, June 10, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
8. California Air Resources Board Executive Order G-70-163-AA, *Modification to the Certification of the OPW VaporEZ Phase II Vapor Recovery System*, September 4, 1996, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
9. California Air Resources Board Executive Order G-70-164-AA, *Modification to Certification of the Hasstech VCP-3A Vacuum Assist Phase II Vapor Recovery System*, December 10, 1996, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
10. California Air Resources Board Executive Order G-70-165, *Certification of the Healy Vacuum Assist Phase II Vapor Recovery System with the Model 600 Nozzle*, April 20, 1995, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
11. California Air Resources Board Executive Order G-70-169-AA, *Modification to the Certification of the Franklin Electric INTELLIVAC Phase II Vapor Recovery System*, August 11, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

12. California Air Resources Board Executive Order G-70-177-AA, *Modification to the Certification of the Hirt VCS400-7 Vacuum Assist Phase II Vapor Recovery System*, December 9, 1999, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
13. California Air Resources Board Executive Order G-70-180, *Order Revoking Certification of Healy Phase II Vapor Recovery Systems for Gasoline Dispensing Facilities*, April 17, 1997, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
14. California Air Resources Board Executive Order G-70-183-AA, *Relating to Language Correction in Existing Executive Order G-70-183 (Healy Systems, Inc.)*, June 29, 2001, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
15. California Air Resources Board Executive Order G-70-186, *Certification of the Healy Model 400 ORVR Vapor Recovery System*, October 26, 1998, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
16. California Air Resources Board Executive Order G-70-188, *Certification of the Catlow ICVN Vapor Recovery Nozzle System for use with the Gilbarco VaporVac Vapor Recovery System*, May 18, 1999, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
17. California Air Resources Board Executive Order G-70-191-AA, *Relating to Language Correction in Existing Executive Order G-70-191 (Healy Systems, Inc.)*, July 30, 2001, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.
18. California Air Resources Board Executive Order G-70-196, *Certification of the Saber Technologies, LLC SaberVac VR Phase II Vapor Recovery System*, December 30, 2000, California Air Resources Board, P.O. Box 2815, Sacramento, California 95812-2815.

ARTICLE 9. GASOLINE VAPOR CONTROL

R20-2-901. Material Incorporated by Reference

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

1. Appendix J.5 of Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities, Vol. II: Appendices, November 1991 edition (EPA450/391022b), published by the U.S. Environmental Protection Agency, Office of Air Quality, Planning and Standards, Research Triangle Park, North Carolina 27711.
2. *San Diego County Air Pollution Control District Test Procedure TP-96-1*, March 1996, Third Revision, Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123-1096.
3. The following CARB test procedures:
 - a. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.4, Determination of Dynamic Pressure Performance of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - b. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.5, Determination (by Volume Meter) of Air to Liquid Volume Ratio of Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - c. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2C, Determination of Spillage of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

- d. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.6, Determination of Liquid Removal of Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- e. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.2B, Determination of Flow Versus Pressure for Equipment in Phase II Vapor Recovery Systems of Dispensing Facilities, April 12, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- f. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase I Adaptors, October 8, 2003, 1996 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- g. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
- h. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure / Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

R20-2-902. Exemptions

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

R20-2-903. Equipment and Installation

- A. The Department shall reject a vapor recovery system or component from future installation if:
 - 1. Federal regulations prohibit its use;
 - 2. The vapor recovery system or component does not meet the manufacturer's specifications as certified by CARB using test methods approved in R20-2-901; or
 - 3. The vapor recovery system or component fails greater than 20% of Department inspections for that system or component or the Department receives equivalent failure results from a vapor recovery registered service agency or from another jurisdiction's vapor recovery program, and the Department provides at least 30 days public notice of its proposed rejection.
- B. The piping of both a stage I and stage II vapor recovery system shall be designed and constructed as certified by CARB for that specific vapor recovery system. A person shall not alter a stage I and stage II vapor recovery system or component from the CARB-certified configuration without obtaining Department approval under R20-2-904.

- C. If Department inspection or test data reveal a deficiency in a fitting, assembly, or component that cannot be permanently corrected, the deficient fitting, assembly, or component shall not be used in Arizona.
- D. A stage I spill containment may have a plugged drain rather than a drain valve if a hand-operated pump is kept onsite for draining entrapped liquid. A stage II vapor recovery system shall have pressure/vacuum (P/V) threaded valves on top of the vent lines for gasoline storage tanks.

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

- A. A person shall not begin to construct a site requiring a vapor recovery system or to make a major modification of an existing vapor recovery system or component before obtaining approval of an authority to construct plan application. A major modification is:
 - 1. Adding or replacing a gasoline storage tank that is equipped with a Department approved stage II vapor recovery system;
 - 2. Adding or replacing underground piping, vapor piping within a dispenser, or a dispenser at an existing vapor recovery site unless the dispenser replacement is necessary due to unforeseen damage to the existing dispenser; or
 - 3. Replacing a Department-approved stage II vapor recovery system of one certified configuration with an approved stage II vapor recovery system of a different certified configuration.
- B. A person shall file with the Department a written change order to an authority to construct plan approval on a form provided by the Department if a modification of the approved vapor recovery system or component is needed after the Department issues an authority to construct plan approval. The person shall not make any modification until the Department approves the change order.
- C. To obtain an authority to construct plan approval, a person shall submit to the Department, on a form provided by the Department, the following:
 - 1. The name, address, and phone number of any owner, operator, and proposed contractor, if known;
 - 2. The name of the stage I or stage II vapor recovery system or component to be installed along with the CARB certification for that system or component;
 - 3. The street address of the site where construction or major modification will take place with an estimated timetable for construction or modification;
 - 4. A copy of a blueprint or scaled site plan for the vapor recovery system or component including all equipment and piping detail; and
 - 5. An application fee.
- D. After review and approval of the authority to construct plan, the Department shall issue the authority to construct plan approval and mail the plan approval to the address indicated on the application.
 - 1. A copy of the authority to construct plan approval shall be maintained at the facility during construction so that it is accessible for Department review.
 - 2. Construction of a stage II vapor recovery system or component at a site not having an approved authority to construct plan, shall be stopped and no further installation work shall be done until an authority to construct plan approval is obtained.
 - 3. An authority to construct plan approval is not transferable.
- E. The Department shall deny an authority to construct plan for any of the following reasons:
 - 1. Providing incomplete, false, or misleading information; or
 - 2. Failing to meet the requirements stated in this Chapter.
- F. If excavation is involved, the Department may visually inspect the stage II underground piping of a gasoline dispensing site before the pipeline is buried, for compliance with the authority to construct plan approval. A person who owns or operates a vapor recovery system or component shall give the Department notice by facsimile at least two business days before the underground piping is complete. The Department shall require the owner or operator to excavate all piping not inspected before burial if the owner or operator does not give the required two business days' notice.

- G. After construction is complete, a person who has a valid authority to construct plan approval may dispense gasoline for up to 90 days before final approval, if an initial inspection is scheduled according to R20-2-905.
- H. An authority to construct plan approval expires one year from the date of issue or the completion of construction, whichever is sooner.

R20-2-905. Initial Inspection and Testing

- A. Within 10 days after beginning the dispensing of gasoline at a site that requires an authority to construct plan approval, a person shall provide the Department with a written certification of completion by the contractor and schedule an inspection that includes tests and acceptance criteria specified in the authority to construct plan approval. The inspection shall be witnessed by the Department at a time approved by the Department and include any of the following relevant to the specific vapor recovery system installed:
 - 1. A dynamic pressure performance test from each dispenser for each product grade to its associated underground storage tank;
 - 2. A pressure decay test for each vapor control system including nozzles, underground storage tanks, and tank vents. This test shall be performed with caps removed from stage I fill and vapor risers. If the pressure decay test in R20-2-901(1) is used, the Department shall fail the vapor recovery system if gasoline storage tanks have less than 10 percent or greater than 60 percent vapor space. If the pressure decay test in R20-2-901(2) is used, the Department shall fail the vapor recovery system if gasoline storage tanks have less than 15 percent or more than 30,000 gallons vapor space. The Department shall compute combined tank vapor space for manifolded systems;
 - 3. Communication from dispenser to tanks for each product, using the San Diego TP-96-1 and CARB TP-201.4 test procedures;
 - 4. Air to liquid volume ratio by volume meter of a vapor recovery system, using CARB TP-201.5 or CARB-endorsed equivalent procedures to determine air to liquid (A/L) ratios;
 - 5. Spillage of a stage II vapor recovery system, using the CARB TP-201.2C procedure;
 - 6. Liquid removal of a stage II vapor recovery system, using the CARB TP-201.6 procedure;
 - 7. Flow versus pressure for components in a stage II vapor recovery system, using the CARB TP-201.2B procedure; and
 - 8. Procedures specified by a manufacturer for testing the vapor recovery system.
- B. If there is a difference between a testing contractor's and the Department's test results, the Department's test results prevail.
- C. If a site fails to pass any of the tests required by subsection (A), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all the appropriate tests in subsection (A).
- D. A person who cancels an initial inspection shall notify the Department by calling the Department's designated telephone number at least one hour before the scheduled inspection and shall reschedule the inspection within 10 business days after this notification. The Department shall take enforcement action if a person fails to comply with this Section.
- E. A person shall notify the Department when a vapor recovery system or component is repaired after failing an initial inspection. A registered service representative shall not proceed with a reinspection until the Department approves the reinspection date and time.
- F. If a registered service representative does not start an initial inspection pressure decay test within 30 minutes of the scheduled start time, the Department shall fail the initial inspection of that site.
- G. If a person cancels an initial inspection, the person shall reschedule the inspection within 90 days from the date gasoline was first dispensed.
 - 1. The Department shall take enforcement action if the person fails to timely reschedule the inspection.
 - 2. The registered service agency shall notify the Department in writing at least 10 business days before the inspection of the time, date, and location of the inspection.
 - 3. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the inspection date and time.

R20-2-906. Fees

- A. The Authority to Construct plan approval fee is \$500.
- B. The reinspection fee is \$300, and shall be paid each time an initial or preburial reinspection is required, or when the Department is not timely notified that an inspection is canceled.

R20-2-907. Operation

- A. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall not transfer or permit the transfer of gasoline into any motor vehicle fuel tank unless stage II vapor recovery equipment is installed, maintained, operating, and being used according to the requirements of A.R.S. Title 41, Chapter 15, Article 7, and this Article.
- B. The owner or operator shall operate a stage II vapor recovery system and associated components in compliance with the CARB certification for that system and these rules.
- C. The owner or operator of a gasoline dispensing site with stage II vapor recovery shall inspect the system and its components daily. Daily inspections shall include all nozzles, hoses with connecting hardware, Stage I fittings, and spill containment.
- D. The owner or operator shall immediately stop using a Stage II vapor recovery system or component if one or more of the following system or component defects occur:
 - 1. A faceplate or facecone of a balance system nozzle does not make a good seal with a vehicle fill tube, or the accumulated damage to the faceplate or facecone is 1/4 or more of its circumference. These conditions also apply to a vacuum assist system that has a nozzle with a bellows and faceplate that seal with a vehicle fill pipe;
 - 2. When more than 1/4 of the cone is missing for vapor assist systems having bellowless nozzles with flexible vapor deflecting cones;
 - 3. A nozzle bellows has a triangular tear measuring 1/2 inch or more to a side, a hole measuring 1/2 inch or more in diameter, or a slit or tear measuring one inch or more in length;
 - 4. A nozzle bellows is loosely attached to the nozzle body, attached by means other than that approved by the manufacturer, or a vapor check valve is frozen in the open position due to impaired motion of the bellows;
 - 5. Any nozzle liquid shut-off mechanism malfunctions in any manner, the spring or latching knurl for holding the nozzle in place during vehicle fueling is damaged or missing, or a nozzle is without a functioning hold-open latch;
 - 6. Any nozzle with a defective vapor check valve, or hose having a disengaged breakaway, when all other nozzles are capable of delivering the same grade of fuel from the same turbine pump;
 - 7. Any vacuum assist nozzle having less than the acceptable number of open vapor collection holes specified by CARB for the particular model of nozzle in service, the nozzle spout rocks or rotates more than 1/8 inch, the spout shows heavy wear with the tip damaged in a way that the largest axis exceeds .84 inch, or the plastic insert in the tip of the spout is loose;
 - 8. Any nozzle with a dispensing rate greater than 10 gallons per minute when only one nozzle associated with the product supply pump is operating, or a flow restrictor is improperly installed, leaking, or non-CARB approved;
 - 9. Any nozzle with a physically damaged breakaway or a breakaway showing evidence of product leakage, or a breakaway not approved for the installed system;
 - 10. A dispenser mounted vacuum pump that is not functioning;
 - 11. Any vapor recovery hose and, as applicable, the accompanying whip hose, that:
 - a. Is crimped, kinked, flattened, or damaged in any manner that constricts the return flow of vapor;
 - b. For a balance hose, has any slits or tears greater than 1/4 inch in length, perforations greater than 1/8 inch in diameter, or assist system hoses that are cut, torn, or badly worn so as to cause a possible fuel leak;

- c. Does not fully retract, for approved dispenser configurations using hose retractors, or a balance system hose that exceeds the 10-inch loop requirement where required, or for a hose length that allows a balance hose to touch the ground, or for a vacuum assist hose having more than 6 inches in contact with the ground;
 - d. Does not swivel at the hose/nozzle connection; or
 - e. Does not have a required internal liquid pick-up or the hose with liquid pick-up is improperly assembled for the pick-up to properly function;
12. Tank vent pipes that are not the proper height, or are not properly capped with approved pressure and vacuum vent valve settings, or where required, vent pipes that do not meet the CARB-specified paint color code for the installed system;
 13. The Stage I installation is not properly installed or maintained, in that:
 - a. Spill containment buckets are cracked, rusted, the sidewalls are not attached or otherwise improperly installed, or spill containment buckets are not clean and empty of liquid, or there are non-functioning drain valves, or drain valves that do not seal;
 - b. A fill adaptor collar or vapor poppet (drybreak) that is loose or damaged, or with a fill or vapor cap that is not installed, is missing, broken, or without gaskets;
 - c. Coaxial Stage I that is not equipped with a functioning CARB-approved poppeted fill tube, or the coaxial cap is not installed, is missing, broken, or without gaskets; or
 - d. A fill tube is missing, not sealed, has holes, broken or damaged overfill preventors, or if the high point of the bottom opening is more than 6 inches above the tank bottom;
 14. The tank rise cap with instrument lead wire for an electronic monitoring system is not tightly installed, or any other tank riser is not securely sealed and capped;
 15. The under-dispenser vapor recovery piping is not securely intact or is crimped, does not slope to the underground vapor pipe riser, hoses used for connection are deteriorated or not approved for use with gasoline, resettable impact type shear valves are closed, or there is any other valve or restriction to impede the vapor path;
 16. An above-ground storage tank that does not display a permanently attached UL approval plaque;
 17. A vacuum assist system with an inoperative central vacuum unit;
 18. A vacuum assist system with an inoperative vapor processing (burner) unit;
 19. A vacuum assist system with a monitoring system certified by CARB or the Authority to Construct that is not operational or malfunctions; or
 20. Any other component identified in the diagrams, exhibits, attachments or other documents that are certified by CARB or required by the Authority to Construct for that system is missing, disconnected, or malfunctioning.
- E.** The owner or operator shall also inspect for the presence and proper placement of public information signs required by A.R.S. § 412132(F) and this Article.
 - F.** For a stage II vacuumassist vapor recovery system, the owner or operator shall immediately place damaged or malfunctioning equipment out of service and shall notify the Department by facsimile no more than one day after the malfunction of a central vacuum or processor unit. Once the equipment or system is repaired, the owner or operator shall provide written notice within five days of the repair to the Department.
 - G.** Proper operation of the stage I system, pursuant to A.R.S. § 41-2132(D)(4), shall include the requirement to recover vapors during pump-out from a gasoline storage tank to a mobile transporter.
 - H.** Any underground tank tightness test shall be conducted in a manner so that gasoline vapors are not emitted to the atmosphere.

R20-2-908. Training and Public Education

- A.** Each operator of a gasoline dispensing site using stage II vapor recovery shall obtain adequate training and written instructions to enable the system to be properly installed, operated and maintained in accordance with the manufacturer's specifications and CARB

certification. The operator shall maintain documentation of this training for each operator onsite and documentation to the Department on request.

- B.** In addition to the information required in A.R.S. § 412132(F), an operator of a gasoline dispensing site with stage II vapor recovery shall display a Department telephone number that the public can call to report nozzle or other equipment problems. The operator shall place the required information on each face of each gasoline dispenser. The headings shall be at least 3/8 inches and shall be readable from up to 3 feet away for decal signs, and from up to 6 feet away for permanent (nondecal) signs. Decals shall be located on the upper 60% of each face of the dispenser.

R20-2-909. Recordkeeping and Reporting

- A.** The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain daily records of the inspections done pursuant to this Article.
- B.** The owner or operator of a gasoline dispensing site employing stage II vapor recovery shall maintain a log and related records of all regularly scheduled maintenance and any repairs that have been made to stage II equipment.
- C.** The owner or operator of a gasoline dispensing site that is exempt from requirements to install and operate stage II vapor recovery equipment, pursuant to A.R.S. § 412132(C), shall maintain a log at the site showing monthly throughputs. The owner or operator shall annually submit a copy of these logs representing the previous 12 months throughputs to the Department. If any throughput requirement provided in A.R.S. § 412132(C) and this Article is exceeded for any month, the owner or operator shall notify the Department in writing within 30 days. The owner or operator shall within six months after the end of the month the throughput is exceeded, install and operate a stage II vapor recovery system conforming to this Article.
- D.** An owner or operator shall keep all records required by this Article at the gasoline dispensing site for at least one year and shall make these records available to the Department upon request.

R20-2-910. Annual Inspection and Testing

- A.** A person shall ensure that an annual inspection, as required by A.R.S. § 41-2065(A)(15), is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Department in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Department approves the inspection date and time.
- B.** The annual inspection shall include the tests defined in R20-2-905(A)(1) through (8) that pertain to the specific vapor recovery system installed.
- C.** If there is a difference between a testing contractor's and the Department's test results, the Department's test results prevail.
- D.** If a site fails to pass any of the tests required by subsection (B), the affected vapor recovery system or component shall remain out-of-service until the vapor recovery system and component pass all appropriate tests in subsection (B).
- E.** After an annual inspection begins, a person shall not make a repair to the vapor recovery system or component until the results of the inspection are recorded.
- F.** A registered service representative shall perform all tests according to Article 9 and any other vapor recovery procedure that the Department issues to registered service agencies.
- G.** A person who cancels a witnessed inspection shall notify the Department by calling the Department's designated telephone number at least one hour before the scheduled inspection and shall reschedule the test to be completed by the annual inspection date. A registered service agency shall notify the Department in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or

electronic mail, of its approval of the inspection date and time. The Department shall take enforcement action if a person does not comply with this subsection.

R20-2-911. Compliance Inspections

The Department shall not announce when it plans to conduct a compliance inspection of a stage I or stage II vapor recovery system or component. If results of a compliance inspection reveal a violation of A.R.S. Title 41, Chapter 15, or this Article, the Department shall require the vapor recovery system or component to undergo an appropriate test as specified in R20-2-910.

R20-2-912. Enforcement

If the Department finds that a stage II vapor recovery system or component is defective or non-compliant with one or more of the provisions of this Chapter or A.R.S. Title 41, Chapter 15, the Department shall issue to the owner or operator an administrative order and place a stop-sale, stop-use tag on the non-compliant vapor recovery system or component. The owner or operator may be required to schedule an inspection for a stage II vapor recovery system or component to ensure that it meets all requirements of A.R.S. Title 41, Chapter 15 and this Chapter before the vapor recovery system or component is placed in service.