

3-23-88

Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is amended by adding section 9-500.03, to read:

9-500.03. Air quality control

~~A. THE GOVERNING BODY OF A CITY OR TOWN IN A NONATTAINMENT AREA AS DEFINED IN SECTION 49-541 SHALL:~~

1. IF THE CITY OR TOWN HAS A POPULATION EXCEEDING FIFTY THOUSAND PERSONS ACCORDING TO THE 1985 SPECIAL CENSUS, ADJUST THE WORK HOURS OF AT LEAST EIGHTY-FIVE PER CENT OF MUNICIPAL EMPLOYEES EACH YEAR BEGINNING OCTOBER 1 AND ENDING APRIL 1 IN ORDER TO REDUCE THE LEVEL OF CARBON MONOXIDE CONCENTRATIONS CAUSED BY VEHICULAR TRAVEL.

2. SYNCHRONIZE TRAFFIC CONTROL SIGNALS ON ALL ROADWAYS WHICH HAVE A TRAFFIC FLOW EXCEEDING FIFTEEN THOUSAND MOTOR VEHICLES PER DAY.

~~B. THE GOVERNING BODY OF A CITY OR TOWN MAY MAKE AND ENFORCE ORDINANCES TO REDUCE OR ENCOURAGE THE REDUCTION OF THE COMMUTER USE OF~~

held by the commission. A copy of the rules and regulations shall be certified by the commission to the county board of supervisors which shall hold a public hearing after notice of the time and place has been given by one publication fifteen days prior to the public hearing in a newspaper of general circulation in the county.

I. Approval of a plat shall not be deemed to constitute or effect an acceptance by the county for designation of any street, highway, BICYCLE FACILITY or other way or open space shown upon the plat into the county maintenance system except for hiking and equestrian trails which shall be constructed and maintained by the county. However, at such time as the streets, highways, BICYCLE FACILITIES or other ways are fully completed in accordance with the approved plat and written specifications made by the county board, the county shall accept such streets, highways, BICYCLE FACILITIES and other ways into the county maintenance system within one year of completion.

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*Prepared Under Legislative Authority
Laws 1956, Chapter 129*

Volume 2B

Title 9
Cities and Towns

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ARTICLE 1. PURCHASE, SALE OR LEASE OF PROPERTY

Cross References

Powers and duties, cities and towns located in more than one county, see § 9-137.

GENERAL POWERS; MISCELLANEOUS
Ch. 4

§ 9-500.04

Historical and Statutory Notes

Reviser's Notes:

1987 Note. Laws 1987, Ch. 365, § 2 added
another § 9-500.03 which was renumbered as

§ 9-500.04 pursuant to authority of § 41-
1304.02.

Library References

Municipal Corporations \S 210.
Westlaw Topic No. 268.

§ 9-500.04. Air quality control; definitions

A. The governing body of a city or town in area A or area B as defined in § 49-541 shall:

~~1. If the city has a population exceeding fifty thousand persons according to the 1995 special census, adjust the work hours of at least eighty-five per cent of municipal employees each year beginning October 1 and ending April 1 in order to reduce the level of carbon monoxide, ozone and particulate matter concentrations caused by vehicular travel.~~

~~2. In area A, in consultation with the designated metropolitan planning organization, synchronize traffic control signals on all existing and new roadways, within and across jurisdictional boundaries, that have average daily trips exceeding fifteen thousand motor vehicles per day.~~

3. In area A, beginning on January 1, 2008, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting the roads, alleys and shoulders, a schedule for implementation, funding options and reporting requirements. Priority shall be given to the following:

(a) Unpaved roads with more than one hundred average daily trips.

(b) Unpaved shoulders on arterial roads and other road segments where vehicle use on unpaved shoulders is evident or anticipated due to projected traffic volume.

~~4. In area A, acquire or utilize vacuum systems or other dust removal technology to reduce the particulates attributable to conventional crack sealing operations as existing equipment is retired.~~

5. In area A, in order to reduce particulate matter in ambient air:

(a) Beginning March 31, 2008, on any high pollution advisory day forecast by the department of environmental quality prohibit employees or contractors of that city or town from operating leaf blowers except while in vacuum mode and prohibit those employees or contractors from blowing landscape debris into public roadways at any time.

(b) No later than March 31, 2008, adopt, implement and enforce an ordinance that bans the blowing of landscape debris into public roadways at any time by any person.

6. In area A, no later than March 31, 2008, adopt or amend codes or ordinances and, no later than October 1, 2008, commence enforcement of those codes or ordinances as necessary to require that parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units are maintained with one or more of the following dustproof paving methods:

- (a) Asphaltic concrete.
- (b) Cement concrete.
- (c) Penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate.
- (d) A stabilization method approved by the city or town.

7. In area A, no later than March 31, 2008, adopt or amend codes or ordinances and, no later than October 1, 2009, commence enforcement of those codes or ordinances as necessary to require that parking, maneuvering, ingress and egress areas that are three thousand square feet or more in size at residential buildings with four or fewer units are maintained with a paving or stabilization method authorized by the city or town by code, ordinance or permit.

8. In area A, no later than March 31, 2008, adopt or amend codes or ordinances as necessary to restrict vehicle parking and use on unpaved or unstabilized vacant lots.

9. In area A, no later than March 31, 2008, require that new or renewed contracts for street sweeping on city streets must be conducted with street sweepers that meet the south coast air quality management district rule 1186 street sweeper certification specifications for pick up efficiency and PM-10 emissions in effect on January 1, 2007.

~~10. In area B, synchronize traffic control signals on all roadways that have average daily trips exceeding fifteen thousand motor vehicles per day.~~

~~B. The governing body of a city or town in area B as defined in § 49-541 may make and enforce ordinances to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the city or town and employees whose place of employment is within the city or town.~~

~~C. Except as provided in subsection F of this section, the governing body of a city or town in area A as defined in § 49-541 in a county with a population of more than one million two hundred thousand persons according to the most recent United States decennial census shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in city or town owned vehicles. The plan shall include a timetable for increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion.~~

~~D. The timetable shall reflect the following schedule and percentage of vehicles that operate on alternative fuels and clean burning fuels:~~

- ~~1. At least eighteen per cent of the total fleet by December 31, 1995.~~

~~2. At least twenty-five per cent of the total fleet by December 31, 1996.~~

3. At least fifty per cent of the total fleet by December 31, 1998.

4. At least seventy-five per cent of the total fleet by December 31, 2000 and each year thereafter.

E. The requirements of subsections C and D of this section may be waived on receipt of evidence acceptable to the city or town council that the city or town is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than ten per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. Applications for waivers shall be filed with the department of environmental quality pursuant to § 49-412. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate matter emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to § 49-555.

F. The plan prescribed by subsection C of this section shall include provisions for the use of alternative fuels and clean burning fuels in the bus fleet operated by that city or town or a regional public transportation authority, except that all newly purchased buses shall use alternative fuel or clean burning fuel. The bus fleet shall comply with the timetable prescribed by subsection D of this section, except that the requirements of subsections C and D of this section may be waived on receipt of certification supported by evidence acceptable to the department of environmental quality that the city or town is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than twenty per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.

G. If the requirements of subsections C, D and F of this section are met by the use of clean burning fuel, vehicle equivalents under those requirements shall be calculated as follows:

1. One vehicle equivalent for every four hundred fifty gallons of neat biodiesel or two thousand two hundred fifty gallons of a diesel fuel substitute prescribed in § 1-215, paragraph 7, subdivision (b).

2. One vehicle equivalent for every five hundred thirty gallons of the fuel prescribed in § 1-215, paragraph 7, subdivision (d).

H. Subsection A, paragraphs 5 through 8 of this section do not apply to any site that has a permit issued by a control officer as defined in § 49-471 for the control of fugitive dust from dust generating operations.

~~I. For the purposes of this section, "alternative fuel" and "clean burning fuel" have the same meanings prescribed in § 1-215.~~

Added as § 9-500.03 by Laws 1987, Ch. 365, § 2, eff. Jan. 1, 1989. Renumbered as § 9-500.04. Amended by Laws 1993, 6th S.S., Ch. 1, § 3; Laws 1994, Ch. 84, § 1; Laws 1994, Ch. 353, § 1, eff. April 26, 1994; Laws 1996, 7th S.S., Ch. 6, § 6; Laws 1997, Ch. 269, § 1; Laws 1998, Ch. 217, § 2; Laws 1999, Ch. 168, § 2, eff. May 5, 1999; Laws 2000, Ch. 148, § 2; Laws 2001, Ch. 70, § 1; Laws 2002, Ch. 260, § 2; Laws 2004, Ch. 95, § 2; Laws 2006, Ch. 349, § 2; Laws 2006, Ch. 388, § 1; Laws 2007, Ch. 292, § 1.

Historical and Statutory Notes

Laws 1987, Ch. 365, § 28, subsec. B provides:

"B. Sections 2 and 19 of this act are effective from and after December 31, 1988."

Laws 1998, Ch. 217, § 42, as amended by Laws 1999, Ch. 168, § 27, effective May 5, 1999, provides:

"Sec. 42. Area A expansion; compliance dates; air quality programs; Pinal county

"A. Notwithstanding § 41 as added by this act, and section 49-541, paragraph 1, Arizona Revised Statutes, as amended by this act, relating to the geographical definition of area A, all air quality measures and programs added or modified by this act which are not listed in subsection B of this section, shall be effective from and after December 31, 2000 in the portion of area A which includes Pinal county.

"B. Cities, counties and school districts that are located in Pinal county and that have been included within the boundaries of area A shall comply with the provisions of § 9-500.04, subsections C through G, § 15-349 and § 49-474.01, subsections C through E, Arizona Revised Statutes, relating to the conversions of fleet vehicles to alternative fuels according to the following schedule:

- "1. At least eighteen per cent of the total fleet by December 31, 2000.
- "2. At least twenty-five per cent of the total fleet by December 31, 2001.
- "3. At least fifty per cent of the total fleet by December 31, 2003.
- "4. At least seventy-five per cent of the total fleet by December 31, 2005."

Laws 1998, Ch. 217, § 42, as amended by Laws 1999, Ch. 295, § 51 provides:

"Sec. 42. Area A expansion; compliance dates; air quality programs; Pinal county

"A. Notwithstanding § 41 as added by this act, and § 49-541, paragraph 1, Arizona Revised Statutes, as amended by this act, relating to the geographical definition of area A, all air quality measures and programs added or modified by this act which are not listed in subsection B of this section, shall be effective from and after December 31, 2000 in the portion of area A which includes Pinal county.

"B. Cities, counties and school districts that are located in Pinal county and that have been included within the boundaries of area A shall comply with the provisions of § 9-500.04, subsections C through G, § 15-349 and § 49-474.01, subsections C through E, Arizona Revised Statutes, relating to the conversions of fleet vehicles to alternative fuels according to the following schedule:

- "1. At least eighteen per cent of the total fleet by December 31, 2000.
- "2. At least twenty-five per cent of the total fleet by December 31, 2001.
- "3. At least fifty per cent of the total fleet by December 31, 2003.
- "4. At least seventy-five per cent of the total fleet by December 31, 2005."

Laws 2001, Ch. 371, § 18, subsec. B, provides:

"Sec. 18. Area A expansion; compliance date; air quality programs"

"B. Cities, counties and school districts that have been included within the boundaries of area A shall comply with the provisions of § 9-500.04, subsections C through G, § 15-349 and § 49-474.01, subsections C through E, Arizona Revised Statutes, relating to the conversions of fleet vehicles to alternative fuels according to the following schedule:

- "1. At least eighteen per cent of the total fleet by December 31, 2003.

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§ 9-500.27

~~or town to prevent the entry from this state into the republic of Mexico at the border by any resident of this state who is under eighteen years of age if the minor is unaccompanied by a parent or guardian or does not have written consent for entry from a parent or guardian. The authority of the peace officer is only to prevent entry and not to otherwise detain the minor.~~

~~B. This section shall not be construed to limit the authority of a peace officer pursuant to any other law.~~

~~C. A city or town is not civilly or criminally liable for not adopting an ordinance pursuant to this section.~~

~~Added by Laws 2006, Ch. 174, § 1.~~

~~Section 9-801 et seq.~~

Library References

Infants ⇨13.

Westlaw Topic No. 211.

C.J.S. Infants §§ 110 to 114, 118 to 121.

§ 9-500.27. Off-road vehicle ordinance; applicability; violation; classification

A. No later than March 31, 2008, in area A, as defined in § 49-541, a city or town shall adopt, implement and enforce an ordinance that prohibits the operation of any vehicle, including an off-highway vehicle, an all-terrain vehicle or an off-road recreational motor vehicle, on an unpaved surface that is not a public or private road, street or lawful easement and that is closed by the landowner by rule or regulation of a federal agency, this state, a county or a municipality or by proper posting if the land is private land.

B. This section does not apply to the operation of vehicles used in the normal course of business or the normal course of government operations.

C. This section does not prohibit or preempt the enforcement of any similar ordinance that is adopted by a city or town in area A, as defined in § 49-541, before March 31, 2008 for purposes of dust abatement.

~~D. A person who violates an ordinance adopted pursuant to subsection A of this section is guilty of a class 3 misdemeanor.~~

~~E. In addition to or in lieu of a fine pursuant to this section, a judge may order the person to perform at least eight but not more than twenty-four hours of community restitution or to complete an approved safety course related to the off-highway operation of motor vehicles, or both.~~

~~Added by Laws 2007, Ch. 292, § 2.~~

Library References

Automobiles ⇨7.

Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 24, 26 to 27, 29 to 33.

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Title 11
Counties

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CHAPTER 6

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ARTICLE 1. COUNTY PLANNING

Article 1, County Planning, consisting of §§ 11-801 to 11-808, was added by Laws 2010, Ch. 244, § 7, effective October 1, 2011.

Former Article 1, Administration and Enforcement, consisting of §§ 11-801 to 11-812, was repealed by Laws 2010, Ch. 244, § 5, effective October 1, 2011.

Historical and Statutory Notes

Laws 2010, Ch. 244, § 43, provides:

"Sec. 43. Effective date

"A. This act is effective from and after September 30, 2011 except as provided in subsection B of this section.

"B. Section 34-201, Arizona Revised Statutes, as amended by section 24 of this act, is effective from and after June 30, 2013."

§ 11-801. Definitions

In this chapter, unless the context otherwise requires:

1. "Aggregate" means cinder, crushed rock or stone, decomposed granite, gravel, pumice, pumicite and sand.
2. "Area of jurisdiction" means that part of the county outside the corporate limits of any municipality.
3. "Board" means the board of supervisors.
4. "Commission" means the county planning and zoning commission.
5. "Indian reservation" means all lands that are held in trust by the United States for the exclusive use and occupancy of Indian tribes by treaty, law or executive order and that are currently recognized as Indian reservations by the United States department of the interior.

Historical and Statutory Notes

The 2010 amendment by Ch. 244 substituted "§ 11-815" for "§ 11-808"; and made a non-substantive change.

Laws 2010, Ch. 244, § 43, provides:

"Sec. 43. Effective date

"A. This act is effective from and after September 30, 2011 except as provided in subsection B of this section.

"B. Section 34-201, Arizona Revised Statutes, as amended by section 24 of this act, is effective from and after June 30, 2013."

Research References**Treatises and Practice Aids**

11 Arizona Practice A.R.S. § 11-808, Infrastructure Service Area Boundaries; Notice; Hearing; Adoption [Effective Oct. 1, 2011].

§ 11-867. Repealed by Laws 1980, 2nd S.S., Ch. 8, § 12, eff. July 1, 1981**Historical and Statutory Notes**

The repealed section, added by Laws 1973, Ch. 23, § 2, provided that expenditures for enforcement of certain building codes were ex-

empt from the ten per cent limitation in budget expenditures in § 42-304.

ARTICLE 6. AIR QUALITY

Article 4, Air Quality, consisting of §§ 11-871 to 11-877 was renumbered as Article 6 by Laws 2010, Ch. 244, § 6, effective October 1, 2011.

Article 4 (now, Article 6), consisting of §§ 11-871 to 11-874, was added by Laws 1993, 6th S.S., Ch. 1, § 4, effective February 10, 1994.

Historical and Statutory Notes

Laws 1993, 6th S.S., Ch. 1, § 1, provides:

"Section 1. Intent

"The Arizona legislature intends by this act to comply with the extremely strict air quality control measures mandated by the Clean Air Act Amendment of 1990. In order to achieve compliance and avoid sanctions, the Arizona legislature has, in good faith, attempted to comply

with the federal mandate by adopting costly air pollution control measures. The Arizona legislature expresses its concern regarding the underlying scientific and technological assumption of the federal mandate. This state intends to pursue other options available, either singly or in conjunction with other similarly affected states."

§ 11-871. Emissions control; no burn; exemptions; penalty

A. A county that contains any part of area A, as defined in § 49-541, shall develop, implement and enforce in area A, as defined in § 49-541, an ordinance relating to residential wood burning restrictions, including a no burn restriction when monitoring or forecasting by the department of environmental quality predicts the carbon monoxide standard is likely to be exceeded.

B. On or before October 31, 2007, a county that contains any part of area A, as defined in § 49-541, shall amend the ordinance prescribed by subsection A of this section to include a no burn restriction for any high pollution advisory day forecast by the department of environmental quality for particulate matter.

~~C. The ordinance shall provide an exemption for the use of residential wood stoves, wood fireplaces or gas-fired fireplaces that comply with any of the following.~~

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~~1. Provides the sole or primary source of heat or fuel for cooking for a residence.~~

2. Meets performance standards for new residential wood heaters manufactured on or after July 1, 1990 or sold at retail on or after July 1, 1992 as prescribed by 40 Code of Federal Regulations part 60, subpart AAA.

3. Burns gaseous fuels, including gas logs.

~~4. Meets rules adopted by the board of supervisors as prescribed in § 49-479 for burning wood in approved appliances.~~

~~D. The ordinance shall provide that a person who violates an ordinance adopted pursuant to this section is subject to:~~

~~1. A warning for the first violation.~~

~~2. The imposition of a civil penalty of fifty dollars for the second violation.~~

~~3. The imposition of a civil penalty of one hundred dollars for the third violation.~~

~~4. The imposition of a civil penalty of two hundred fifty dollars for the fourth or any subsequent violation.~~

~~E. For violations of ordinances adopted pursuant to this section, the control officer shall use a uniform civil ticket and complaint substantially similar to a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases adopted by the supreme court. The control officer may issue citations to persons in violation of ordinances adopted pursuant to this section.~~

Added by Laws 1993, 6th S.S., Ch. 1, § 4. Amended by Laws 1994, Ch. 353, § 2, eff. April 26, 1994; Laws 1995, Ch. 293, § 1; Laws 1998, Ch. 217, § 4; Laws 2007, Ch. 292, § 3.

Historical and Statutory Notes

Laws 1993, 6th, S.S., House Concurrent Memorial 2001, urged Congress to review the national ambient air quality standards in the Federal Clean Air Act Amendments of 1990, 42 United States Code § 7401 et seq.

The 1994 amendment by Ch. 353, in subsec. A, deleted "in excess" following "population", substituted "or more" for "as determined in", inserted "according to", and inserted "in area A, as defined in § 49-541"; in subsec. B, in the introductory sentence, substituted "shall" for "may", inserted "fireplaces", and inserted "fired"; in subsec. B, par. 2, deleted "phase II" following "for", and inserted "manufactured on or after July 1, 1990, or sold at retail on or after July 1, 1992 as"; in subsec. B, par. 3, substituted "gaseous fuels" for "natural gas"; in subsec. B, par. 4, substituted "board of supervisors" for "control officer", substituted "prescribed" for "defined", and substituted "49-479" for "49-471"; in subsec. C, added the second sentence relating to tickets and complaints, and inserted the third sentence relating to issuance of cita-

tions; and made nonsubstantive changes throughout.

The 1995 amendment by Ch. 293 made a nonsubstantive change in subsec. B, par. 2; inserted paragraph designations and rewrote the first sentence of subsec. C; and designated the second and third sentences of subsec. C as subsec. D. Prior to amendment, the first sentence of subsec. C read: "The ordinance shall provide that a person who violates an ordinance adopted pursuant to this section is subject to the imposition of a civil penalty of one hundred dollars."

The 1998 amendment by Ch. 217 rewrote subsec. A, which had read:

"A. Not later than September 30, 1994, a county with a population of one million two hundred thousand persons or more according to the most recent United States decennial census shall develop, implement and enforce in area A, as defined in § 49-541, an ordinance relating to residential wood burning restrictions, including a no burn restriction when

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Historical and Statutory Notes

The 2002 amendment by Ch. 296, rewrote subsecs. D, E and F, which had read:

"D. A driver who violates this section is subject to:

"1. The imposition of a civil penalty of one hundred dollars for the first violation.

"2. The imposition of a civil penalty of three hundred dollars for a second or any subsequent violation.

"E. Ordinances adopted pursuant to this section may be enforced by a county control officer or any law enforcement officer who is authorized to enforce traffic laws. For violations of this section, a control officer shall use a uniform civil ticket and complaint substantially similar to a uniform traffic ticket and complaint

prescribed by the rules of procedure in civil traffic cases adopted by the supreme court. The control officer may issue citations to persons who violate this section.

"F. In enforcing the provisions of this section, a county control officer or authorized law enforcement officer shall only issue one citation per traffic stop or investigation of a driver whose vehicle exceeds the maximum idling limits established pursuant to this section."

Reviser's Notes:

2001 Note. Pursuant to authority of § 41-1304.02, this section, added by Laws 2001, Ch. 371, sec. 1 as § 11-877, was renumbered as § 11-876 and in subsection A, first sentence the spelling of "heavy-duty" was corrected.

Cross References

Inspections, see § 41-1009.

Library References

Environmental Law ☞273.
Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 163 to 164.

§ 11-877. Air quality control measures

A. In order to reduce particulate matter in ambient air, the board of supervisors of any county that contains any portion of area A, as defined in § 49-541, shall develop, implement and enforce in area A the following air quality control measures:

1. Beginning on the effective date of this section, prohibit employees or contractors of that county from operating leaf blowers on any high pollution advisory day forecast by the department of environmental quality except while in vacuum mode and prohibit those employees or contractors from blowing landscape debris into public roadways at any time.

2. No later than March 31, 2008, adopt, implement and enforce an ordinance that bans the blowing of landscape debris into public roadways at any time by any person.

3. No later than March 31, 2008, adopt, implement and enforce an ordinance that prohibits the operation of leaf blowers except on surfaces that have been stabilized with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, or grass or other continuous vegetative cover, or any combination of those stabilizers.

B. This section does not apply to any site that has a permit issued by a control officer as defined in § 49-471 for the control of fugitive dust from dust generating operations.

Added by Laws 2007, Ch. 292, § 5.

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Historical and Statutory Notes

Former § 11-877 was renumbered as § 11-876.

Cross References

Inspections, see § 41-1009.

Library References

Environmental Law \Leftrightarrow 277.
Westlaw Topic No. 149E.

C.J.S. Health and Environment §§ 163 to 164.

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**Title 28  
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**§§ 28-101 to 28-1300**

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**TRAFFIC AND VEHICLE REGULATION**

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- 28-1201. Definition of photo enforcement system.
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*Chapter 3, Traffic and Vehicle Regulation, consisting of Article 1, §§ 28-601, 28-602, Article 2, §§ 28-621 to 28-628, Article 3, §§ 28-641 to 28-651, Article 4, §§ 28-661 to 28-671, Article 5, §§ 28-693, 28-694, Article 6, §§ 28-701 to 28-708, Article 7, §§ 28-721 to 28-734, Article 8, §§ 28-751 to 28-756, Article 9, §§ 28-771 to 28-776, Article 10, §§ 28-791 to 28-797, Article 11, §§ 28-811 to 28-818, Article 12, §§ 28-851 to 28-858, Article 13, §§ 28-871 to 28-875, Article 14, §§ 28-881 to 28-886, Article 15, §§ 28-891 to 28-910, Article 16, §§ 28-921 to 28-965, Article 17, §§ 28-981 to 28-984, Article 18, §§ 28-1091 to 28-1109, Article 19, §§ 28-1141 to 28-1151, and Article 20, §§ 28-1171 to 28-1177, was added by Laws 1996, Ch. 76, § 18, effective October 1, 1997.*

*Former Title 28, Transportation, consisting of Chapters 1 to 26, §§ 28-101 to 28-3075, was repealed by Laws 1995, Ch. 132, § 1, as amended by Laws 1996, Ch. 76, § 306, effective October 1, 1997. New Title 28, Transportation, consisting of Chapters 1 to 25, §§ 28-101 to 28-8536, was effective October 1, 1997.*

*For disposition of subject matter of former Title 28 and derivation of sections of new Title 28 see Disposition and Derivation Tables preceding § 28-101.*

**ARTICLE 1. DEFINITIONS AND POWERS OF GOVERNOR**

**Cross References**

- Administrative procedure, inapplicable to state sign manual or motor vehicle operation rules, see § 41-1005.
- Envelope permits, see § 28-1141 et seq.
- Violations as civil traffic violations, see § 28-121.

**Law Review and Journal Commentaries**

- Accident loss reparations systems. 3 Ariz.St. Arizona Uniform Jury instructions. Judge Irwin Cantor, 9 Ariz.B.J. No. 4, p. 13 (1974).

~~**§ 28-601. Definitions**~~

~~In this chapter, unless the context otherwise requires:~~

- ~~1. "Commercial motor vehicle" means a motor vehicle or combination of vehicles that is designed, used or maintained to transport passengers or property in the furtherance of a commercial enterprise, that is a commercial~~

**VEHICLE SIZE, WEIGHT AND LOAD**  
**Ch. 3**

**§ 28-1098**

Laws 1973, Ch. 146, § 50.  
Laws 1982, Ch. 24, § 1.

The 1997 amendment of this section by Ch. 1 explicitly amended the addition of this section by Laws 1996, Ch. 76, § 18.

**Library References**

Automobiles ☞ 15, 324.  
Westlaw Topic No. 48A.

C.J.S. Motor Vehicles §§ 43 to 44, 829 to 830, 1311 to 1313, 1315 to 1317, 1455, 1526 to 1527, 1543 to 1544.

**§ 28-1098. Vehicle loads; restrictions; civil penalties**

A. For the purpose of highway safety or air pollution prevention, a person shall not drive or move a vehicle on a highway unless the vehicle is constructed or loaded in a manner to prevent any of its load from dropping, sifting, leaking or otherwise escaping from the vehicle, except the following are permitted:

1. Sufficient sand may be dropped for the purpose of securing traction.
2. Water or another substance may be sprinkled on a roadway in cleaning or maintaining the roadway.
3. Minor pieces of agricultural materials such as leaves and stems from agricultural loads.

~~B. A person shall not operate a vehicle on a highway with a load unless the load and any covering on the load are securely fastened in a manner to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway.~~

~~C. If a person is found in violation of this section and the violation:~~

1. Does not cause any damage or injury and is the person's:
  - (a) First violation in a sixty month period, the person is subject to a civil penalty of not more than two hundred fifty dollars.
  - (b) Second or subsequent violation in a sixty month period, the person is subject to a civil penalty of not more than three hundred fifty dollars.
- ~~2. Results in an accident causing serious physical injury as defined in § 13-105 to another person, the person is subject to a civil penalty of not more than five hundred dollars.~~
- ~~3. Results in an accident causing the death of another person, the person is subject to a civil penalty of not more than one thousand dollars.~~

Added by Laws 1996, Ch. 76, § 18, eff. Oct. 1, 1997. Amended by Laws 2003, Ch. 258, § 2; Laws 2007, Ch. 292, § 6.

**Historical and Statutory Notes**

**Source:**

Laws 1950, 1st S.S., Ch. 3, § 161.  
Code 1939, Supp. 1952, § 66-185e.  
A.R.S. former § 28-1006.

The 2003 amendment by Ch. 258 added subsec. C.

The 2007 amendment by Ch. 292 rewrote the section, which had read:

"A. A person shall not drive or move a vehicle on a highway unless the vehicle is constructed or loaded in a manner to prevent any of its load from dropping, sifting, leaking or otherwise escaping from the vehicle, except that either:

"1. Sand may be dropped for the purpose of securing traction.

§ 36-1776. Fleet emissions inspection stations; certificates of inspection; dealer's inventory; investigations; revocation of permit

A. Any registered owner or lessee of a fleet of at least twenty-five vehicles may apply to the director for a permit to establish a fleet emissions inspection station. The director shall not issue any fleet emissions inspection station permit until he has found that the applicant:

1. Maintains an established place of business for the repair and maintenance of applicant's fleet of vehicles.

2. Has obtained approved machinery, tools and equipment to adequately conduct the required emissions inspections.

3. Employs properly trained and licensed personnel with which to perform the necessary labor.

4. Agrees to provide data as may be prescribed by the director.

B. Any operator of a fleet emissions inspection station under a valid permit shall, upon filing an application in the manner and form prescribed by the director and paying the prescribed fee, receive a sufficient number of certificates of inspection for each vehicle in applicant's fleet. No certificate of inspection shall be placed on or affixed to any fleet vehicle until it has been inspected and found to comply with all the minimum standards that such vehicle would be required to meet at any official emissions inspection station.

C. No holder of a fleet emissions inspection station permit shall inspect or certificate any vehicle for which such permittee is not the registered owner or lessee, unless authorized by the director.

D. Vehicles owned by a licensed vehicle dealer and which are held for resale as a part of the dealer's business inventory shall be deemed a part of such dealer's vehicle fleet for purposes of this section.

E. Every vehicle over eight thousand pounds subject to the provisions of this section and registered in this state shall be inspected in accordance with the provisions of this article at least once within each twelve-month period following any original registration or re-registration. A vehicle shall not be reregistered until such vehicle has passed inspection.

F. The director shall investigate the operation of each fleet emissions inspection station as the conditions and circumstances of such operation may indicate. He may require the holder of any fleet permit to submit such documentation required concerning the operation of such inspection station. The director may revoke and require the surrender and forfeiture of any fleet emissions inspection station permit and certificates of inspection of such permittee if he finds that such station is not operated in accordance with this article and the lawful rules and regulations adopted by the director or the holder of

such permit has failed or refused to submit records or documentation required.



**§ 36-1777. Authority of director to acquire enforcement equipment; random vehicle tests**

A. The director may acquire in the name of the state by purchase, donation, dedication or other lawful means any special equipment, tools, materials or facilities needed to adequately administer, investigate or enforce the provisions of this article.

B. Any highway patrolman, any police officer or any peace officer may use any equipment, tools, materials or facilities, approved by the director, available to him for the purpose of conducting random investigative tests to check the compliance of any vehicle with the inspection standards. To facilitate such random investigative tests, any highway patrolman, any police officer or any peace officer may require the driver of any vehicle to stop and submit such vehicle to a test to check its compliance with any of the standards adopted pursuant to § 36-1717.

Added Laws 1974, Ch. 158, § 1.

**§ 36-1778. Improper representation**

A. A person shall not in any manner represent any place to be an official or fleet emissions inspection station unless such station has been established and is operated under a valid permit issued by the director.

B. A certificate of inspection shall not be issued or affixed to any vehicle except at an official or fleet emissions inspection station established and operating under a valid permit issued by the director. All certificates of inspection shall be serially numbered and shall be strictly accounted for.

Added Laws 1974, Ch. 158, § 1.



**§ 36-1779. False certificates**

A. A person shall not make, issue or knowingly use any imitation or counterfeit of an official certificate of inspection.

B. A person shall not display or cause or permit to be displayed upon any vehicle any certificate of inspection knowing it to be fictitious or issued for another vehicle or issued without an inspection having been made.

Added Laws 1974, Ch. 158, § 1.

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**WEIGHTS AND MEASURES**  
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**§ 41-2051**

**ARTICLE 1. GENERAL PROVISIONS**

**§ 41-2051. Definitions .**

In this chapter, unless the context otherwise requires:

~~1. "Biodiesel" means a motor fuel produced from non-petroleum renewable resources as defined by the United States environmental protection agency and that meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to § 211 of the clean air act, as defined in § 49-401.01.~~

2. "Biodiesel blend" means a motor fuel that is comprised of biodiesel and diesel fuel and that is designated by the letter "B", followed by the numeric value of the volume percentage of biodiesel in the blend.

3. "Biofuel" means a solid, liquid or gaseous fuel that is derived from biomass and that can be used directly for heating or power or as a motor fuel.

4. "Biofuel blend" means a motor fuel that is comprised of a biofuel, that is combined with a petroleum based fuel and that is designated by the volume percentage of biofuel in the blend.

5. "Biomass" means biological material, such as plant or animal matter, excluding organic material that has been transformed by geological processes into substances such as coal or petroleum or derivatives thereof, that may be

6. "Certification" means the process of determining the accuracy of a commercial device to the standards of this state by a registered service representative or the department.

~~7. "Commercial device" means any weighing, measuring, metering or counting device that is used to determine the direct cost of things sold or offered or exposed for sale, or used to establish a fee for service if the cost is based on weight, measure or count, except that it does not include those devices used for in-house packaging, inventory control or law enforcement purposes.~~

8. "Commodity" means any merchandise, product or substance produced or distributed for sale to or use by others.

9. "Correct" as used in connection with weights and measures means conformance to all applicable requirements of this chapter.

10. "Department" means the department of weights and measures.

11. "Diesel fuel" means a refined middle distillate that is used as a fuel in a compression-ignition internal combustion engine and that meets the specifications of ASTM D975.

12. "Director" means the director of the department of weights and measures.

13. "E85" means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798.

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14. "Inspector" means state officials of the department of weights and measures.

15. "Limousine" means a motor vehicle providing prearranged ground transportation service for an individual passenger, or a group of passengers, that is arranged in advance or is operated on a regular route or between specified points and includes ground transportation under a contract or agreement for services that includes a fixed rate or time and is provided in a motor vehicle with a seating capacity not exceeding fifteen passengers, including the driver.

16. "Liquid fuel measuring device" means any meter, pump, tank, gauge or apparatus used for volumetrically determining the quantity of any internal combustion engine fuel, liquefied petroleum gas or low viscosity heating oil.

17. "Livery vehicle" means a motor vehicle that:

(a) Has a seating capacity not exceeding fifteen passengers, including the driver.

(b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.

(c) Is available for hire on an exclusive or shared ride basis.

(d) May do any of the following:

(i) Operate on a regular route or between specified places.

(ii) Offer prearranged ground transportation service as defined in § 28-141.

(iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

18. "Misfuel" means the act of dispensing into the fuel tank of a motor vehicle a motor fuel that was not intended to be used in the engine of that motor vehicle.

19. "Motor fuel" means a petroleum or a petroleum based substance that is motor gasoline, aviation gasoline, number one or number two diesel fuel or any grade of oxygenated gasoline typically used in the operation of a motor engine, including biodiesel blends, biofuel blends and the ethanol blend E85 as defined in ASTM D5798.

20. "Package" means any commodity enclosed in a container or wrapped in any manner in advance of sale in units suitable for either wholesale or retail trade.

21. "Person" means both the plural and the singular, as the case demands, and includes individuals, partnerships, corporations, companies, societies and associations.

22. "Public weighmaster" means any person who is engaged in any of the following:

(a) The business of weighing any object or thing for the public generally for hire or for internal use and issuing for that weighing a weight certificate

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intended to be accepted as an accurate weight upon which a purchase or sale is to be based or on which a service fee is to be charged.

(b) The business of weighing for hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

23. "Reference standards" means the physical standards of the state that serve as the legal reference from which all other standards and weights and measures are derived.

24. "Registered service agency" means any agency, firm, company or corporation that for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and that has been issued a license by the department.

25. "Registered service representative" means any individual who for hire, award, commission or any other payment of any kind installs, services, repairs or reconditions a commercial device or tests or repairs vapor recovery systems or vapor recovery components and who has been issued a license by the department.

26. "Retail seller" means a person whose business purpose is to sell, expose or offer for sale or use any package or commodity by weight, measure or count.

27. "Sale from bulk" means the sale of commodities when the quantity is determined at the time of sale.

28. "Secondary standards" means the physical standards that are traceable to the reference standards through comparisons using acceptable laboratory procedures, and that are used in the enforcement of weights and measures laws and rules.

29. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that

(a) Does not operate on a regular route or between specified places.

(b) Offers local transportation for a fare determined primarily on the basis of the distance traveled.

30. "Taxi meter" means a commercial device that meets the requirements of the national institute of standards and technology handbook 44 as prescribed by § 41-2064.

31. "Weight" as used in connection with any commodity means net weight.

32. "Weights" or "measures", or both, means all weights, measures, meters or counters of every kind, instruments and devices for weighing, measuring,

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~~metering or counting and any appliances and accessories associated with any  
all such instruments and devices.~~

Added by Laws 1974, Ch. 200, § 4 Amended by Laws 1982, Ch. 262, § 29, eff. July 24, 1982, effective retroactively to July 1, 1982; Laws 1983, Ch. 98, § 200; Laws 1987, Ch. 314, § 4; Laws 1988, Ch. 178, § 1; Laws 1992, Ch. 176, § 1; Laws 1998, Ch. 146, § 1; Laws 2001, Ch. 164, § 1, eff. April 20, 2001; Laws 2002, Ch. 104, § 1; Laws 2003, Ch. 168, § 14, eff. Jan. 1, 2005; Laws 2004, Ch. 323, § 11, eff. Jan. 1, 2005; Laws 2006, Ch. 8, § 1; Laws 2006, Ch. 98, § 1; Laws 2008, Ch. 254, § 2.

Historical and Statutory Notes

Source:

Laws 1927, Ch. 16, § 1.  
Rev. Code 1928, § 3631.  
Laws 1935, Ch. 96, § 1  
Code 1939, § 76-125  
A.R.S. former § 44-2141.

Laws 1974, Ch. 200, which amended Title 41 by adding Chapter 15 commencing with the above section provided a statement of legislative purpose in § 1, as follows:

"Section 1. Purpose

"The purpose of this chapter is to establish within the department of administration the state weights and measures division and to establish statutory authority for the administration, regulation and enforcement of weights and measures requirements within the state. The objectives of state supervision of weights and measures under this chapter include the following:

"1. Assuring that weights and measures in commercial service within the state are suitable for their intended use, properly installed, accurate and are so maintained by their owner or user.

"2. Preventing unfair dealing by weight or measure in any commodity or service advertised, packaged, sold or purchased within the state.

"3. Making available to all users of physical standards or weighing, measuring and counting equipment the precision calibration and related metrological certification capabilities of the weights and measures facilities of the state weights and measures division.

"4. Promoting uniformity, to the extent such conformance is practicable and desirable between weights and measures requirements of this state and those of other states and federal agencies.

"5. Encouraging desirable economic growth while protecting the consumer through the adoption by rule of weights and measures requirements as necessary to ensure equity among buyers and sellers

"6. This act is not intended to preempt cities and towns in the enforcement of ordinances relating to the same subject matter but is intended to provide guidelines and standards for local enforcement of weights and measures requirements."

Laws 1987, Ch. 314, §§ 1 and 17 provide:

"Section 1. Purpose

"The purpose of the department of weights and measures is to assure that weights and measures in commercial service are suitable and accurate for their intended use, to prevent unfair dealing by weight or measure in commodities sold and purchased in this state and to provide standards and uniformity for weighing and measuring equipment."

"Sec. 17. Transfer

"All personnel, records, furnishings, equipment, unexpended monies, powers, duties and rules of the department of administration weights and measures division are transferred to the department of weights and measures."

Laws 1993, Ch. 117, § 3, provides

"Sec. 3. Purpose

"The purpose of the department of weights and measures is to assure that weights and measures in commercial service are suitable and accurate for their intended use, to prevent unfair dealing by weight or measure in commodities sold and purchased in this state and to provide standards and uniformity for weighing and measuring equipment."

Laws 2003, Ch. 168, § 19, as amended by Laws 2004, Ch. 323, § 16, provides:

"Sec. 19. Effective date

"This act is effective from and after December 31, 2004."

The 2004 amendment of this section by Ch. 323, § 11 explicitly amended the amendment of this section by Laws 2003, Ch. 168, § 14.

Laws 2004, Ch. 323, § 19, provides:

"Sec. 19. Effective date

"Sections 1 through 15 of this act are effective from and after December 31, 2004."

**41-2083. Standards for liquid fuels; exceptions**

A. Except as provided in subsections C, D, E, F and G of this section, no retail seller or fleet owner may store, sell or expose or offer for sale any motor fuel as defined in section 49-1001, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar products if the product fails to meet the standards specified in this section and in the rules adopted by the director. For the purposes of this subsection "retail seller" means every person whose business purpose is to sell or expose or offer for sale any motor fuel as defined in section 49-1001, kerosene, oil or other liquid or gaseous fuel or lubricating oil, lubricant, mixtures of lubricants or other similar petroleum product other than used oil.

B. No person may misrepresent the nature, origination, quality, grade or identity of any product specified in subsection A of this section nor represent the nature, origination, quality, grade or identity of such product in any manner calculated or tending to mislead or in any way deceive.

C. After consultation with the director of the department of environmental quality, the standards and test methods for gasoline and oxygenated fuels shall be established by the director of the department of weights and measures and shall be consistent with the standards specified in ASTM D4814, standard specification for automotive spark ignition engine fuel. The director may establish by rule exceptions to these standards if the director determines it is necessary in order to carry out the purposes of this chapter.

D. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a vehicle emissions control area as defined by section 49-541 with a population of one million two hundred thousand or more persons according to the most recent United States decennial census shall be 9.0 pounds per square inch from and after September 30, 1994 through March 31, 1995 and from and after September 30 through March 31 of each year thereafter. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.

E. From and after September 30 through March 31 of each year a person shall not supply or sell gasoline that exceeds the ASTM D4814 class A vapor pressure/distillation class ten volume per cent evaporated distillation temperature.

F. Maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in a vehicle emissions control area as defined by section 49-541 with a population of one million two

hundred thousand persons or more according to the most recent United States decennial census shall be 7.0 pounds per square inch from and after May 31, 1995 through September 30, 1995 and from and after May 31 through September 30 of each year thereafter. Fuel used in motor vehicles at a manufacturer's proving ground or a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.

G. Exclusively for the purposes of transportation conformity and only if the administrator of the United States environmental protection agency fails to approve the applicable plan required pursuant to section 49-406, maximum vapor pressure for gasoline that is supplied or sold by any person and that is intended as a final product for the fueling of motor vehicles in area B as defined in section 49-541 shall be ten pounds per square inch from and after September 30, 1999 through March 31, 2000 and from and after September 30 through March 31 of each year thereafter. Fuel used in motor vehicles at a motor vehicle racing event as defined by section 41-2121 is exempt from this subsection.

H. Notwithstanding subsections D, F and G of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures that are submitted by manufacturers or suppliers of gasoline and that the directors determine will result in either of the following:

1. Motor vehicle carbon monoxide emissions that are equal to or less than emissions that result under compliance with subsection D of this section and section 41-2123. In making this determination, the director of the department of weights and measures and the director of the department of environmental quality shall compare the emissions of the alternate fuel control measure with the emissions of a fuel with a maximum vapor pressure standard as prescribed by this section and with the minimum oxygen content or percentage by volume of ethanol as prescribed by section 41-2123.

2. Motor vehicle non-methane hydrocarbon emissions that are equal to or less than the emissions that result under compliance with subsection F of this section. In making this determination, the director of the department of weights and measures and the director of the department of environmental quality shall compare the motor vehicle non-methane hydrocarbon emissions of the alternate fuel control measure with the motor vehicle non-methane hydrocarbon emissions of a fuel that complies with the maximum vapor pressure standard as prescribed by subsection F of this section.

I. Any alternate fuel control measures that are approved shall not increase emissions of non-methane hydrocarbons, particulates, carbon monoxide or oxides of nitrogen. Alternate fuel control measures approved pursuant to subsection H of this section and this subsection may be used by any manufacturer or supplier of gasoline unless the approval is rescinded more than one hundred eighty days

before the first day of a gasoline control period. Manufacturers and suppliers who use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures no later than sixty days before the first day of a gasoline control period.

J. A person shall not sell, offer or expose for sale diesel fuel oil grade 1, 2 or 4 as defined in ASTM D975 that contains sulfur in excess of five hundred parts per million for use in area A as defined in section 49-541.



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**ARTICLE 6. MOTOR FUEL**

*Article 6, consisting of §§ 41-2121 to 41-2126, was added by Laws 1988, Ch. 252, § 13, effective September 30, 1988.*

*The heading of Article 6 was changed from "Oxygenated Fuel" to "Motor Fuel" by Laws 1999, Ch. 295, § 8, eff. August 6, 1999.*

**§ 41-2121. Definitions**

In this article, unless the context otherwise requires:

- ~~1. "Area A" has the same meaning prescribed in § 49-541.~~
- ~~2. "Area B" has the same meaning prescribed in § 49-541.~~
- ~~3. "Area C" means that portion of Pinal county lying west of range 11 east, excluding that portion of the county lying within area A as defined in § 49-541 and that portion of the county within the jurisdiction of any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.~~
- ~~4. "Fleet owner" means a registered owner or lessee of at least twenty five vehicles.~~
5. "Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than five one-hundredths grams of lead for each United States gallon, that is produced, refined, manufactured, blended,

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distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other flammable liquids free from undissolved water, sediment or suspended matter, with or without additives, and that is commonly used as a fuel for spark ignition internal combustion engines. Gasoline does not include diesel fuel or the ethanol blend E85 as defined in ASTM D5798-99.

~~“Manufacturer’s proving ground” means a facility whose sole purpose is to develop complete advanced vehicles for an automotive manufacturer.~~

7. ~~“Motor vehicle racing event” means a race that uses unlicensed vehicles that are designed and manufactured specifically for racing purposes and that is conducted on a public or private racecourse for the entertainment of the general public. A motor vehicle racing event includes practice, qualifying and demonstration laps conducted as part of the activities related to a motor vehicle race.~~

8. ~~“Oxygenate” means any oxygen-containing ashless organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and that is approved as a blending agent under the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code § 7545(f).~~

9. ~~“Oxygenated fuel” means an unleaded motor fuel blend that consists primarily of gasoline and at least one and one-half per cent by weight of one or more oxygenates and that has been blended consistent with the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code § 7545(f).~~

10. ~~“Product transfer document” means any bill of lading, loading ticket, manifest, delivery receipt, invoice or other documentation used on any occasion when a person transfers custody or title of motor fuel other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility.~~

11. ~~“Supplier” means any person who imports gasoline into a vehicle emissions control area by means of a pipeline or in truckload quantities for the person’s own use within the vehicle emissions control area or any person who sells gasoline intended for ultimate consumption within a vehicle emissions control area, except that supplier does not mean a person with respect to gasoline supplied or sold by the person to another for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.~~

12. ~~“Vehicle emissions control area” has the same meaning prescribed in § 49-541, except that such an area does not include a manufacturer’s proving ground that is located in the vehicle emissions control area.~~

Added by Laws 1988, Ch. 252, § 13. Amended by Laws 1989, Ch. 261, § 4; Laws 1990, Ch. 1, § 1, eff. Feb. 22, 1990; Laws 1990, Ch. 363, § 17, eff. Sept. 27, 1990, retroactively effective to April 11, 1990; Laws 1992, Ch. 176, § 12; Laws 1992, Ch. 299, § 4; Laws 1998, Ch. 146, § 19; Laws 1998, Ch. 217, § 10; Laws 1999, Ch. 295, § 9; Laws 2006, Ch. 98, § 2; Laws 2007, Ch. 292, § 11.

Sec. 9. Section 41-2121, Arizona Revised Statutes, is amended to read:  
41-2121. Definitions

In this article, unless the context otherwise requires:

1. "Area A" has the same meaning prescribed in section 49-541.
2. "Area B" ~~means a carbon monoxide vehicle emissions control area in a county with a population in excess of four hundred thousand but fewer than one million two hundred thousand persons~~ HAS THE SAME MEANING PRESCRIBED IN SECTION 49-541.
3. "Fleet owner" means a registered owner or lessee of at least twenty-five vehicles.
4. "Gasoline" means a volatile, highly flammable liquid mixture of hydrocarbons that does not contain more than five one-hundredths grams of lead for each United States gallon, that is produced, refined, manufactured, blended, distilled or compounded from petroleum, natural gas, oil, shale oils or coal and other flammable liquids free from undissolved water, sediment or suspended matter, with or without additives, and that is commonly used as a fuel for spark ignition internal combustion engines. Gasoline does not include diesel fuel.
5. "Manufacturer's proving ground" means a facility whose sole purpose is to develop complete advanced vehicles for an automotive manufacturer.
6. "Motor vehicle racing event" means a race that uses unlicensed vehicles that are designed and manufactured specifically for racing purposes and that is conducted on a public or private racecourse for the entertainment of the general public. A motor vehicle racing event includes practice, qualifying and demonstration laps conducted as part of the activities related to a motor vehicle race.
7. "Oxygenate" means any oxygen-containing ashless, organic compound, including aliphatic alcohols and aliphatic ethers, that may be used as a fuel or as a gasoline blending component and that is approved as a blending agent under the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).
8. "Oxygenated fuel" means an unleaded motor fuel blend that consists primarily of gasoline and at least one and one-half per cent by weight of one or more oxygenates and that has been blended consistent with the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).
9. "Product ~~transport~~ TRANSFER document" means any bill of lading, loading ticket, manifest, delivery receipt, invoice or other documentation used on any occasion when a person transfers custody or title of motor fuel other than when motor fuel is sold or dispensed at a service station or fleet vehicle fueling facility.
10. "Supplier" means any person who imports gasoline into a ~~carbon monoxide~~ vehicle emissions control area by means of a pipeline or in truckload quantities for the person's own use within the vehicle emissions control area or any person who sells gasoline intended for ultimate consumption within a vehicle emissions control area, except that supplier does not mean a person with respect to gasoline supplied or sold by the person to another for resale to a retailer within a vehicle emissions control area or to a fleet owner for consumption within a vehicle emissions control area.
11. "Vehicle emissions control area" has the same meaning prescribed in section 49-541, except that such an area does not include a manufacturer's proving ground that is located in the vehicle emissions control area.

Sec. 27. Section 41-2122, Arizona Revised Statutes, is amended to read:

**41-2122. Standards for oxygenated fuel; volatility exceptions**

A. From and after September 30, 1992 through March 31, 1993, and from and after September 30 through March 31 of each year thereafter, in area A, blends of gasoline with ethanol may exceed the volatility requirements prescribed by section 41-2083 and rules adopted by the director under that section by up to one pound per square inch vapor pressure if the base fuel meets the requirements of ASTM D-4814 and the final gasoline-ethanol blend contains at least ten per cent ethanol by volume but does not exceed United States environmental protection agency waivers. ~~From and after September 30, 1999 through March 31, 2000 and from and after September 30 through March 31 of each year thereafter, in area B, blends of gasoline with ethanol may exceed the volatility requirements prescribed by section 41-2083 and rules adopted by the director under that section by up to one pound per square inch if the base fuel meets the requirements of ASTM D4814 and the final gasoline-ethanol blend contains at least six per cent ethanol by volume but does not exceed United States environmental protection agency waivers.~~ For any other locations and period of time, blends of gasoline with ethanol shall meet the volatility requirements as determined by department rule.

B. Notwithstanding subsection A of this section, if the administrator of the United States environmental protection agency finds that additional control measures are necessary for attainment in area A or if the administrator of the United States environmental protection agency finds that area A has failed to demonstrate reasonable further progress, or has failed to attain the national ambient air quality standard for carbon monoxide by the applicable attainment date, from and after September 30 of that year through March 31 of the following year and for each oxygenate period thereafter in area A, blends of gasoline with ethanol may not exceed the volatility requirements prescribed by section 41-2083 and rules adopted by the director. The director of the department of weights and measures in consultation with the director of the department of environmental quality shall give all manufacturers and suppliers of gasoline notice of any change in volatility requirements required by this subsection.

C. Notwithstanding subsections B ~~and E~~ of this section, the director of the department of weights and measures in consultation with the director of the department of environmental quality shall approve alternate fuel control measures submitted by manufacturers or suppliers of gasoline which the directors determine will result in motor vehicle carbon monoxide emission reductions which will equal or exceed the reductions which result under subsection B ~~or E~~ of this section. In making such determinations, the directors shall compare the alternative measure against the emission reduction which would be obtained from a fuel with the maximum vapor pressure standard prescribed by subsection B ~~or E~~ of this

section and the minimum oxygen standard prescribed by section 41-2123 or 41-2125. Alternative fuel control measures approved by the director of the department of weights and measures in consultation with the director of the department of environmental quality may be used by any manufacturer or supplier of gasoline unless the approval is rescinded by the director of the department of weights and measures at least one hundred eighty days before the beginning of any oxygenate period in the future. Manufacturers and suppliers who choose to use an approved alternate fuel control measure shall annually submit a compliance plan to the director of the department of weights and measures not later than sixty days prior to the start of the oxygenate period.

D. From and after September 30, 1992 through March 31, 1993 and from and after September 30 through March 31 of each year thereafter, all blends of leaded or unleaded gasoline with alcohol other than ethanol shall satisfy all of the requirements prescribed by section 41-2083 and rules adopted by the director under that section and the provisions of a waiver issued by the United States environmental protection agency pursuant to 42 United States Code section 7545(f).

E. Notwithstanding subsection A of this section, if the director of the department of environmental quality has previously raised the minimum oxygen content to the maximum percentage of oxygen allowed for each oxygenate as provided by section 41-2125, the designated air quality planning agency for area B has considered, analyzed and reviewed the costs and benefits of all other reasonable and available control measures in lieu of reducing volatility requirements to nine pounds per square inch and the director of the department of environmental quality finds that area B has failed to maintain the carbon monoxide national ambient air quality standards by violating the standard, beginning with the oxygenate period beginning on the following September 30 and for each oxygenate period thereafter in area B, the volatility requirements described by section 41-2083, subsection G may be reduced to nine pounds per square inch. If a violation of the carbon monoxide national ambient air quality standards is recorded after the volatility requirements have been reduced to nine pounds per square inch, the director of the department of environmental quality shall remove the one pound per square inch waiver for gasoline-ethanol blends.

Sec. 28. Section 41-2125, Arizona Revised Statutes, is amended to read:

**41-2125. Area B; sale of gasoline; oxygen content**

A. From and after September 30, 1990 through March 31, 1991 and from and after September 30 through March 31 of each year thereafter, all leaded or unleaded gasoline which is supplied or sold by any person and which is intended as a final product for the fueling of motor vehicles within area B or which is consumed in a motor vehicle within area B by a fleet owner shall contain not less than 1.8 per cent by weight of oxygen nor more than 3.7 per cent by weight of oxygen.

B. Notwithstanding subsection A of this section, at any time earlier than sixty days before September 30 of each year, the designated air quality planning agency for area B with the concurrence of the director of the department of environmental quality may give notice, pursuant to the applicable plan required under section 49-406 for the Tucson air planning area, to the director of the department of weights and measures that the minimum oxygen content for the ensuing oxygenate seasons will be increased not less than .3 per cent by weight of oxygen and not more than the maximum percentage of oxygen allowed for oxygenates by provisions of a waiver issued or other limits established by the United States environmental protection agency. Before making a determination to increase the minimum oxygen content pursuant to this subsection, the designated air quality planning agency for area B shall consider and conduct a cost-benefit analysis on all reasonable carbon monoxide emission reduction measures that could be implemented in lieu of increasing the minimum oxygen content.

## ARIZONA REVISED STATUTES LISTED IN TABLE 1-1

### 41-2131. Definitions

4. "Stage I vapor recovery system" means a combination of pipes and hoses that creates a closed system between the vapor spaces of an unloading gasoline cargo tank and a receiving storage tank so that vapors displaced from the storage tank are transferred to the gasoline cargo tank being unloaded.

5. "Stage II vapor recovery system" means a system where at least ninety per cent by weight of the gasoline vapors that are displaced or drawn from a vehicle fuel tank during refueling are transferred to a vapor-tight holding system or vapor control system.

### 41-2132. Stage I vapor recovery systems

A. A person shall not offer for sale, sell, install or use a new gasoline stage I vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or has been approved by a third party accredited to test equipment and recognized by industry and the department, and has not been rejected by the department. The department shall maintain and keep current a list of stage I vapor recovery systems and component parts that are approved by the department. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or rebuilder.

B. For gasoline dispensing sites with a throughput of over ten thousand gallons per month in area A or area B as defined in section 49-541, a person shall not transfer or allow the transfer of gasoline into storage tanks at gasoline dispensing sites unless the storage tank is equipped with a stage I vapor recovery system consisting of a vapor-tight return line from the storage tank or its vent to the gasoline transport vehicle.

C. An owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site subject to stage I vapor recovery requirements shall comply with the following:

1. Install all necessary stage I vapor recovery systems and make any modifications necessary to comply with the requirements.

2. Provide adequate training and written instructions to the operator of the affected gasoline dispensing site and the gasoline transport vehicle.

3. Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage I vapor recovery systems.

4. Connect and ensure proper operation of the stage I vapor recovery systems whenever gasoline is being loaded, unloaded or dispensed.

5. In area A and other geographical areas as provided by subsection G of this section, have the stage I vapor recovery system tested annually by a registered service representative licensed by the department.

D. Before the initial installation or modification of any stage I vapor recovery system, the owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the department.

Application for the plan review and approval shall be on forms prescribed and provided by the department.

E. The department of weights and measures in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage I vapor recovery systems. The department of weights and measures shall establish by rule plan review and approval fees. In establishing those rules and standards, the director shall consider requirements in other states to ensure that only state of the art technology is used.

F. Approval of a stage I vapor recovery system by the department does not relieve the owner or operator of the responsibility to comply with other applicable statutes, codes and rules pertaining to fire prevention, environmental quality and safety matters.

41-2133. Compliance schedules

Notwithstanding section 41-2132, subsection I relating to schedules of compliance:

1. Gasoline dispensing facilities located in area A or in any other geographical area as provided in section 41-2132, subsection G for which construction began after the certification of rules adopted pursuant to section 41-2132 shall be constructed to include stage I vapor recovery systems that meet the minimum standards set forth in this chapter and department rules.

2. All gasoline dispensing sites located in area A or in any other geographical area as provided in section 41-2132, subsection G that begin underground storage tank replacement and that apply for a permit pursuant to title 49, chapter 3, article 3 or 5 on or after September 30, 1992 shall be in compliance within six months after the effective date of the rules adopted pursuant to section 41-2132. Compliance with this article is a condition of the permit.

41-2135. Stage II vapor recovery systems

A. A person shall not offer for sale, sell, install or use a new gasoline vapor recovery system, or any new or rebuilt component parts of the system, unless the system or component part has been certified by the California air resources board as of March 31, 2001 or after that date, or has been approved by a third party accredited to test equipment and recognized by industry and the department, and has not been rejected by the department. The department shall maintain and keep current a list of stage II vapor recovery systems and component parts that are approved by the department. Only those systems that are approved shall be used in this state. All certified vapor recovery components must be clearly identified by a permanent identification affixed by the certified manufacturer or rebuilder.

B. In an ozone nonattainment area designated as moderate, serious, severe or extreme by the United States environmental protection agency under section 107(d) of the clean air act or area A, an owner or operator of a gasoline dispensing site shall not transfer or allow the transfer of gasoline into a motor vehicle fuel tank at a gasoline dispensing site unless the gasoline dispensing site is equipped with a stage II vapor recovery system, unless the stage II equipment has been decommissioned in accordance with the procedures established pursuant to subsection H of this section. This subsection does not apply to gasoline dispensing sites with a throughput of less than ten thousand gallons per month, or to a gasoline dispensing site with a throughput of less than fifty thousand gallons per month in the case of an independent small business marketer of gasoline as defined



in section 324 of the clean air act or to a gasoline dispensing site that is located on a manufacturer's proving ground. This subsection applies to gasoline dispensing sites that are located within area A but outside the Phoenix area Maricopa county ozone nonattainment area as defined in 40 Code of Federal Regulations section 81.303.

C. An owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site subject to stage II vapor recovery requirements shall comply with the following:

1. Install all necessary stage II vapor recovery systems and make any modifications necessary to comply with the requirements.

2. Provide adequate training and written instructions to the operator of the affected gasoline dispensing site and the gasoline transport vehicle.

3. Replace, repair or modify any worn or ineffective component or design element to ensure the vapor-tight integrity and efficiency of the stage II vapor recovery systems.

4. Connect and ensure proper operation of the stage II vapor recovery systems whenever gasoline is being loaded, unloaded or dispensed.

5. Have the stage II vapor recovery system tested annually by a registered service representative licensed by the department.

D. Before the modification of any stage II vapor recovery system, the owner or operator of a gasoline storage tank, gasoline transport vehicle or gasoline dispensing site shall obtain a plan review and approval from the department. The department shall prescribe forms for the application for the plan review and approval.

E. The operator of each gasoline dispensing site using a stage II vapor recovery system shall conspicuously post operating instructions for the system in the gasoline or oxygenated fuel dispensing area. The instructions shall clearly describe how to fuel vehicles correctly with the vapor recovery nozzles used at the station and shall include a warning that topping off may result in spillage or recirculation of gasoline or oxygenated fuel and is prohibited.

F. The department of weights and measures in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for the installation and operation of stage II vapor recovery systems. The department of weights and measures shall establish by rule plan review and approval fees. In establishing those rules and standards, the director shall consider requirements in other states to ensure that only state of the art technology is used.

G. Approval of a stage II vapor recovery system by the department does not relieve the owner or operator of the responsibility to comply with other applicable statutes, codes and rules pertaining to fire prevention, environmental quality and safety matters.

H. The department of weights and measures in consultation with the department of environmental quality and the state fire marshal shall establish by rule standards for decommissioning stage II vapor recovery systems on or after October 1, 2016 but not later than September 30, 2018, or such dates as approved by the United States environmental protection agency in the state implementation plan revision for the removal of stage II vapor recovery systems submitted under section 110(l) of the clean air act, whichever is later. The rules must require removal of stage II vapor recovery systems no later than September 30, 2018, or the final removal date approved by the United States environmental protection agency in the state implementation plan revision for the removal

of stage II vapor recovery systems submitted under section 110(l) of the clean air act, whichever is later. The department shall prescribe forms for the application for the plan review and approval. The department shall establish by rule plan review and approval fees.

I. All stage II vapor recovery systems and testing must remain in place until such systems are decommissioned pursuant to subsection H of this section.

J. The requirements prescribed for stage II vapor recovery systems pursuant to subsections A through E of this section do not apply to a retail station if the construction begins after the effective date of this section.

K. The requirements for stage II vapor recovery systems prescribed in subsections A through E of this section do not apply to an owner or operator who has decommissioned stage II vapor recovery equipment in accordance with the standards established by the department pursuant to subsection H of this section.

**Library References**

Environmental Law ☞15.  
Westlaw Topic No. 149E.  
States ☞73.

Westlaw Topic No. 360.  
C.J.S. States §§ 130 to 140.

**United States Supreme Court**

Environmental reports, Emergency Planning and Community Right-To-Know Act, Article III jurisdiction, redressibility requirement for

standing, see *Steel Co. v. Citizens for a Better Environment*, U.S. Ill. 1998, 118 S.Ct. 1003.

**Notes of Decisions**

**Delegation of duties 1**

**1. Delegation of duties**

Because Arizona Department of Environmental Quality may only delegate official functions

and duties to other governmental units pursuant to statute, the ADEQ does not have the authority to contract with a private fire fighting agency for administering the "open burning" permit program to private parties. Op.Atty.Gen. No. 195-17.

**§ 49-105. Repealed by Laws 2003, Ch. 104, § 38**

**Historical and Statutory Notes**

The repealed section, which related to annual reports on violations and enforcement, was added by Laws 1986, Ch. 368, § 34, and amended

by Laws 1994, Ch. 95, § 2; Laws 1997, Ch. 130, § 11; Laws 1999, Ch. 295, Ch. 295, § 26.

**§ 49-106. Statewide application of rules**

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.

Added by Laws 1987, Ch. 317, § 15, eff. Aug. 18, 1987, retroactively effective to July 1, 1987.

**Historical and Statutory Notes**

For applicable retroactive effective date provision of Laws 1987, Ch. 317, see Historical and Statutory Notes preceding § 49-141.

**Library References**

Environmental Law ☞16.  
Westlaw Topic No. 149E.

**§ 49-107. Local delegation of state authority**

A. The director may delegate to a local environmental agency, county health department, public health services district or municipality any functions, powers or duties which the director believes can be competently, efficiently and



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0 to 140.

Co. v. Citizens for a Better  
1998, 118 S.Ct. 1003.

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does not have the authority  
private fire fighting agency  
he "open burning" permit  
parties. Op.Atty.Gen. No.

5, § 2; Laws 1997, Ch. 130,  
h. 295, Ch. 295, § 26.

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properly performed by the local agency if the local agency accepts the delega-  
tion and agrees to perform the delegated functions, powers and duties accord-  
ing to the standards of performance required by law and prescribed by the  
director.

**B.** Monies appropriated or otherwise made available to the department for  
distribution to local agencies may be allocated or reallocated in a manner  
designed to assure that the recognized local activities and the delegated  
functions, powers and duties are accomplished according to the applicable  
standards of performance.

**C.** The director may terminate, for cause, all or part of the delegation and  
reallocate all or part of any monies that may have been conditioned on the  
further performance of the delegated functions, powers and duties.

Added by Laws 1987, Ch. 317, § 15, eff. Aug. 18, 1987, retroactively effective to July 1,  
1987. Amended by Laws 2000, Ch. 11, § 20.

**Historical and Statutory Notes**

For applicable retroactive effective date provi-  
sion of Laws 1987, Ch. 317, see Historical and  
Statutory Notes preceding § 49-141.

For applicable retroactive application provi-  
sion of Laws 2000, Ch. 11, see note preceding  
§ 48-5801.

**Administrative Code References**

Department of Environmental Quality, see A.A.C. R18-1-502.  
4.01 General permit, sewage collection systems, see A.A.C. R18-9-B301.  
Private Sewage Disposal Systems, see A.A.C. R4-48-127.  
Type 1 general permit, see A.A.C. R18-9-B301.

**Law Review and Journal Commentaries**

Enforcement of environmental laws in Ari-  
zona. James D. Viereg, 26 Ariz.Att'y 17 (April  
1990).

**Library References**

Environmental Law ¶2.  
Westlaw Topic No. 149E.

~~§ 49-108. Hazardous materials emergency response operations~~

~~The director of environmental quality shall establish a hazardous materials  
emergency response and recovery organizational unit in the department to  
function as the scientific support, health, safety and environmental element of  
the hazardous materials emergency management program pursuant to § 26-  
305.02.~~

~~Added by Laws 1988, Ch. 292, § 5, eff. July 8, 1988.~~

~~Historical and Statutory Notes~~

~~Source:~~

~~A.R.S. former § 36-1681.  
Laws 1986, Ch. 340, § 5.~~

Sec. 40. Section 49-401.01, Arizona Revised Statutes, is amended to

49-401.01. Definitions

In this chapter, unless the context otherwise requires:

1. "Administrator" means the administrator of the United States environmental protection agency.

2. "Adverse effects to human health" means those effects that result in or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, including adverse effects that are known to be or may reasonably be anticipated to be caused by substances that are acutely toxic, chronically toxic, carcinogenic, mutagenic, teratogenic, neurotoxic or causative of reproductive dysfunction.

3. "Adverse environmental effect" means any significant and widespread adverse effect which may reasonably be anticipated on wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

4. "Attainment area" means any area in this state that has been identified in regulations promulgated by the administrator as being in compliance with national ambient air quality standards.

5. "Begin actual construction" means initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. For purposes of title I, parts C and D and section 112 of the clean air act, these activities include installation of building supports and foundations, laying of underground pipework and construction of permanent storage structures. For purposes other than title I, parts C and D and section 112 of the clean air act, these activities do not include installation of building supports and foundations, laying of underground pipework and construction of permanent storage structures.

6. "Building", "structure", "facility" or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group which has the same two digit code, as described in the standard industrial classification manual, 1972, as amended by the 1977 supplement.

7. "Clean air act" means the clean air act of 1963 (P.L. 88-206; 42 United States Code sections 7401 through 7671) as amended by the clean air act amendments of 1990 (P.L. 101-549).

8. "Commence" means, as applied to construction of a source:

(a) For purposes other than title IV of the clean air act, that the owner or operator has obtained all necessary preconstruction approval or permits required by federal law and this chapter and has done either of the following:

(i) Begun or caused to begin a continuous program of physical on-site construction of the source to be completed within a reasonable time.



(ii) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the source to be completed within a reasonable time.

(b) For purposes of title IV of the clean air act, that the owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete within a reasonable time a continuous program of construction.

9. "Construction" means any physical change in a source or change in the method of operation of a source including fabrication, erection, installation or demolition of a source that would result in a change in actual emissions.

10. "Conventional air pollutant" means any pollutant for which the administrator has promulgated a primary or secondary national ambient air quality standard.

11. "Federally listed hazardous air pollutant" means any air pollutant adopted pursuant to section 49-426.03, subsection A and not deleted pursuant to that subsection.

12. "Hazardous air pollutant" means any federally listed hazardous air pollutant and any air pollutant that the director has designated as a hazardous air pollutant pursuant to section 49-426.04, subsection A and has not deleted pursuant to section 49-426.04, subsection B.

13. "Hazardous air pollutant reasonably available control technology" means an emissions standard for hazardous air pollutants which the director, acting pursuant to section 49-426.06, subsection C, or the control officer, acting pursuant to section 49-480.04, subsection C, determines is reasonably available for a source. In making the foregoing determination the director or control officer shall take into consideration the estimated actual air quality impact of the standard, the cost of complying with the standard, the demonstrated reliability and widespread use of the technology required to meet the standard and any non-air quality health and environmental impacts and energy requirements. For purposes of this definition an emissions standard may be expressed as a numeric emissions limitation or as a design, equipment, work practice or operational standard.

14. "Maintenance area" means any nonattainment area that has been redesignated by the administrator to attainment status.

15. "Major source" means a stationary source or a group of stationary sources that is located within a contiguous area, that is under common control and that is defined as a major source in section 501(2) of the clean air act or that is a major emitting facility as defined in title 1, part C of the clean air act or that is defined in department rules as a major source consistent with the clean air act.

16. "Maximum achievable control technology" means an emission standard that requires the maximum degree of reduction in emissions of the hazardous

air pollutants subject to this chapter, including a prohibition on such emissions where achievable, and that the director, after considering the cost of achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements, determines to be achievable by an affected source to which such standard applies, through application of measures, processes, methods, systems or techniques including measures which:

- (a) Reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications.
- (b) Enclose systems or processes to eliminate emissions.
- (c) Collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point.
- (d) Are design, equipment, work practice, or operational standards, including requirements for operator training or certification.
- (e) Are a combination of the above.

17. "Minor source" means any stationary or portable source that is not a major source.

18. "Mobile source" means any combustion engine, device, machine or equipment that operates during transport and that emits or generates air contaminants whether in motion or at rest.

19. "Modification" or "modify" means a physical change in or change in the method of operation of a source which increases the actual emissions of any regulated air pollutant emitted by such source by more than any relevant de minimis amount or which results in the emission of any regulated air pollutant not previously emitted by more than such de minimis amount.

20. "National ambient air quality standard" means the ambient air pollutant concentration limits established by the administrator pursuant to 42 United States Code section 7409.

21. "Nonattainment area" means any area in this state that is designated as prescribed by section 49-405 and where violations of national ambient air quality standards have been measured.

22. "Nonattainment area plan" means an air pollution control plan developed in accordance with 42 United States Code sections 7501 through 7515.

23. "Permitting authority" means the department or a county department or agency that is charged with enforcing a permit program adopted pursuant to section 49-480, subsection A.

24. "Planning agency" means the AN organization designated by the governor pursuant to 42 United States Code section 7504 ~~as having the authority and responsibility of preparing nonattainment area plans.~~

25. "Portable source" means any stationary source that is capable of being transported and operated in more than one county of this state.

26. "Potential to emit" means,—:

- (a) For purposes of section 112 of the clean air act, the maximum capacity of a stationary source to emit a pollutant, excluding secondary

emissions, taking into account controls that are enforceable under any federal law or regulation or that are inherent in the design of the source.

(b) For purposes other than section 112 of the clean air act, ~~"potential to emit"~~ means the maximum capacity of a stationary source to emit a pollutant, excluding secondary emissions, taking into account controls that are enforceable under any federal, state or local law, rule or regulation or that are inherent in the design of the source.

27. "Primary standard attainment date" means the date defined within a nonattainment area plan in accordance with 42 United States Code sections 7401 through 7515 OR APPLICABLE REGULATIONS ADOPTED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY BY JANUARY 1, 1999 and after which date primary national ambient air quality standards may not be violated.

28. "Reasonable further progress" means the schedule of emission reductions defined within a nonattainment area plan as being necessary to come into compliance with a national ambient air quality standard by the primary standard attainment date.

29. "Source" means any building, structure, facility or installation that may cause or contribute to air pollution or the use of which may eliminate, reduce or control the emission of air pollution.

30. "State implementation plan" means the accumulated record of enforceable air pollution control measures, programs and plans adopted by the director and submitted to the administrator pursuant to 42 United States Code section 7410.

31. "Stationary source" means any facility, building, equipment, device or machine that operates at a fixed location and that emits or generates air contaminants.

32. "Unclassifiable area" means all areas of this state for which inadequate ambient air quality data exist to determine compliance with the national ambient air quality standards.



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ARIZONA  
REVISED STATUTES

ANNOTATED

2001  
**Cumulative Pocket Part**

*For Use In 2001-2002*

Replacing 2000 Pocket Part supplementing 1997 main volume

**Volume 15C**

Title 49  
§§ 49-401 to 49-End

Including Legislation Enacted Through  
The First Regular and The First Special Sessions  
Of The Forty-Fifth Legislature (2001)



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"D. The contractor shall report to the director of environmental quality at least every six months in research results pursuant to a work plan approved by the director. The director of environmental quality shall submit those reports to the governor, the speaker of the house of representatives, the president of the senate, the joint legislative budget committee and the vehicle emissions identification, testing and repair research study oversight committee. By June 30, 2002, the director of environmental quality shall submit a preliminary progress report of the research study, including major findings and conclusions, to the governor, the speaker of the house of representatives, the president of the senate, the joint legislative budget committee and the vehicle emissions identification, testing and repair research study oversight committee.

"E. The director of environmental quality and the contractor shall report to the vehicle emissions identification, testing and repair research study oversight committee as requested by the committee.

"F. The research study shall be concluded not later than June 30, 2005, by which time the contractor shall submit a final report of its findings to the director of environmental quality. The director of environmental quality shall review the final report, prepare recommendations based on the report and submit the final report and recommendations to the governor, the speaker of the house of representatives, the president of the senate, the joint legislative budget committee and the

vehicle emissions identification, testing and repair research study oversight committee by September 30, 2005, after the opportunity for a thirty-day public review and comment period.

"Sec. 11. Vehicle emissions identification, testing and repair research study oversight committee

"A. The vehicle emissions identification, testing and repair research study oversight committee is established consisting of the following members:

"1. Three members of the senate appointed by the president of the senate, not more than two of whom shall be from the same political party.

"2. Three members of the house of representatives appointed by the speaker of the house of representatives, not more than two of whom shall be from the same political party.

"B. The oversight committee shall meet to review the progress of the vehicle emissions identification, testing and repair research project established pursuant to this act. The department of environmental quality and the contractor hired to conduct the research project shall report to the oversight committee at the committee's request on the status of the project.

"Sec. 12. Delayed repeal

"Sections 10 and 11 of this act relating to the vehicle emissions identification, testing and repair research study and oversight committee, are repealed from and after December 31, 2005."

#### 49-541. Definitions

In this article, unless the context otherwise requires:

1. "Area A" means the area delineated as follows:

(a) In Maricopa county:

Township 8 north, range 2 east and range 3 east

Township 7 north, range 2 west through range 5 east

Township 6 north, range 5 west through range 6 east

Township 5 north, range 5 west through range 7 east

Township 4 north, range 5 west through range 8 east

Township 3 north, range 5 west through range 8 east

Township 2 north, range 5 west through range 8 east

Township 1 north, range 5 west through range 7 east

Township 1 south, range 5 west through range 7 east

Township 2 south, range 5 west through range 7 east

Township 3 south, range 5 west through range 1 east

Township 4 south, range 5 west through range 1 east

(b) In Pinal county:

Township 1 north, range 8 east and range 9 east

Township 1 south, range 8 east and range 9 east

Township 2 south, range 8 east and range 9 east

Township 3 south, range 7 east through range 9 east

(c) In Yavapai county:

Township 7 north, range 1 east and range 1 west through range 2 west

Township 6 north, range 1 east and range 1 west

~~2. "Area B" means the area delineated in Pima county as township 11 and 12 south, range 12 through 14 east; township 13 through 15 south, range 11 through 16 east; township 16 south, range 12 through 16 east, excluding any portion of the Coronado national forest and the Saguaro national park.~~

3. "Certificate of inspection" means a serially numbered device or symbol, as may be prescribed by the director, indicating that a vehicle has been inspected pursuant to the provisions of § 49-546 and has passed inspection.

4. "Certificate of waiver" means a serially numbered device or symbol, as may be prescribed by the director, indicating that the requirement of passing reinspection has been waived for a vehicle pursuant to the provisions of this article.

5. "Conditioning mode" means either a fast idle test condition or a loaded test condition.

6. "Curb idle test condition" means an exhaust emissions test conducted with the engine of a vehicle running at the manufacturer's specified idle speed plus or minus one hundred revolutions per minute but without pressure exerted on the accelerator.

7. "Emissions inspection station permit" means a certificate issued by the director authorizing the holder to perform vehicular inspections pursuant to this article.

8. "Fast idle test condition" means an exhaust emissions test conducted with the engine of the vehicle running under an accelerated condition to an extent prescribed by the director.

9. "Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the director.

10. "Golf cart" means a motor vehicle which has not less than three wheels in contact with the ground, has an unladen weight of less than thirteen hundred pounds, is designed to be and is operated at not more than fifteen miles an hour and is designed to carry golf equipment and persons.

11. "Gross weight" has the same meaning prescribed in § 28-5431.

12. "Independent contractor" means any person, business, firm, partnership or corporation with which the director may enter into an agreement providing for the construction, equipment, maintenance, personnel, management and operation of official emissions inspection stations pursuant to § 49-545.

13. "Loaded test condition" means an exhaust emissions test conducted at cruise or transient conditions as prescribed by the director.

14. "Official emissions inspection station" means an inspection facility, other than a fleet emissions inspection station, whether placed in a permanent structure or in a mobile unit for conveyance among various locations within this state, for the purpose of conducting emissions inspections of all vehicles required to be inspected pursuant to this article.

15. "Tampering" means removing, defeating or altering an emissions control device which was installed at the time a vehicle was manufactured.

16. "Vehicle" means any automobile, truck, truck tractor, motor bus or self-propelled or motor-driven vehicle registered or to be registered in this state and used upon the public highways of this state for the purpose of transporting persons or property, except implements of husbandry, road rollers or road machinery temporarily operated upon the highway.

~~17. "Vehicle emissions control area" means area A or area B.~~

Amended by Laws 1997, Ch. 1, § 495, eff. Oct. 1, 1997; Laws 1998, Ch. 217, § 21; Laws 1999, Ch. 295, § 44; Laws 2001, Ch. 371, § 8.

Sec. 43. Section 49-454, Arizona Revised Statutes, is amended to read:  
49-454. Adjusted work hours

A. A business which has five hundred or more employees at one site in ~~a nonattainment~~ area A OR AREA B as defined in section 49-541 shall submit a schedule prior to October 1 of each year to the director which shows an adjusted work hour proposal that will reduce the level of carbon monoxide concentrations caused by vehicular travel.

B. A business which has one hundred or more employees at one site working in ~~a nonattainment~~ area A OR AREA B as defined in section 49-541 may implement an adjusted work hour schedule in order to reduce the level of carbon monoxide concentrations caused by vehicular travel.

C. The director shall transmit the reports received pursuant to subsection A of this section to the ADVISORY committee on air quality compliance on or before December 1 of each year.



1 issue a written finding to the person and shall provide an opportunity to  
2 confer. If the director subsequently determines that the failure has not  
3 been corrected, the attorney general, at the request of the director, shall  
4 file an action in superior court for a preliminary injunction, a permanent  
5 injunction, or any other relief provided by law.

6 K. Notwithstanding subsections A and B of this section, in any  
7 metropolitan area with a metropolitan statistical area population of less  
8 than two hundred fifty thousand persons, the governor shall designate an  
9 agency that meets the criteria of section 174 of the clean air act and that  
10 is recommended by the city that causes the metropolitan area to exist and the  
11 affected county. That agency shall prepare and adopt the nonattainment OR  
12 MAINTENANCE area plan. If the governor does not designate an agency, the  
13 department shall be certified as the agency responsible for the development  
14 of a nonattainment OR MAINTENANCE area plan for that area.

15 Sec. 16. Title 49, chapter 3, article 2, Arizona Revised Statutes, is  
16 amended by adding section 49-457, to read:

17 49-457. Agricultural best management practices committee;  
18 members; powers; permits; definitions

19 A. A BEST MANAGEMENT PRACTICES COMMITTEE FOR REGULATED AGRICULTURAL  
20 ACTIVITIES IS ESTABLISHED.

21 B. THE COMMITTEE SHALL CONSIST OF:

- 22 1. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE.
- 23 2. THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR THE DIRECTOR'S  
24 DESIGNEE.
- 25 3. THE DEAN OF THE COLLEGE OF AGRICULTURE OF THE UNIVERSITY OF ARIZONA  
26 OR THE DEAN'S DESIGNEE.
- 27 4. THE STATE DIRECTOR OF THE UNITED STATES NATURAL RESOURCES  
28 CONSERVATION SERVICE OR THE DIRECTOR'S DESIGNEE.
- 29 5. ONE PERSON ACTIVELY ENGAGED IN THE PRODUCTION OF CITRUS.
- 30 6. ONE PERSON ACTIVELY ENGAGED IN THE PRODUCTION OF VEGETABLES.
- 31 7. ONE PERSON ACTIVELY ENGAGED IN THE PRODUCTION OF COTTON.
- 32 8. ONE PERSON ACTIVELY ENGAGED IN THE PRODUCTION OF ALFALFA.
- 33 9. ONE PERSON ACTIVELY ENGAGED IN THE PRODUCTION OF GRAIN.
- 34 10. ONE SOIL TAXONOMIST FROM THE UNIVERSITY OF ARIZONA COLLEGE OF  
35 AGRICULTURE.

36 C. THE GOVERNOR SHALL APPOINT THE MEMBERS DESIGNATED PURSUANT TO  
37 SUBSECTION A, PARAGRAPHS 5 THROUGH 10 OF THIS SECTION FOR A TERM OF SIX  
38 YEARS. MEMBERS MAY BE REAPPOINTED. MEMBERS ARE NOT ENTITLED TO COMPENSATION  
39 FOR THEIR SERVICES BUT ARE ENTITLED TO RECEIVE REIMBURSEMENT OF EXPENSES  
40 PURSUANT TO SECTION 38-611, SUBSECTION D.

41 D. THE COMMITTEE SHALL ELECT A CHAIRMAN FROM THE APPOINTED MEMBERS TO  
42 SERVE A TWO YEAR TERM.

43 E. THE COMMITTEE SHALL MEET AT THE CALL OF THE CHAIRMAN OR AT THE  
44 REQUEST OF A MAJORITY OF THE APPOINTED MEMBERS.

1 F. THE DEPARTMENT OF ENVIRONMENTAL QUALITY, THE DEPARTMENT OF  
2 AGRICULTURE AND THE COLLEGE OF AGRICULTURE OF THE UNIVERSITY OF ARIZONA SHALL  
3 COOPERATE WITH AND PROVIDE TECHNICAL ASSISTANCE AND ANY NECESSARY INFORMATION  
4 TO THE COMMITTEE. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL PROVIDE THE  
5 NECESSARY STAFF SUPPORT AND MEETING FACILITIES FOR THE COMMITTEE.

6 G. NOTWITHSTANDING SUBSECTIONS I, J AND K OF THIS SECTION, A PERSON  
7 ENGAGED IN A REGULATED AGRICULTURAL ACTIVITY ON THE EFFECTIVE DATE OF THIS  
8 ACT SHALL COMPLY WITH THE GENERAL PERMIT AS PROVIDED IN SUBSECTION H OF THIS  
9 SECTION BY DECEMBER 31, 2001. A PERSON WHO COMMENCES A REGULATED  
10 AGRICULTURAL ACTIVITY AFTER DECEMBER 31, 2000, SHALL COMPLY WITH THE GENERAL  
11 PERMIT WITHIN EIGHTEEN MONTHS OF COMMENCING THE ACTIVITY.

12 H. BY JUNE 10, 2000, THE COMMITTEE SHALL ADOPT, BY RULE, AN  
13 AGRICULTURAL GENERAL PERMIT SPECIFYING BEST MANAGEMENT PRACTICES FOR  
14 REGULATED AGRICULTURAL ACTIVITIES TO REDUCE PM-10 PARTICULATE EMISSIONS. A  
15 PERSON SUBJECT TO AN AGRICULTURAL GENERAL PERMIT PURSUANT TO THIS SECTION IS  
16 NOT SUBJECT TO A PERMIT ISSUED PURSUANT TO SECTION 49-426 EXCEPT AS PROVIDED  
17 IN SUBSECTION K OF THIS SECTION. THE COMMITTEE SHALL ADOPT BY RULE A LIST  
18 OF BEST MANAGEMENT PRACTICES, AT LEAST ONE OF WHICH SHALL BE USED TO  
19 DEMONSTRATE COMPLIANCE WITH APPLICABLE PROVISIONS OF THE GENERAL PERMIT NO  
20 LATER THAN DECEMBER 31, 2001. BEST MANAGEMENT PRACTICES MAY VARY WITHIN THE  
21 MARICOPA PM-10 PARTICULATE NONATTAINMENT AREA ACCORDING TO REGIONAL OR  
22 GEOGRAPHICAL CONDITIONS OR CROPPING PATTERNS. THE DIRECTOR SHALL SUBMIT THE  
23 RULE TO THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A REVISION TO  
24 THE APPLICABLE IMPLEMENTATION PLAN WITHIN SIXTY DAYS OF ADOPTION.

25 I. IF THE DIRECTOR DETERMINES THAT A PERSON ENGAGED IN A REGULATED  
26 ACTIVITY IS NOT IN COMPLIANCE WITH THE GENERAL PERMIT, AND THAT PERSON HAS  
27 NOT PREVIOUSLY BEEN SUBJECT TO A COMPLIANCE ORDER ISSUED PURSUANT TO THIS  
28 SECTION, THE DIRECTOR MAY SERVE UPON THE PERSON BY CERTIFIED MAIL AN ORDER  
29 REQUIRING COMPLIANCE WITH THE GENERAL PERMIT AND NOTIFYING THE PERSON OF THE  
30 OPPORTUNITY FOR A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE  
31 ORDER SHALL STATE WITH REASONABLE PARTICULARITY THE NATURE OF THE  
32 NONCOMPLIANCE AND SHALL SPECIFY THAT THE PERSON HAS A PERIOD THAT THE  
33 DIRECTOR DETERMINES IS REASONABLE, BUT IS NOT LESS THAN SIX MONTHS, TO SUBMIT  
34 A PLAN TO THE SUPERVISORS OF THE NATURAL RESOURCE CONSERVATION DISTRICT IN  
35 WHICH THE PERSON ENGAGES IN THE REGULATED ACTIVITY THAT SPECIFIES THE BEST  
36 MANAGEMENT PRACTICES FROM AMONG THOSE ADOPTED IN RULE PURSUANT TO SUBSECTION  
37 H OF THIS SECTION THAT THE PERSON WILL USE TO COMPLY WITH THE GENERAL PERMIT.

38 J. IF THE DIRECTOR DETERMINES THAT A PERSON ENGAGED IN A REGULATED  
39 ACTIVITY IS NOT IN COMPLIANCE WITH THE GENERAL PERMIT, AND THAT PERSON HAS  
40 PREVIOUSLY SUBMITTED A PLAN PURSUANT TO SUBSECTION I OF THIS SECTION, THE  
41 DIRECTOR MAY SERVE UPON THE PERSON BY CERTIFIED MAIL AN ORDER REQUIRING  
42 COMPLIANCE WITH THE GENERAL PERMIT AND NOTIFYING THE PERSON OF THE  
43 OPPORTUNITY FOR A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. THE  
44 ORDER SHALL STATE WITH REASONABLE PARTICULARITY THE NATURE OF THE

1 NONCOMPLIANCE AND SHALL SPECIFY THAT THE PERSON HAS A PERIOD THAT THE  
2 DIRECTOR DETERMINES IS REASONABLE, BUT IS NOT LESS THAN SIX MONTHS, TO SUBMIT  
3 A PLAN TO THE DEPARTMENT THAT SPECIFIES THE BEST MANAGEMENT PRACTICES FROM  
4 AMONG THOSE ADOPTED IN RULE PURSUANT TO SUBSECTION H OF THIS SECTION THAT THE  
5 PERSON WILL USE TO COMPLY WITH THE GENERAL PERMIT.

6 K. IF A PERSON FAILS TO COMPLY WITH THE PLAN SUBMITTED PURSUANT TO  
7 SUBSECTION J OF THIS SECTION, THE DIRECTOR MAY REVOKE THE AGRICULTURAL  
8 GENERAL PERMIT FOR THAT PERSON AND TO REQUIRE THAT THE PERSON OBTAIN AN  
9 INDIVIDUAL PERMIT PURSUANT TO SECTION 49-426. A REVOCATION BECOMES EFFECTIVE  
10 AFTER THE DIRECTOR HAS PROVIDED THE PERSON WITH NOTICE AND AN OPPORTUNITY FOR  
11 A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

12 L. THE COMMITTEE MAY PERIODICALLY REEXAMINE, EVALUATE AND MODIFY BEST  
13 MANAGEMENT PRACTICES. ANY APPROVED MODIFICATIONS SHALL BE SUBMITTED TO THE  
14 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS A REVISION TO THE APPLICABLE  
15 IMPLEMENTATION PLAN.

16 M. THE COMMITTEE SHALL DEVELOP AND COMMENCE AN EDUCATION PROGRAM BY  
17 JUNE 10, 2000. THE EDUCATION PROGRAM SHALL BE CONDUCTED BY THE DIRECTOR OR  
18 THE DIRECTOR'S DESIGNEE OR DESIGNEES.

19 N. IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

20 1. "AGRICULTURAL GENERAL PERMIT" MEANS BEST MANAGEMENT PRACTICES THAT:

21 (a) REDUCE PM-10 PARTICULATE EMISSIONS FROM TILLAGE PRACTICES AND FROM  
22 HARVESTING ON A COMMERCIAL FARM.

23 (b) REDUCE PM-10 PARTICULATE EMISSIONS FROM THOSE AREAS OF A  
24 COMMERCIAL FARM THAT ARE NOT NORMALLY IN CROP PRODUCTION.

25 (c) REDUCE PM-10 PARTICULATE EMISSIONS FROM THOSE AREAS OF A  
26 COMMERCIAL FARM THAT ARE NORMALLY IN CROP PRODUCTION INCLUDING PRIOR TO PLANT  
27 EMERGENCE AND WHEN THE LAND IS NOT IN CROP PRODUCTION.

28 2. "BEST MANAGEMENT PRACTICES" MEANS TECHNIQUES VERIFIED BY SCIENTIFIC  
29 RESEARCH, THAT ON A CASE BY CASE BASIS ARE PRACTICAL, ECONOMICALLY FEASIBLE  
30 AND EFFECTIVE IN REDUCING PM-10 PARTICULATE EMISSIONS FROM A REGULATED  
31 AGRICULTURAL ACTIVITY.

32 3. "MARICOPA PM-10 PARTICULATE NONATTAINMENT AREA" MEANS THE PHOENIX  
33 PLANNING AREA AS SET FORTH IN 40 CODE OF FEDERAL REGULATIONS PART 81.303.

34 4. "REGULATED AGRICULTURAL ACTIVITIES" MEANS COMMERCIAL FARMING  
35 PRACTICES THAT MAY PRODUCE PM-10 PARTICULATE EMISSIONS WITHIN THE MARICOPA  
36 PM-10 PARTICULATE NONATTAINMENT AREA.

37 5. "APPLICABLE IMPLEMENTATION PLAN" MEANS THAT TERM AS DEFINED IN 42  
38 UNITED STATES CODE 7601(q).

39 ~~Sec. 17. Section 49-474.01, Arizona Revised Statutes, is amended to~~  
40 ~~read.~~

management practices committee for regulated agricultural activities established under section 49-457, Arizona Revised Statutes, may adopt revisions to the rules required by section 49-457, Arizona Revised Statutes, as exempt rules with an immediate effective date in compliance with section 41-1032, Arizona Revised Statutes. The rules shall have an immediate effective date. Exempt rules are exempt from the provisions in title 41, chapter 6, article 8, Arizona Revised Statutes, except that the committee shall file a notice of exempt rulemaking with the secretary of state who shall publish the rules in the Arizona administrative register and the Arizona administrative code.

**Reviser's Notes:**

**2010 Note:** Prior to the 2011 amendment, this section contained the amendments made by Laws 2010, Ch. 82, sec. 1 and Ch. 207, sec. 1 that were blended together pursuant to authority of § 41-1804.03.

**Administrative Code References**

Agricultural PM10 general permit, PM10 nonattainment area, see A.A.C.

~~R19-9-010.01~~

**§ 49-457.01. Leaf blower use restrictions and training; leaf blower equipment sellers; informational material; outreach; applicability**

A. This section applies in a county with a population of two million or more persons or any portion of a county within an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area.

B. After March 31, 2008, no person may use a leaf blower to blow landscape debris into public roadways.

C. After March 31, 2008, no person may operate a leaf blower except on surfaces that have been stabilized with asphaltic concrete, cement concrete, hardscape, penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate, decomposed granite cover, crushed granite cover, aggregate cover, gravel cover, or grass or other continuous vegetative cover, or any combination of those stabilizers.

D. At least once every three years, any person operating a leaf blower for remuneration shall successfully complete training approved by the department on how to operate a leaf blower in a manner designed to minimize the generation of fugitive dust emissions. Any person who is required to be trained under this subsection shall complete initial training no later than December 31, 2008.

E. Any person who rents or sells in the normal course of business equipment that is used for blowing landscape debris shall provide to the buyer or renter of the equipment printed materials that are approved by the department pursuant to this section.

F. The department shall produce printed materials and distribute those materials to persons who sell or rent equipment used for blowing landscape debris. The printed materials shall be designed to educate and inform the user of the equipment on the safe and efficient use of the equipment, including methods for reducing the generation of dust, and shall include information regarding dust control ordinances and restrictions that may be applicable.

G. This section does not apply to any site that has a permit issued by a control officer as defined in § 49-471 for the control of fugitive dust from dust generating operations.

Added by Laws 2007, Ch. 292, § 15.



**ARIZONA  
REVISED STATUTES**

**ANNOTATED**

**2012**

**Cumulative Pocket Part**

*For Use in 2012-2013*

Replacing 2011 Pocket Part supplementing 2005 main volume

**Volume 15C**

**Title 49**

Including Legislation Enacted Through The Second Regular Session  
of The Fiftieth Legislature (2012)

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## **AIR QUALITY**

### **Ch. 3**

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- 49-542.07. Civil penalties.
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## AIR QUALITY

### Ch. 3

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**REVISED STATUTES**  
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Volume 15C

Title 49  
The Environment  
§§ 49-101 to 49-End

THOMSON  
\*  
WEST

Mat #40109737

§§ 49-373, 49-374  
Repealed

§§ 49-373, 49-374 Repealed by Laws 1998, Ch. 73, § 13, eff. August 1, 1998

Historical and Statutory Notes

The proposed sections, as well as sections 49-373 and 49-374, were originally enacted by Laws 1997, Ch. 128, § 13, effective August 1, 1997. Sections 49-373 and 49-374 were amended by Laws 1998, Ch. 73, § 13, effective August 1, 1998. Sections 49-373 and 49-374 were repealed by Laws 1998, Ch. 73, § 13, effective August 1, 1998.

water facilities financing and the wastewater management authority.  
Laws 1998, Ch. 73, § 13, provided:  
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~~D. In determining the frequency and duration of monitoring, sampling or quantification of emissions under subsections B and C of this section, the director shall consider the five factors prescribed in subsection C of this section and the level of emissions from the source.~~

~~E. Orders issued and permit conditions imposed pursuant to this section may be appealed as appealable agency actions pursuant to title 41, chapter 8, article 10.<sup>1</sup>~~

~~F. On request of the on-scene commander or the department of health services, the department of environmental quality shall assist at a significant chemical or other toxic fire event, excluding chemical or nuclear warfare or biological agents, and shall provide the following services if funding is available and if the director, in the director's professional capacity, determines the department's provision of services is necessary to protect human health and the environment:~~

~~1. Collect air samples for likely contaminants resulting from the fire. The department of environmental quality shall coordinate sampling locations, times and pollutants to be sampled with the department of health services and other appropriate health and emergency response officials.~~

~~2. Maintain an hourly plume report that includes meteorological conditions that affect dispersal of smoke.~~

~~3. In consultation with the department of health services and the on-scene coordinator, prepare a report that includes test results of any sampling, including the sampling rationale and protocol and chain of custody report using applicable environmental protection agency standards. The report shall also include, to the extent practicable, a smoke dispersion map with detail adequate to determine possible areas of impact at the level of detail practicable and a listing of likely releases of any chemical that is categorized by the United States environmental protection agency as a hazardous air pollutant and the corresponding environmental protection agency description of possible health effects of the chemical based on a reliable inventory of hazardous materials at the site or facility.~~

~~Added as § 36-1702 by Laws 1967, Ch. 2, § 9; Amended by Laws 1971, Ch. 150, § 11; Laws 1973, Ch. 158, § 198. Renumbered as § 49-422 by Laws 1988, Ch. 368, § 37, subsec. C, eff. July 1, 1987. Amended by Laws 1991, Ch. 283, § 4, eff. July 1, 1992; Laws 2000, Ch. 198, § 574; Laws 2000, Ch. 353, § 4, eff. July 18, 2000, retroactively effective to July 1, 2000; Laws 2007, Ch. 158, § 6; Laws 2011, Ch. 291, § 2.~~

~~Section 41-1069 of title 41~~

#### Historical and Statutory Notes

##### Reviser's Notes:

2007 Note. Pursuant to authority of § 41-1304.02, in the section heading "and

duties; definition" was added and subsection E, paragraph 4 was redesignated as subsection F.

#### § 49-424. Duties of department

The department shall:

~~1. Determine whether the meteorology of the state is such that airsheds can be reasonably identified and air pollution, therefore, can be controlled by establishing air pollution control districts within well defined geographical areas.~~

~~2. Make continuing determinations of the quantity and nature of emissions of air contaminants, topography, wind and temperature conditions, possible chemical reactions in the atmosphere, the character of development of the various areas of the state, the economic effect of remedial measures on the various areas of the state, the availability, use and economic feasibility of air cleaning devices, the effect on~~

~~human health and danger to property from air contaminants, the effect on industrial operations of remedial measures and other matters necessary to arrive at a better understanding of air pollution and its control. In a county with a population in excess of one million two hundred thousand persons according to the most recent United States decennial census, the department shall locate a monitoring system in at least two remote geographic sites.~~

3. Establish substantive policy statements for identifying air quality exceptional events that take into consideration this state's unique geological, geographical and climatological conditions and any other unusual circumstances. These substantive policy statements shall be developed with the planning agency certified pursuant to § 49-406, subsection A and the county air pollution control department or district.

4. Determine the standards for the quality of the ambient air and the limits of air contaminants necessary to protect the public health, and to secure the comfortable enjoyment of life and property by the citizens of the state or in any defined geographical area of the state where the concentration of air pollution sources, the health of the population, or the nature of the economy or nature of land and its uses so require, and develop and transmit to the county boards of supervisors minimum state standards for air pollution control.

5. Conduct investigations, inspections and tests to carry out the duties of this section under the procedures established by this article.

6. Hold hearings relating to any aspect of or matter within the duties of this section, and in connection therewith, compel the attendance of witnesses and the production of records under the procedures established by § 49-432.

7. Prepare and develop a comprehensive plan or plans for the abatement and control of air pollution in this state.

8. Encourage voluntary cooperation by advising and consulting with persons or affected groups or other states to achieve the purposes of this chapter, including voluntary testing of actual or suspected sources of air pollution.

9. Encourage political subdivisions of the state to handle air pollution problems within their respective jurisdictions, and provide as it deems necessary technical and consultative assistance therefor.

10. Compile and publish from time to time reports, data and statistics with respect to those matters studied and investigated by the department.

11. Develop and disseminate air quality dust forecasts for the Maricopa county PM-10 nonattainment area. Each forecast shall identify a low, moderate or high risk of dust generation for the next five consecutive days and shall be issued by noon on each day the forecast is generated. At a minimum, the forecasts shall be posted on the department's website and distributed electronically. When developing these forecasts, the department shall consider all of the following:

(a) Projected meteorological conditions for the Maricopa county area, including all of the following:

(i) Wind speed and direction.

(ii) Stagnation.

(iii) Recent precipitation.

(iv) Potential for precipitation.

(b) Existing concentrations of air pollution at the time of the forecast.

(c) Historic air pollution concentrations that have been observed during meteorological conditions similar to those that are predicted to occur in the forecast. Added as § 38-1705 by Laws 1967, Ch. 2, § 9. Amended by Laws 1969, Ch. 53, § 16; Laws 1970, Ch. 164, § 27, eff. May 18, 1970; Laws 1973, Ch. 158, § 200; Laws 1986, Ch. 319, § 1, eff. Jan. 1, 1987. Renumbered as § 49-424 and amended by Laws 1986, Ch. 368, §§ 37, subsec. C, 77, eff. July 1, 1987. Amended by Laws 1992, Ch. 299, § 10; Laws 1993, 6th S.S., Ch. 1, § 22; Laws 1996, 7th S.S., Ch. 6, § 29; Laws 2011, Ch. 214, § 1.

~~§ 49-426. Permits; duties of director; exceptions; applications; objections; fees.~~

~~Administrative Code References~~

~~Air pollution control modifications; permits; permit revisions, see A.A.C. R18-2-1704.~~

~~Law Review and Journal Commentaries~~

~~Achieving sustainability through existing environmental regulations. Joseph P. Miltish, 43 Ariz. St. L.J. 836 (Fall 2011).~~

~~§ 49-426.01. Permits; changes within a source; revisions~~

~~Law Review and Journal Commentaries~~

~~Air quality permitting: An increasingly limited tool for a sustainable future. Eric L. Hiser, 43 Ariz. St. L.J. 761 (Fall 2011).~~

~~§ 49-426.04. State list of hazardous air pollutants.~~

~~Law Review and Journal Commentaries~~

~~Achieving sustainability through existing environmental regulations. Joseph P. Miltish, 43 Ariz. St. L.J. 836 (Fall 2011).~~

~~§ 49-426.05. Designation of sources of hazardous air pollutants~~

~~Law Review and Journal Commentaries~~

~~Achieving sustainability through existing environmental regulations. Joseph P. Miltish, 43 Ariz. St. L.J. 836 (Fall 2011).~~

~~§ 49-426.06. State program for control of hazardous air pollutants~~

~~Law Review and Journal Commentaries~~

~~Achieving sustainability through existing environmental regulations. Joseph P. Miltish, 43 Ariz. St. L.J. 836 (Fall 2011).~~



Cross References

Inspections, see § 41-1009.

~~§ 49-457.02. Dust-free developments program; certification; seal~~

~~A. The department shall establish the dust-free developments program to encourage and recognize persons and entities that demonstrate exceptional commitment to the reduction of airborne dust in a county with a population of more than two million persons and in the PM-10 nonattainment area that contains the city of Apache Junction. The program shall include a voluntary certification process based on criteria developed by the department.~~

~~B. Any person or entity may apply for certification under the program, and if approved, may lawfully use a certification seal, logo or other similar indicator established by the department. A person or entity that is certified under the program may use the certification for promotional, civic, public relations or public involvement purposes.~~

~~C. Notwithstanding § 41-3102, this program does not include a specific expiration date.~~

~~Added by Laws 2007, Ch. 292, § 15.~~

§ 49-457.03. Off-road vehicles; pollution advisory days; applicability; penalties

A. In area A, as defined in § 49-541, a person shall not operate an off-highway vehicle, an all-terrain vehicle or an off-road recreational motor vehicle on an unpaved surface that is not a public or private road, street or lawful easement during any high pollution advisory day forecast for particulate matter by the department.

B. This section does not apply to:

1. An event that is intended for off-highway vehicles, all-terrain vehicles or off-road recreational motor vehicles and that is endorsed, authorized, permitted or sponsored by a public agency, that occurs on a designated route or area and that includes dust abatement measures at all staging areas, parking areas and entrances.
2. An event that occurs at a facility for which an admission or user fee is charged and that includes dust abatement measures.
3. A closed course that is maintained with dust abatement measures.
4. An off-highway vehicle, all-terrain vehicle or off-road recreational motor vehicle used in the normal course of business or the normal course of government operations.
5. Golf carts that are used as part of a private or public golf course operation.

~~C. A person who violates this section is subject to:~~

1. A warning for the first violation.
2. The imposition of a civil penalty of fifty dollars for the second violation.
3. The imposition of a civil penalty of one hundred dollars for the third violation.
4. ~~The imposition of a civil penalty of two hundred fifty dollars for the fourth or any subsequent violation.~~

~~D. For violations of this section, the control officer or other enforcement officer shall use a uniform civil ticket and complaint substantially similar to a uniform traffic ticket and complaint prescribed by the rules of procedure in civil traffic cases~~

~~adopted by the supreme court. The control officer or other enforcement officer may issue citations to persons in violation of this section.~~

Added by Laws 2007, Ch. 292, § 15.

#### Cross References

Inspections, see § 41-1009.

#### § 49-457.04. Off-highway vehicle and all-terrain vehicle dealers; informational material; outreach; applicability

A. Any person who rents or sells in the normal course of business off-highway vehicles, all-terrain vehicles, or off-road recreational motor vehicles, other than golf carts sold to public or private golf courses, shall provide to the buyer or renter of the vehicle printed materials that are approved by the department pursuant to this section.

B. The department shall produce printed materials and distribute those materials to persons who sell or rent off-highway vehicles, all-terrain vehicles or off-road recreational motor vehicles. The printed materials shall be designed to educate and inform the user of the vehicle on methods for reducing the generation of dust and shall include information regarding dust control ordinances and restrictions that may be applicable. The department shall make available on the department's website the printed materials in a format that is accessible to the public.

C. This section applies in a county with a population of two million or more persons or any portion of a county in an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area.

Added by Laws 2007, Ch. 292, § 15.

#### § 49-457.05. Dust action general permit; best management practices; applicability; definitions

A. This section applies in a county with a population of two million or more persons or any portion of a county within an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area.

B. The director shall issue a dust action general permit for regulated activities, which shall specify the best management practices necessary to reduce or to prevent PM-10 particulate emissions as soon as practicable before and during a day that is forecast to be at high risk of dust generation under a forecast issued by the department pursuant to § 49-424.

~~C. A person that has a permit issued by the director or a control officer for the control of fugitive dust from dust-generating operations is not required to obtain a dust action general permit under subsection D of this section, except that the person shall implement the control measures required in the permit issued by the director or control officer, including those measures related to wind, to reduce or to prevent PM-10 particulate emissions as soon as practicable before and during a day that is forecast to be at high risk of dust generation under a forecast issued by the department pursuant to § 49-424. Failure to implement a control measure under this subsection shall only be enforced by the director or control officer that issued the permit. The director or control officer shall not recover penalties for violations of both this subsection and the permit based on the same act or omission.~~

D. A dust action general permit may be required for any person that owns or conducts a dust-generating operation that is found by the director to have failed to choose and implement an applicable best management practice listed in the dust action general permit as soon as practicable before and during a day that is forecast to be at high risk of dust generation.

~~E. The dust action general permit shall:~~

- ~~1. Conform to the requirements of § 49-426, subsection H, paragraphs 2 through 6.~~
- ~~2. Specify categories and lists of best management practices that may vary according to regional, site-specific or activity-specific conditions.~~
- ~~3. Include the appropriate monitoring, record keeping and reporting requirements to ensure the enforceability of the provisions.~~
- ~~4. Specify the process by which the director will determine that a person has failed to choose and implement an applicable best management practice and is therefore subject to a permit prescribed by subsection D. of this section. The process shall include a means of providing notice to the person of the person's failure and a means by which the person may challenge the determination.~~
- ~~5. Expire after a period of five years, and may be renewed as prescribed by this section.~~

F. The director may periodically reexamine, evaluate and modify the dust action general permit as prescribed in § 49-426, subsection H, paragraphs 2 through 6. After approval by the director, any modifications to the dust action general permit shall be provided to the control officer and shall be submitted to the United States environmental protection agency as a revision to the applicable implementation plan.

G. A best management practice adopted pursuant to this section does not affect any applicable requirement in an applicable implementation plan or any other applicable requirements of the clean air act, including section 110(l) of the act (42 United States Code section 7410(l)).

H. Voluntary best management practices that are implemented during a day that is forecast by the department pursuant to § 49-424 to be at moderate risk for dust generation shall be considered by the director or control officer as a mitigating factor in any action taken against that person for failing to implement a dust control measure for that day as required by this chapter, a rule or ordinance adopted pursuant to this chapter or a permit issued pursuant to this chapter.

I. For the purposes of this section:

1. "Applicable implementation plan" means that term as defined in 42 United States Code section 7602(q).
2. "Best management practices" means techniques that are verified by scientific research and that on a case-by-case basis are practical, economically feasible and effective in reducing PM-10 particulate emissions from a regulated activity.
3. "Control officer" has the same meaning prescribed in § 49-471.
4. "Disturbed surface area" means a portion of the earth's surface or material that is placed on the earth's surface that has been physically moved, uncovered, destabilized or otherwise modified from its undisturbed native condition if the potential for the emission of fugitive dust is increased by the movement, destabilization or modification.
5. "Dust-generating operation" means disturbed surface areas, including those of open areas or vacant lots that are not defined as agricultural land and are not used

for agricultural purposes according to §§ 42-12151 and 42-12152, or any other area or activity capable of generating fugitive dust, including the following:

- (a) Land clearing, maintenance and land clean up using mechanized equipment.
- (b) Earthmoving.
- (c) Weed abatement by discing or blading.
- (d) Excavating.
- (e) Construction.
- (f) Demolition.
- (g) Bulk material handling, including hauling, transporting, stacking, loading and unloading operations.
- (h) Storage or transporting operations, including storage piles.
- (i) Operation of outdoor equipment.
- (j) Operation of motorized machinery.
- (k) Establishing or using staging areas, parking areas, material storage areas or access routes.
- (l) Establishing or using unpaved haul or access roads.
- (m) Installing initial landscapes using mechanized equipment.

6. "Fugitive dust" means particulate matter that could not reasonably pass through a stack, chimney, vent or other functionally equivalent opening, that can be entrained in the ambient air and that is caused by human or natural activities, including the movement of soil, vehicles, equipment, blasting and wind. Fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering or welding equipment or from pile drivers.

7. "Regulated activity" means all dust-generating operations except for the following:

- (a) Normal farm cultural practices as prescribed in § 49-504, paragraph 4 or § 49-457.
- (b) Emergency activities that may disturb the soil and that are conducted by any utility or government agency in order to prevent public injury or to restore critical utilities to a functional status.
- (c) Establishment of initial landscapes without the use of mechanized equipment, conducting landscape maintenance without the use of mechanized equipment and playing on or maintaining a field used for nonmotorized sports, except that these activities shall not include grading or trenching performed to establish initial landscapes or to redesign existing landscapes.
- (d) Rooftop operations for cutting, drilling, grinding or coring roofing tile if that activity is occurring on a pitched roof.

Added by Laws 2011, Ch. 214, § 3.

#### Historical and Statutory Notes

Laws 2011, Ch. 214, § 5, provides:

"Sec. 5. Legislative findings; intent

"A. The legislature finds the following:

"1. Previous particulate matter ten microns in size and smaller (PM-10) air quality plans for the Maricopa county area, including the Maricopa association of governments 2007 five per cent plan for PM-10 for the Maricopa county nonattainment area, relied heavily on reductions in particulate matter

~~B. The reference to rights in subsection A of this section does not grant any additional rights that are not prescribed in the other sections of this article. Added by Laws 2000, Ch. 194, § 3, eff. Jan. 1, 2002. Amended by Laws 2011, Ch. 291, § 3.~~

~~§ 49-471.03. Inspections~~

~~The control officer shall comply with § 41-1009, except that § 41-1009, subsection O, paragraph 1 does not apply.~~

~~Added by Laws 2000, Ch. 194, § 3, eff. Jan. 1, 2002. Amended by Laws 2011, Ch. 291, § 4.~~

~~§ 49-474.01. Additional board duties in vehicle emissions control areas; definitions~~

~~A. The board of supervisors of a county which contains any portion of area A or area B as defined in § 49-541 shall:~~

~~1. In area A, in consultation with the designated metropolitan planning organization, synchronize traffic control signals on all existing and new roadways within the unincorporated area and at jurisdictional boundaries, which have a traffic flow exceeding fifteen thousand motor vehicles per day.~~

~~2. In area A, beginning January 1, 2000, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting roads, alleys and arterials, a schedule for implementation, funding options and reporting requirements.~~

~~3. In area A, acquire or utilize vacuum systems or other dust removal technology to reduce the particulates attributable to conventional crack sealing operations as existing equipment is repaired.~~

~~4. In area A, beginning January 1, 2008, develop and implement plans to stabilize targeted unpaved roads, alleys and unpaved shoulders on targeted arterials. The plans shall address the performance goals, the criteria for targeting the roads, alleys and shoulders, a schedule for implementation, funding options and reporting requirements. Priority shall be given to the following:~~

~~(a) Unpaved roads with more than one hundred average daily trips.~~

~~(b) Unpaved shoulders on arterial roads and other road segments where vehicle use on unpaved shoulders is evident or anticipated due to projected traffic volume.~~

~~5. In a county with a population of two million or more persons or any portion of a county in an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area, no later than March 31, 2008, adopt or amend codes or ordinances and, no later than October 1, 2008, commence enforcement of those codes or ordinances as necessary to require that parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units are maintained with one or more of the following dustproof paving methods:~~

~~(a) Asphaltic concrete.~~

~~(b) Cement concrete.~~

~~(c) Penetration treatment of bituminous material and seal coat of bituminous binder and a mineral aggregate.~~

~~(d) A stabilization method approved by the county.~~

~~6. In a county with a population of two million or more persons or any portion of a county in an area designated by the environmental protection agency as a serious~~

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PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area, no later than March 31, 2008, adopt or amend codes or ordinances and, no later than October 1, 2009, commence enforcement of those codes or ordinances as necessary to require that parking, maneuvering, ingress and egress areas three thousand square feet or more in size at residential buildings with four or fewer units are maintained with a paving or stabilization method authorized by the county by code, ordinance or permit.

7. In area A, no later than March 31, 2008, adopt or amend codes or ordinances as necessary to restrict vehicle parking and use on unpaved or unstabilized vacant lots.

8. In area A, require that new or renewed contracts for street sweeping on city streets must be conducted with street sweepers that meet the south coast air quality management district rule 1186 street sweeper certification specifications for pick up efficiency and PM-10 emissions in effect on January 1, 2007.

~~9. In area B, synchronize traffic control signals on roadways with a traffic flow exceeding fifteen thousand motor vehicles per day.~~

~~10. Implement adjusted work hours for at least eighty-five per cent of county employees in area A each year beginning October 1 and ending April 1 in order to reduce the level of carbon monoxide concentrations caused by vehicular travel.~~

11. In a county with a population of two million or more persons or any portion of a county within an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area, no later than March 31, 2008, adopt rule provisions, and, no later than October 1, 2008, commence enforcement of those rule provisions regarding the stabilization of disturbed surfaces of vacant lots that include the following:

(a) Reasonable written notice to the owner or the owner's authorized agent or the owner's statutory agent that the unpaved disturbed surface of a vacant lot is required to be stabilized. The notice shall be given not less than thirty days before the day set for compliance and shall include a legal description of the property and the estimated cost to the county for the stabilization if the owner does not comply. The notice shall be either personally served or mailed by certified mail to the owner's statutory agent, to the owner at the owner's last known address or to the address to which the tax bill for the property was last mailed.

(b) Authority for the county to enter the lot to stabilize the disturbed surface at the expense of the owner if the vacant lot has not been stabilized by the day set for compliance.

(c) Methods for stabilization of the disturbed surface of the vacant lot, the actual cost of stabilization and the fine that may be imposed for a violation of this section.

B. For the purposes of subsection A, paragraph 11 of this section:

1. "Disturbed surface" means a portion of the earth's surface or material placed on the earth's surface that has been physically moved, uncovered, destabilized or otherwise modified from its undisturbed native condition if the potential for the emission of fugitive dust is increased by the movement, destabilization or modification.

2. Vacant lots do not include any site of disturbed surface area that is subject to a permit issued by a control officer that requires control of PM-10 emissions from dust generating operations.

~~C. The board of supervisors of a county that contains any portion of area A as defined in § 49-541 shall make and enforce ordinances consistent with § 49-588 to~~

~~reduce or encourage the reduction of the commuter use of motor vehicles by employees of the county and employees whose place of employment is within area A.~~

~~D. The board of supervisors in a county that contains any portion of area A shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels and clean burning fuels in county owned vehicles operating in area A.~~

~~E. The plan shall include a timetable for increasing the use of alternative fuels and clean burning fuels in fleet vehicles either through purchase or conversion. The timetable shall reflect the following schedule and percentage of vehicles that operate on alternative fuels or clean burning fuels:~~

- ~~1. At least eighteen per cent of the total fleet by December 31, 1995.~~
- ~~2. At least twenty-five per cent of the total fleet by December 31, 1996.~~
- ~~3. At least fifty per cent of the total fleet by December 31, 1998.~~
- ~~4. At least seventy-five per cent of the total fleet by December 31, 2000 and each year thereafter.~~

~~F. The requirements of subsections D and E of this section may be waived on receipt of certification supported by evidence acceptable to the department that the county is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels or clean burning fuels at a projected cost that is reasonably expected to result in net costs of no greater than ten per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. Applications for waivers shall be filed with the department pursuant to § 49-412. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver with a technology that is effective at reducing particulate emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to § 49-555.~~

~~G. If the requirements of subsections D and E of this section are met by the use of clean burning fuel, vehicle equivalents under those requirements shall be calculated as follows:~~

- ~~1. One vehicle equivalent for every four hundred fifty gallons of neat biodiesel or two thousand two hundred fifty gallons of a diesel fuel substitute prescribed in § 1-215, paragraph 7, subdivision (b).~~
- ~~2. One vehicle equivalent for every five hundred thirty gallons of the fuel prescribed in § 1-215, paragraph 7, subdivision (d).~~

~~H. Subsection A, paragraphs 5, 6 and 7 of this section do not apply to any site that has a permit issued by a control officer as defined in § 49-471 for the control of fugitive dust from dust generating operations.~~

~~I. For the purposes of this section, "alternative fuel" and "clean burning fuel" have the same meanings prescribed in § 1-215.~~

Added by Laws 1987, Ch. 365, § 18. Amended by Laws 1993, 6th S.S., Ch. 1, § 24; Laws 1994, Ch. 353, § 22, eff. April 26, 1994; Laws 1996, 7th S.S., Ch. 6, § 30; Laws 1997, Ch. 269, § 10; Laws 1998, Ch. 217, § 17; Laws 1999, Ch. 163, § 23, eff. May 5, 1999; Laws 2000, Ch. 148, § 5; Laws 2001, Ch. 70, § 4; Laws 2002, Ch. 260, § 14; Laws 2004, Ch. 95, § 3; Laws 2006, Ch. 349, § 8; Laws 2006, Ch. 388, § 5; Laws 2007, Ch. 292, § 16.



## Historical and Statutory Notes

## Reviser's Notes:

2006 Note. Prior to the 2007 amendment, this section contained the amendments made

by Laws 2006, Ch. 349, sec. 8 and Ch. 388, sec. 5 that were blended together pursuant to authority of § 41-1804.03.

## Cross References

Inspections, see § 41-1009.

## Research References

## Treatises and Practice Aids

- 11 Arizona Practice A.R.S. § 12-1134, Diminution In Value; Just Compensation.

## Notes of Decisions

## Takings 1.

## 1. Takings

The enforcement of ordinances or other laws that A.R.S. §§ 9-500.04(A)(7) and 49-474.01(A)(6) requires would not result in a

taking of property under either the Arizona or United States constitutions or under A.R.S. § 12-1134, as long as such ordinances or other laws did not deprive a landowner of virtually all beneficial or economic use of the land. Op. Atty. Gen. No. 108-011, 2008 WL 5281675.

## § 49-474.05. Dust control; training; site coordinators

A. This section applies in a county with a population of two million or more persons or any portion of a county in an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area.

B. No later than January 1, 2008, the control officer shall develop and implement basic and comprehensive training programs for the suppression of PM-10 emissions from sources of PM-10 that are subject to a permit issued by a control officer that requires control of PM-10 emissions from dust generating operations. The control officer may approve training developed and provided by a third party and the board of supervisors may adopt rules prescribing standards for dust control training.

C. At least once every three years, the following persons are required to successfully complete basic dust control training:

1. The site superintendent or other designated on-site representative of the permit holder if present at a site that has more than one acre of disturbed surface area that is subject to a permit issued by a control officer requiring control of PM-10 emissions from dust generating operations.

2. Water truck and water pull drivers.

D. Persons who are required to be trained under this section shall complete the training no later than December 31, 2008. All persons who have successfully completed training during the 2006 and 2007 calendar years are deemed to have satisfied this requirement if the training program completed was conducted or approved by a county air pollution control officer. Completion of the training required under subsection G satisfies the requirements of this subsection.

E. No later than June 30, 2008, the permittee for any site of five acres or more of disturbed surface area subject to a permit issued by a control officer requiring control of PM-10 emissions from dust generating operations shall have on site at

least one dust control coordinator trained in accordance with this section at all times during primary dust generating operations related to the purposes for which the dust control permit was obtained.

F. A dust control coordinator has full authority to ensure that dust control measures are implemented on site, including conducting inspections, deployment of dust suppression resources and modification or shutdown of activities as needed to control dust. The dust control coordinator shall be responsible for managing dust prevention and dust control on the site.

G. At least once every three years, the dust control coordinator shall successfully complete a comprehensive dust control class conducted or approved under subsection A by the county air pollution control officer with jurisdiction over the site. The dust control coordinator shall have a valid dust training certification identification card readily accessible on site while acting as a dust control coordinator. All persons having successfully completed training during the 2006 and 2007 calendar years are deemed to have satisfied this requirement if the training program completed was conducted or approved by a county air pollution control officer.

H. Subsections C and D do not apply when on-site dust generating operations are conducted by a permittee who is required to obtain a single permit for multiple noncontiguous sites that is issued by a control officer and that requires control of PM-10 emissions.

I. The requirements of subsections E and F lapse if all of the following apply:

1. The area of the disturbed surface area is less than five acres.
2. The previously disturbed areas are stabilized in accordance with the requirements of applicable rules.
3. The permittee provides notice of the acreage stabilized to the control officer.

J. Permittees who are required to obtain a single permit for multiple noncontiguous sites that is issued by a control officer and that requires control of PM-10 emissions from dust generating operations shall have on sites with greater than one acre of disturbed surface area at least one individual who is designated by the permittee as a dust control coordinator trained in accordance with subsection C. The dust control coordinator shall be present on site at all times during primary dust generating activities that are related to the purposes for which the permit was obtained. This subsection does not apply to permittees subject to subsections B and C.

Added by Laws 2007, Ch. 292, § 17.

#### § 49-474.06. Dust control; subcontractor registration; fee

A. In an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area, a subcontractor who is engaged in dust generating operations at a site that is subject to a permit that is issued by a control officer and that requires control of PM-10 emissions from dust generating operations shall register with the control officer by submitting information in the manner prescribed by the control officer. The control officer shall issue a registration number after payment of the fee authorized under subsection C.

B. The subcontractor shall have its registration number readily accessible on site while conducting any dust generating operations.

C. The control officer may establish and assess a fee for the registration required under subsection A based on the total cost of processing the registration and issuance of a registration number.

Added by Laws 2007, Ch. 292, § 17.

~~§ 49-474.07. Voluntary diesel equipment retrofit program; criteria; inventory; permits~~

A. A county with a population of more than four hundred thousand persons shall operate and administer a voluntary diesel emissions retrofit program in the county for the purpose of reducing particulate emissions from diesel equipment. The program shall provide for real and quantifiable emissions reductions based on actual emissions reductions by an amount greater than that already required by applicable law, rule, permit or order and computed based on the percentage emissions reductions from the testing of the diesel retrofit equipment prescribed in subsection C as applied to the rated emissions of the engine and using the standard operating hours of the equipment.

B. A person may participate in the program if both of the following apply:

1. The person is the owner of diesel powered equipment that requires a permit issued pursuant to this article for lawful operation.

2. The person reports to the control officer on the type of equipment that is retrofitted, provides a method for calculating the emissions reductions achieved that is approved by the control officer and provides evidence that the retrofitted equipment is actually used in a manner that results in lower particulate emissions with no increase in emissions of other pollutants.

C. The voluntary diesel retrofit program shall provide for the following:

1. Each person who participates shall allocate to the air quality emissions reduction inventory for that county one-half of the total particulate emissions reduction achieved through that person's retrofit of diesel equipment operating at the permitted site whether or not that equipment is required to have a permit.

2. Each person who participates shall retain one-half of the total particulate emissions reduction achieved through that person's retrofit of equipment at the site for purposes of receiving a modification to an existing permit or a provision in a new permit that allows for extended hours of operation for the permitted equipment, as compared to the existing permit, or for new permits, as compared to permits for similar equipment.

3. The diesel emissions reduction equipment that is retrofitted shall be registered with the department of environmental quality with notice to the applicable county, shall be tested with an ISO 8178 test by a properly equipped laboratory and shall demonstrate at least a thirty-five per cent reduction in particulate pollution with no increase in the generation or emission of other regulated pollutants. This paragraph applies without regard to whether the participant is required to obtain an air quality permit for the equipment.

4. The control officer shall provide a method for determining the participant's eligibility for the program and for the modification of existing permits or for incorporating this program's provisions into the terms of any applicable new permits as well as any reporting requirements to ensure continued use of the emissions reduction measures.

D. This section does not authorize a permit condition or a modification to a permit condition that would violate a requirement of the clean air act, this chapter or a rule adopted under this chapter, including the national ambient air quality

~~officer shall consider the five factors prescribed in subsection C of this section and the level of emissions from the source.~~

~~E. Orders issued or permit conditions imposed pursuant to this section shall be appealable to the hearing board in the same manner as that prescribed for orders of abatement in § 49-490 and for permit conditions in § 49-482.~~

~~Added by Laws 1991, Ch. 288, § 11, eff. July 1, 1992. Amended by Laws 1992, Ch. 299, § 35, eff. Sept. 1, 1993; Laws 2011, Ch. 291, § 5.~~

**Historical and Statutory Notes**

~~The 2011 amendment by Ch. 291 inserted a new subsec. D; redesignated existing subsec. D as subsec. E, accordingly; substituted~~ ~~§ 49-490 for §§ 49-489 and 49-490; in newly designated subsec. E; and made non-substantive changes.~~

**§ 49-497. Declaratory judgment**

**Notes of Decisions**

**Construction and application**

**1. Construction and application**

~~Home builders association was a "person" who "may be" affected by a county rule and thus had representative standing under statute to seek a declaratory judgment regarding the interpretation and implementation of county's air quality penalty policy by county air quality control department and officer.~~

~~statute did not require a showing of a distinct and palpable injury but rather granted standing if a person "may" be affected; a ruling on the validity of county's penalty policy was relevant to association's purposes, and the adjudication of the rule's validity would not require evidence from individual members. Home Builders Ass'n of Cent. Arizona v. Kard, (App. Div. 1, 2008) 219 Ariz. 874, 199 P.3d 629, as amended; review denied. Environmental Law 3-052~~

**§ 49-501. Unlawful open burning; exceptions; civil penalty; definition**

**A. Notwithstanding the provisions of any other section of this article:**

~~1. It is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open outdoor fire except as provided in this section.~~

2. From May 1 through September 30 each year, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited or suffer, allow or maintain any open outdoor fire in area A as defined in § 49-541.

**B. The following fires are excepted from this section:**

1. Fires used only for cooking of food or for providing warmth for human beings or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.

~~2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.~~

3. Fires set by or permitted by the director of the department of agriculture or county agricultural agents of the county for the purpose of disease and pest prevention.

~~4. Fires set by or permitted by the federal government or any of its departments, agencies or agents or the state or any of its agencies, departments or political subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.~~

~~5. Fires permitted by any rule or regulation issued pursuant to this article, by any conditional permit issued by a hearing board established under this article or by any rule or conditional permit issued pursuant to article 2 of this chapter when the department of environmental quality pursuant to § 49-402 has assumed jurisdiction of the county in which the fire is located.~~

~~6. Fires set for the disposal of dangerous materials where there is no safe alternate method of disposal.~~

C. Permission for the setting of any fire given by a public officer in the performance of official duty under subsection B, paragraph 2, 3 or 4 of this section shall be given in writing and a copy of the written permission shall be transmitted immediately to the director of environmental quality and the control officer of the county, district or region in which such fire is allowed. The setting of any such fire shall be conducted in a manner and at such time as approved by the control officer or the director of environmental quality, unless doing so would defeat the purpose of the exemption.

~~D. Notwithstanding § 49-107, the director may delegate authority for the issuance of open burning permits to a county, city, town or fire district. A county, city, town or fire district that has been delegated authority for the issuance of open burning permits may assign the issuance of these permits to a private fire protection service provider that performs fire protection services within that county, city, town or fire district. Any private fire protection service provider that is authorized to issue open burning permits pursuant to this subsection shall maintain a copy of all currently effective permits issued including a means of contacting the person authorized by the permit to set the fire in the event that an order to extinguish the open burning is issued. Permits issued pursuant to this subsection shall contain both of the following:~~

~~1. Conditions that limit the manner and time of setting the fire and that are consistent with this section and rules adopted pursuant to this section.~~

~~2. A provision that all burning be extinguished at the discretion of the director or the director's authorized representative during periods of inadequate atmospheric smoke dispersion, periods of excessive visibility impairment that could adversely affect public safety or periods when smoke is blown into populated areas so as to create a public nuisance.~~

~~E. The director may issue a general permit to allow persons engaged in farming or ranching on forty acres or more in an unincorporated area to burn household waste, as defined in § 49-701, that is generated on site, if no household waste collection and disposal service is available. The general permit shall include the following:~~

~~1. Conditions governing the method, manner and times for burning.~~

~~2. Limitation on materials which may be burned, including a prohibition on burning of materials which generate noxious fumes.~~

~~3. A requirement that any person seeking coverage under the general permit shall register with the director on a form prescribed by the director. Upon receipt of a registration form, the director shall notify the county in which the farm or ranch is located of such registration.~~

~~4. A statement that the director, a local air pollution control officer, or any other public officer may order the extinguishment of burning or may prohibit burning during periods of inadequate smoke dispersion or excessive visibility impairment or at other times when public health or safety could be adversely affected.~~

F. Nothing in this section is intended to permit any practice which is a violation of any statute, ordinance, rule or regulation in a county with a population in excess of one million two hundred thousand persons. Notwithstanding any other law, such a county shall prohibit by ordinance the use of wood burning chimineas, outdoor fire pits and similar outdoor fires on those days for which the county has issued a no burn day restriction.

~~G. A person who violates any provision of this section may be served a notice of violation and be subject to the enforcement provisions of this article to the same extent as a person violating any rule or regulation adopted pursuant to this article, except that a violation that lasts no more than twenty-four hours and that is the first violation committed by that person is subject to a civil penalty of no more than five hundred dollars.~~

~~H. For the purposes of this section, "open outdoor fire" means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. For the purposes of this subsection, "flue" means any duct or passage for air, gases or the like, such as a stack or chimney.~~

Added as § 36-789 by Laws 1967, Ch. 2, § 8. Amended by Laws 1969, Ch. 53, § 14; Laws 1970, Ch. 164, § 21, eff. May 18, 1970; Laws 1971, Ch. 190, § 7; Laws 1973, Ch. 153, § 142; Laws 1978, Ch. 201, § 620, eff. Oct. 1, 1978. Renumbered as § 49-501 and amended by Laws 1986, Ch. 368, §§ 38, 106, eff. July 1, 1987. Amended by Laws 1990, Ch. 374, § 444, eff. Jan. 1, 1991; Laws 1994, Ch. 273, § 2, eff. April 24, 1994; Laws 1996, Ch. 187, § 1; Laws 1997, Ch. 175, § 4; Laws 2007, Ch. 292, § 18.

#### Historical and Statutory Notes

The 2007 amendment by Ch. 292 rewrote the section, which had read:

"A. Notwithstanding the provisions of any other section of this article, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open outdoor fire except as provided in this section.

"B. 'Open outdoor fire', as used in this section, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. 'Flue', as used in this subsection, means any duct or passage for air, gases or the like, such as a stack or chimney.

"C. The following fires are excepted from the provisions of this section:

"1. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.

"2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.

"3. Fires set by or permitted by the director of the department of agriculture or county agricultural agents of the county for the purpose of disease and pest prevention.

"4. Fires set by or permitted by the federal government or any of its departments, agencies or agents or the state or any of its agencies, departments or political subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.

"5. Fires permitted by any rule or regulation issued pursuant to this article, by any conditional permit issued by a hearing board established under this article or by any rule or conditional permit issued pursuant to article 2 of this chapter when the department of environmental quality pursuant to § 49-402 has assumed jurisdiction of the county in which the fire is located.

"6. Fires set for the disposal of dangerous materials where there is no safe alternate method of disposal.

"D. Permission for the setting of any fire given by a public officer in the performance of official duty under subsection C, paragraph 2, 3 or 4 shall be given in writing and a copy of the written permission shall be transmitted immediately to the director and the control officer of the county, district or re-



(49-474.01.) Additional board duties in nonattainment areas

~~THE BOARD OF SUPERVISORS OF A COUNTY WHICH CONTAINS A NONATTAINMENT~~  
AREA AS DEFINED IN SECTION 49-541 SHALL:

1. SYNCHRONIZE TRAFFIC CONTROL SIGNALS ON ROADWAYS WITH A TRAFFIC FLOW EXCEEDING FIFTEEN THOUSAND MOTOR VEHICLES PER DAY.

2. IMPLEMENT ADJUSTED WORK HOURS FOR AT LEAST EIGHTY-FIVE PER CENT OF COUNTY EMPLOYEES EACH YEAR BEGINNING OCTOBER 1 AND ENDING APRIL 1 IN ORDER TO REDUCE THE LEVEL OF CARBON MONOXIDE CONCENTRATIONS CAUSED BY VEHICULAR TRAVEL.



## Historical and Statutory Notes

## Reviser's Notes:

2006 Note. Prior to the 2007 amendment, this section contained the amendments made

by Laws 2006, Ch. 349, sec. 8 and Ch. 388, sec. 5 that were blended together pursuant to authority of § 41-1804.03.

## Cross References

Inspections, see § 41-1009.

## Research References

## Treatises and Practice Aids

- 11 Arizona Practice A.R.S. § 12-1134, Diminution In Value; Just Compensation.

## Notes of Decisions

## Takings 1.

## 1. Takings

The enforcement of ordinances or other laws that A.R.S. §§ 9-500.04(A)(7) and 49-474.01(A)(6) requires would not result in a

taking of property under either the Arizona or United States constitutions or under A.R.S. § 12-1134, as long as such ordinances or other laws did not deprive a landowner of virtually all beneficial or economic use of the land. Op. Atty. Gen. No. 108-011, 2008 WL 5281675.

## § 49-474.05. Dust control; training; site coordinators

A. This section applies in a county with a population of two million or more persons or any portion of a county in an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area.

B. No later than January 1, 2008, the control officer shall develop and implement basic and comprehensive training programs for the suppression of PM-10 emissions from sources of PM-10 that are subject to a permit issued by a control officer that requires control of PM-10 emissions from dust generating operations. The control officer may approve training developed and provided by a third party and the board of supervisors may adopt rules prescribing standards for dust control training.

C. At least once every three years, the following persons are required to successfully complete basic dust control training:

1. The site superintendent or other designated on-site representative of the permit holder if present at a site that has more than one acre of disturbed surface area that is subject to a permit issued by a control officer requiring control of PM-10 emissions from dust generating operations.
2. Water truck and water pull drivers.

D. Persons who are required to be trained under this section shall complete the training no later than December 31, 2008. All persons who have successfully completed training during the 2006 and 2007 calendar years are deemed to have satisfied this requirement if the training program completed was conducted or approved by a county air pollution control officer. Completion of the training required under subsection G satisfies the requirements of this subsection.

E. No later than June 30, 2008, the permittee for any site of five acres or more of disturbed surface area subject to a permit issued by a control officer requiring control of PM-10 emissions from dust generating operations shall have on site at

least one dust control coordinator trained in accordance with this section at all times during primary dust generating operations related to the purposes for which the dust control permit was obtained.

F. A dust control coordinator has full authority to ensure that dust control measures are implemented on site, including conducting inspections, deployment of dust suppression resources and modification or shutdown of activities as needed to control dust. The dust control coordinator shall be responsible for managing dust prevention and dust control on the site.

G. At least once every three years, the dust control coordinator shall successfully complete a comprehensive dust control class conducted or approved under subsection A by the county air pollution control officer with jurisdiction over the site. The dust control coordinator shall have a valid dust training certification identification card readily accessible on site while acting as a dust control coordinator. All persons having successfully completed training during the 2006 and 2007 calendar years are deemed to have satisfied this requirement if the training program completed was conducted or approved by a county air pollution control officer.

H. Subsections C and D do not apply when on-site dust generating operations are conducted by a permittee who is required to obtain a single permit for multiple noncontiguous sites that is issued by a control officer and that requires control of PM-10 emissions.

I. The requirements of subsections E and F lapse if all of the following apply:

1. The area of the disturbed surface area is less than five acres.
2. The previously disturbed areas are stabilized in accordance with the requirements of applicable rules.
3. The permittee provides notice of the acreage stabilized to the control officer.

J. Permittees who are required to obtain a single permit for multiple noncontiguous sites that is issued by a control officer and that requires control of PM-10 emissions from dust generating operations shall have on sites with greater than one acre of disturbed surface area at least one individual who is designated by the permittee as a dust control coordinator trained in accordance with subsection C. The dust control coordinator shall be present on site at all times during primary dust generating activities that are related to the purposes for which the permit was obtained. This subsection does not apply to permittees subject to subsections B and C.

Added by Laws 2007, Ch. 292, § 17.

#### § 49-474.06. Dust control; subcontractor registration; fee

A. In an area designated by the environmental protection agency as a serious PM-10 nonattainment area or a maintenance area that was designated as a serious PM-10 nonattainment area, a subcontractor who is engaged in dust generating operations at a site that is subject to a permit that is issued by a control officer and that requires control of PM-10 emissions from dust generating operations shall register with the control officer by submitting information in the manner prescribed by the control officer. The control officer shall issue a registration number after payment of the fee authorized under subsection C.

B. The subcontractor shall have its registration number readily accessible on site while conducting any dust generating operations.

C. The control officer may establish and assess a fee for the registration required under subsection A based on the total cost of processing the registration and issuance of a registration number.

Added by Laws 2007, Ch. 292, § 17.

~~§ 49-474.07. Voluntary diesel equipment retrofit program; criteria; inventory; permits~~

A. A county with a population of more than four hundred thousand persons shall operate and administer a voluntary diesel emissions retrofit program in the county for the purpose of reducing particulate emissions from diesel equipment. The program shall provide for real and quantifiable emissions reductions based on actual emissions reductions by an amount greater than that already required by applicable law, rule, permit or order and computed based on the percentage emissions reductions from the testing of the diesel retrofit equipment prescribed in subsection C as applied to the rated emissions of the engine and using the standard operating hours of the equipment.

B. A person may participate in the program if both of the following apply:

1. The person is the owner of diesel powered equipment that requires a permit issued pursuant to this article for lawful operation.

2. The person reports to the control officer on the type of equipment that is retrofitted, provides a method for calculating the emissions reductions achieved that is approved by the control officer and provides evidence that the retrofitted equipment is actually used in a manner that results in lower particulate emissions with no increase in emissions of other pollutants.

C. The voluntary diesel retrofit program shall provide for the following:

1. Each person who participates shall allocate to the air quality emissions reduction inventory for that county one-half of the total particulate emissions reduction achieved through that person's retrofit of diesel equipment operating at the permitted site whether or not that equipment is required to have a permit.

2. Each person who participates shall retain one-half of the total particulate emissions reduction achieved through that person's retrofit of equipment at the site for purposes of receiving a modification to an existing permit or a provision in a new permit that allows for extended hours of operation for the permitted equipment, as compared to the existing permit, or for new permits, as compared to permits for similar equipment.

3. The diesel emissions reduction equipment that is retrofitted shall be registered with the department of environmental quality with notice to the applicable county, shall be tested with an ISO 8178 test by a properly equipped laboratory and shall demonstrate at least a thirty-five per cent reduction in particulate pollution with no increase in the generation or emission of other regulated pollutants. This paragraph applies without regard to whether the participant is required to obtain an air quality permit for the equipment.

4. The control officer shall provide a method for determining the participant's eligibility for the program and for the modification of existing permits or for incorporating this program's provisions into the terms of any applicable new permits as well as any reporting requirements to ensure continued use of the emissions reduction measures.

D. This section does not authorize a permit condition or a modification to a permit condition that would violate a requirement of the clean air act, this chapter or a rule adopted under this chapter, including the national ambient air quality

~~officer shall consider the five factors prescribed in subsection C of this section and the level of emissions from the source.~~

~~E. Orders issued or permit conditions imposed pursuant to this section shall be appealable to the hearing board in the same manner as that prescribed for orders of abatement in § 49-490 and for permit conditions in § 49-482.~~

~~Added by Laws 1991, Ch. 288, § 11, eff. July 1, 1992. Amended by Laws 1992, Ch. 299, § 35, eff. Sept. 1, 1993; Laws 2011, Ch. 291, § 5.~~

~~Historical and Statutory Notes~~

~~The 2011 amendment by Ch. 291 inserted a new subsec. D; redesignated existing subsec. D as subsec. E, accordingly; substituted § 49-490 for §§ 49-489 and 49-490; in newly designated subsec. E; and made non-substantive changes.~~

~~§ 49-497. Declaratory judgment~~

~~Notes of Decisions~~

~~Construction and application~~

~~1. Construction and application~~

~~Home builders association was a "person" who "may be" affected by a county rule and thus had representative standing under statute to seek a declaratory judgment regarding the interpretation and implementation of county's air quality penalty policy by county air quality control department and officer.~~

~~statute did not require a showing of a distinct and palpable injury but rather granted standing if a person "may" be affected; a ruling on the validity of county's penalty policy was relevant to association's purposes, and the adjudication of the rule's validity would not require evidence from individual members. Home Builders Ass'n of Cent. Arizona v. Kard, (App. Div. 1, 2008) 219 Ariz. 874, 199 P.3d 629, as amended; review denied. Environmental Law § 652~~

~~§ 49-501. Unlawful open burning; exceptions; civil penalty; definition~~

~~A. Notwithstanding the provisions of any other section of this article:~~

~~1. It is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open outdoor fire except as provided in this section.~~

~~2. From May 1 through September 30 each year, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited or suffer, allow or maintain any open outdoor fire in area A as defined in § 49-541.~~

~~B. The following fires are excepted from this section:~~

~~1. Fires used only for cooking of food or for providing warmth for human beings or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.~~

~~2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.~~

~~3. Fires set by or permitted by the director of the department of agriculture or county agricultural agents of the county for the purpose of disease and pest prevention.~~

~~4. Fires set by or permitted by the federal government or any of its departments, agencies or agents or the state or any of its agencies, departments or political subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.~~

~~5. Fires permitted by any rule or regulation issued pursuant to this article, by any conditional permit issued by a hearing board established under this article or by any rule or conditional permit issued pursuant to article 2 of this chapter when the department of environmental quality pursuant to § 49-402 has assumed jurisdiction of the county in which the fire is located.~~

~~6. Fires set for the disposal of dangerous materials where there is no safe alternate method of disposal.~~

C. Permission for the setting of any fire given by a public officer in the performance of official duty under subsection B, paragraph 2, 3 or 4 of this section shall be given in writing and a copy of the written permission shall be transmitted immediately to the director of environmental quality and the control officer of the county, district or region in which such fire is allowed. The setting of any such fire shall be conducted in a manner and at such time as approved by the control officer or the director of environmental quality, unless doing so would defeat the purpose of the exemption.

~~D. Notwithstanding § 49-107, the director may delegate authority for the issuance of open burning permits to a county, city, town or fire district. A county, city, town or fire district that has been delegated authority for the issuance of open burning permits may assign the issuance of these permits to a private fire protection service provider that performs fire protection services within that county, city, town or fire district. Any private fire protection service provider that is authorized to issue open burning permits pursuant to this subsection shall maintain a copy of all currently effective permits issued including a means of contacting the person authorized by the permit to set the fire in the event that an order to extinguish the open burning is issued. Permits issued pursuant to this subsection shall contain both of the following:~~

~~1. Conditions that limit the manner and time of setting the fire and that are consistent with this section and rules adopted pursuant to this section.~~

~~2. A provision that all burning be extinguished at the discretion of the director or the director's authorized representative during periods of inadequate atmospheric smoke dispersion, periods of excessive visibility impairment that could adversely affect public safety or periods when smoke is blown into populated areas so as to create a public nuisance.~~

~~E. The director may issue a general permit to allow persons engaged in farming or ranching on forty acres or more in an unincorporated area to burn household waste, as defined in § 49-701, that is generated on site, if no household waste collection and disposal service is available. The general permit shall include the following:~~

~~1. Conditions governing the method, manner and times for burning.~~

~~2. Limitation on materials which may be burned, including a prohibition on burning of materials which generate noxious fumes.~~

~~3. A requirement that any person seeking coverage under the general permit shall register with the director on a form prescribed by the director. Upon receipt of a registration form, the director shall notify the county in which the farm or ranch is located of such registration.~~

~~4. A statement that the director, a local air pollution control officer, or any other public officer may order the extinguishment of burning or may prohibit burning during periods of inadequate smoke dispersion or excessive visibility impairment or at other times when public health or safety could be adversely affected.~~

F. Nothing in this section is intended to permit any practice which is a violation of any statute, ordinance, rule or regulation in a county with a population in excess of one million two hundred thousand persons. Notwithstanding any other law, such a county shall prohibit by ordinance the use of wood burning chimineas, outdoor fire pits and similar outdoor fires on those days for which the county has issued a no burn day restriction.

~~G. A person who violates any provision of this section may be served a notice of violation and be subject to the enforcement provisions of this article to the same extent as a person violating any rule or regulation adopted pursuant to this article, except that a violation that lasts no more than twenty-four hours and that is the first violation committed by that person is subject to a civil penalty of no more than five hundred dollars.~~

~~H. For the purposes of this section, "open outdoor fire" means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. For the purposes of this subsection, "flue" means any duct or passage for air, gases or the like, such as a stack or chimney.~~

Added as § 36-789 by Laws 1967, Ch. 2, § 8. Amended by Laws 1969, Ch. 53, § 14; Laws 1970, Ch. 164, § 21, eff. May 18, 1970; Laws 1971, Ch. 190, § 7; Laws 1973, Ch. 153, § 142; Laws 1978, Ch. 201, § 620, eff. Oct. 1, 1978. Renumbered as § 49-501 and amended by Laws 1986, Ch. 368, §§ 38, 106, eff. July 1, 1987. Amended by Laws 1990, Ch. 374, § 444, eff. Jan. 1, 1991; Laws 1994, Ch. 273, § 2, eff. April 24, 1994; Laws 1996, Ch. 187, § 1; Laws 1997, Ch. 175, § 4; Laws 2007, Ch. 292, § 18.

#### Historical and Statutory Notes

The 2007 amendment by Ch. 292 rewrote the section, which had read:

"A. Notwithstanding the provisions of any other section of this article, it is unlawful for any person to ignite, cause to be ignited, permit to be ignited, or suffer, allow, or maintain any open outdoor fire except as provided in this section.

"B. 'Open outdoor fire', as used in this section, means any combustion of combustible material of any type outdoors, in the open where the products of combustion are not directed through a flue. 'Flue', as used in this subsection, means any duct or passage for air, gases or the like, such as a stack or chimney.

"C. The following fires are excepted from the provisions of this section:

"1. Fires used only for cooking of food or for providing warmth for human beings or for recreational purposes or the branding of animals or the use of orchard heaters for the purpose of frost protection in farming or nursery operations.

"2. Any fire set or permitted by any public officer in the performance of official duty, if such fire is set or permission given for the purpose of weed abatement, the prevention of a fire hazard, or instruction in the methods of fighting fires.

"3. Fires set by or permitted by the director of the department of agriculture or county agricultural agents of the county for the purpose of disease and pest prevention.

"4. Fires set by or permitted by the federal government or any of its departments, agencies or agents or the state or any of its agencies, departments or political subdivisions for the purpose of watershed rehabilitation or control through vegetative manipulation.

"5. Fires permitted by any rule or regulation issued pursuant to this article, by any conditional permit issued by a hearing board established under this article or by any rule or conditional permit issued pursuant to article 2 of this chapter when the department of environmental quality pursuant to § 49-402 has assumed jurisdiction of the county in which the fire is located.

"6. Fires set for the disposal of dangerous materials where there is no safe alternate method of disposal.

"D. Permission for the setting of any fire given by a public officer in the performance of official duty under subsection C, paragraph 2, 3 or 4 shall be given in writing and a copy of the written permission shall be transmitted immediately to the director and the control officer of the county, district or re-



49-506. Voluntary no-drive days

A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND OR MORE PERSON SHALL IMPLEMENT A VOLUNTARY PROGRAM TO ENCOURAGE ALL DRIVERS WITHIN SUCH COUNTY TO NOT DRIVE THEIR MOTOR VEHICLES DURING CERTAIN PRESCRIBED DAYS DURING THE MONTHS OF OCTOBER THROUGH MARCH 31 OF EACH YEAR.



49-541. Definitions

In this article, unless the context otherwise requires:

1. "Area A" means the area delineated as follows:

(a) In Maricopa county:

Township 8 north, range 2 east and range 3 east  
Township 7 north, range 2 west through range 5 east  
Township 6 north, range 2 west through range 6 east  
Township 5 north, range 2 west through range 7 east  
Township 4 north, range 2 west through range 8 east  
Township 3 north, range 2 west through range 8 east  
Township 2 north, range 2 west through range 8 east  
Township 1 north, range 2 west through range 7 east  
Township 1 south, range 2 west through range 7 east  
Township 2 south, range 2 west through range 7 east

(b) In Pinal county:

Township 1 north, range 8 east and range 9 east  
Township 1 south, range 8 east and range 9 east  
Township 2 south, range 8 east and range 9 east  
Township 3 south, range 7 east through range 9 east

(c) In Yavapai county:

Township 7 north, range 1 east and range 1 west through range 2 west.

2. "Area B" means THE AREA DELINEATED IN PIMA COUNTY AS TOWNSHIP 11 AND 12 SOUTH, RANGE 12 THROUGH 14 EAST; TOWNSHIP 13 THROUGH 15 SOUTH, RANGE 11

THROUGH 16 EAST; TOWNSHIP 16 SOUTH, RANGE 12 THROUGH 16 EAST, EXCLUDING ANY PORTION OF THE CORONADO NATIONAL FOREST AND THE SAGUARO NATIONAL PARK.

3. "Certificate of inspection" means a serially numbered device or symbol, as may be prescribed by the director, indicating that a vehicle has been inspected pursuant to the provisions of section 49-546 and has passed inspection.

4. "Certificate of waiver" means a serially numbered device or symbol, as may be prescribed by the director, indicating that the requirement of passing reinspection has been waived for a vehicle pursuant to the provisions of this article.

5. "Conditioning mode" means either a fast idle test condition or a loaded test condition.

6. "Curb idle test condition" means an exhaust emissions test conducted with the engine of a vehicle running at the manufacturer's specified idle speed plus or minus one hundred revolutions per minute but without pressure exerted on the accelerator.

7. "Emissions inspection station permit" means a certificate issued by the director authorizing the holder to perform vehicular inspections pursuant to this article.

8. "Fast idle test condition" means an exhaust emissions test conducted with the engine of the vehicle running under an accelerated condition to an extent prescribed by the director.

9. "Fleet emissions inspection station" means any inspection facility operated under a permit issued to a qualified fleet owner or lessee as determined by the director.

10. "Golf cart" means a motor vehicle which has not less than three wheels in contact with the ground, has an unladen weight of less than thirteen hundred pounds, is designed to be and is operated at not more than fifteen miles an hour and is designed to carry golf equipment and persons.



11. "Gross weight" has the meaning prescribed in section 28-5431.
12. "Independent contractor" means any person, business, firm, partnership or corporation with which the director may enter into an agreement providing for the construction, equipment, maintenance, personnel, management and operation of official emissions inspection stations pursuant to section 49-545.
13. "Loaded test condition" means an exhaust emissions test conducted at cruise or transient conditions as prescribed by the director.
14. "Official emissions inspection station" means an inspection facility, other than a fleet emissions inspection station, whether placed in a permanent structure or in a mobile unit for conveyance among various locations within this state, for the purpose of conducting emissions inspections of all vehicles required to be inspected pursuant to this article.
15. "Tampering" means removing, defeating or altering an emissions control device which was installed at the time a vehicle was manufactured.
16. "Vehicle" means any automobile, truck, truck tractor, motor bus or self-propelled or motor-driven vehicle registered or to be registered in this state and used upon the public highways of this state for the purpose of transporting persons or property, except implements of husbandry, road rollers or road machinery temporarily operated upon the highway.
17. "Vehicle emissions control area" means AREA A OR AREA B.

ARIZONA  
REVISED STATUTES

ANNOTATED

2008  
Cumulative Pocket Part

*For Use in 2008-2009*

Replacing 2007 Pocket Part supplementing 2005 main volume

Volume 15C

Title 49

Including Legislation Enacted Through  
The Second Regular Session  
of The Forty-Eighth Legislature (2008)

ARIZONA STATE LIBRARY  
ARCHIVES & PUBLIC RECORDS

DEC - 3 2008

THOMSON  
★  
WEST



1. Either:

- (a) Bears a model year date of original manufacture that is at least fifteen years old.
- (b) Is of unique or rare design, of limited production and an object of curiosity.

2. Meets both of the following criteria:

(a) Is maintained primarily for use in car club activities, exhibitions, parades or other functions of public interest or for a private collection and is used only infrequently for other purposes.

(b) Has a collectible vehicle or classic automobile insurance coverage that restricts the collectible vehicle mileage or use, or both, and requires the owner to have another vehicle for personal use.

Added as § 36-1772 by Laws 1974, Ch. 158, § 1. Amended by Laws 1975, Ch. 85, § 2; Laws 1976, Ch. 182, § 4; Laws 1980, Ch. 253, § 4, eff. Jan. 1, 1981; Laws 1985, Ch. 266, § 3, eff. Jan. 1, 1986; Laws 1986, Ch. 319, § 4, eff. Jan. 1, 1987. Renumbered as § 49-542 and amended by Laws 1986, Ch. 368, §§ 37, subsec. C, 111, eff. July 1, 1987. Amended by Laws 1987, Ch. 365, § 21, eff. Jan. 1, 1988; Laws 1988, Ch. 252, § 18, eff. Jan. 1, 1989; Laws 1989, Ch. 225, § 5; Laws 1991, Ch. 33, § 1; Laws 1992, Ch. 299, § 58; Laws 1993, Ch. 178, § 28, eff. April 20, 1993; Laws 1993, 6th S.S., Ch. 1, § 26, eff. Jan. 1, 1995; Laws 1994, Ch. 353, § 23, eff. April 26, 1994; Laws 1995, Ch. 241, § 49; Laws 1996, Ch. 220, § 71, eff. July 1, 1997; Laws 1996, 7th S.S., Ch. 6, § 32, eff. July 1, 1997; Laws 1997, Ch. 1, § 496, eff. Oct. 1, 1997; Laws 1998, Ch. 217, § 22; Laws 1998, 6th S.S., Ch. 1, § 2, eff. Dec. 22, 1998; Laws 1999, Ch. 298, § 3; Laws 2000, Ch. 193, § 578; Laws 2000, Ch. 404, § 2; Laws 2000, Ch. 405, § 34, eff. April 28, 2000; Laws 2000, 7th S.S., Ch. 1, § 22, eff. Dec. 14, 2000; Laws 2001, Ch. 371, § 9; Laws 2004, Ch. 73, § 1; Laws 2005, Ch. 76, § 1, eff. April 30, 2007; Laws 2007, Ch. 171, §§ 4 and 5; Laws 2007, Ch. 292, § 19.

<sup>1</sup> Section 28-101 et seq.

<sup>2</sup> Sections 28-2231 et seq.; 28-2261 et seq.

<sup>3</sup> Section 28-5431 et seq.

**Historical and Statutory Notes**

Laws 2005, Ch. 76, § 2, provides:

**"Sec. 2. Conditional enactment; notice"**

"A. Section 49-542, Arizona Revised Statutes, as amended by this act, does not become effective unless on or before July 1, 2009 the United States environmental protection agency issues a vehicle emissions testing exemption for motorcycles and collectible vehicles in area B and for collectible vehicles in area A for purposes of the state implementation or maintenance plan for air quality.

"B. The director of the department of environmental quality shall promptly notify in writing the director of the Arizona legislative council of the date on which the condition prescribed in subsection A of this section is met or if the condition is not met." [A Letter dated April 9, 2007 from Director of Arizona Department of Environmental Quality to Executive Director of Arizona Legislative Council indicated the EPA had given final approval published in the Federal Register March 30, 2007 to allow the exemptions effective April 30, 2007.]

The 2007 amendment of this section by Ch. 171, § 4 explicitly amended the amendment of this section by Laws 2004, Ch. 73, § 1.

The 2007 amendment of this section by Ch. 171, § 5 explicitly amended the amendment of this section by Laws 2005, Ch. 76, § 1.

Laws 2007, Ch. 171, § 8, provides:

**"Sec. 8. Conditional enactment"**

"Section 49-542, Arizona Revised Statutes, as amended by Laws 2005, chapter 76, § 1 and this act, is effective as prescribed in Laws 2005, chapter 76, § 2." [Editor's Note: See note to Laws 2005, Ch. 76, § 2, ante. The condition was met.]

The 2007 amendment of this section by Ch. 292, § 19 explicitly amended the amendment of this section by Laws 2007, Ch. 171, § 5.

**Reviser's Notes:**

**2007 Note.** Pursuant to authority of § 41-1304.02, in subsection F, paragraph 1, subdivision (a), last sentence "fuel" and "leak" were transposed.

**Administrative Code References**

Titling standards for vehicles not manufactured in compliance with United States safety and emission standards; "gray-market vehicles", see A.A.C. R17-4-206.

**§ 49-542. Emissions inspection program; powers and duties of director; administration; periodic inspection; minimum standards and rules; exceptions; definition**

*Text of conditional amendment. See, also, section pending conditional amendment.*

A. The director shall administer a comprehensive annual or biennial emissions inspection program which shall require the inspection of vehicles in this state pursuant to this article and applicable administrative rules. Such inspection is required in area A and area B, for those vehicles owned by a person who is subject to § 15-1444 or 15-1627 and for those vehicles registered outside of area A or area B but used to commute to the driver's principal place of employment located within area A or area B. Inspection in other counties of the state shall commence upon application by a county board of supervisors for participation in such inspection program, subject to approval by the director. In all counties with a population of three hundred fifty thousand or fewer persons according to the most recent United States decennial census, except for the portion of counties that contain any portion of area A, the director shall as conditions dictate provide for testing to determine the effect of vehicle related pollution on ambient air quality in all communities with a metropolitan area population of twenty thousand persons or more according to the most recent United States decennial census. If such testing detects the violation of state ambient air quality standards by vehicle related pollution, the director shall forward a full report of such violation to the president of the senate, the speaker of the house of representatives and the governor.

B. The state's annual or biennial emissions inspection program shall provide for vehicle inspections at official emissions inspection stations or at fleet emissions inspection stations. Each inspection station in area A shall employ at least one mechanic who is available during the station's hours of operation to provide technical advice and assistance for persons who fail the emissions test. The director may enter into agreements with the department of transportation or with county assessors for the use of official emissions inspection stations for the purpose of conducting vehicle registrations. An official or fleet emissions inspection station permit shall not be sold, assigned, transferred, conveyed or removed to another location except on such terms and conditions as the director may prescribe.

C. Vehicles required to be inspected and registered in this state, except those provided for in § 49-546, shall be inspected, for the purpose of complying with the registration or reregistration requirement pursuant to subsection D of this section, in accordance with the provisions of this article no more than ninety days prior to each reregistration expiration date. A vehicle may be submitted voluntarily for inspection more than ninety days before the reregistration expiration date on payment of the prescribed inspection fee. Such voluntary inspection shall not be considered as compliance with the registration or reregistration requirement pursuant to subsection D of this section.

D. A vehicle shall not be registered or reregistered until such vehicle has passed the emissions inspection, the tampering inspection prescribed in subsection G of this section and the liquid fuel leak inspection prescribed in subsection Z of this section or has been issued a certificate of waiver. A certificate of waiver shall only be issued one time to a vehicle after January 1, 1997. If any vehicle to be registered or reregistered is being sold by a dealer licensed to sell motor vehicles pursuant to title 28,<sup>1</sup> the cost of any inspection and any repairs necessary to pass the inspection shall be borne by the dealer. A dealer who is licensed to sell motor vehicles pursuant to title 28 and whose place of business is located in area A or area B shall not deliver any vehicle to the retail purchaser until the vehicle passes any inspection required by this article or the vehicle is exempt under subsection J of this section.

E. On the registration or reregistration of a vehicle which has complied with the minimum emissions standards pursuant to this section or is otherwise exempt under this section, the registering officer shall issue an air quality compliance sticker to the registered owner which shall be placed on the vehicle as prescribed by rule adopted by the department of transportation or issue a modified year validating tab as prescribed by rule adopted by the department of transportation. Those persons who reside outside of area A or area B but who elect to test their vehicle or are required to test their vehicle pursuant to this section and who comply with the minimum emissions standards pursuant to this section or are otherwise exempt under this section shall remit a compliance form, as prescribed by the department of transportation, and proof of compliance issued at an official emissions inspection station to the department of transportation along with the appropriate fees. The department of transportation shall then issue the person an air quality compliance sticker which shall be placed on the vehicle as prescribed by rule adopted by the department of transportation. The registering officer or the department of transportation shall collect an air quality compliance fee of twenty-five cents. The registering officer or the department of transportation shall deposit, pursuant to

§§ 35-146 and 35-147, the air quality compliance fee in the state highway fund established by § 28-6991. The department of transportation shall deposit, pursuant to §§ 35-146 and 35-147, any emissions inspection fee in the emissions inspection fund. The provisions of this subsection do not apply to those vehicles registered pursuant to title 28, chapter 7, article 7 or 8,<sup>2</sup> the sale of vehicles between motor vehicle dealers or vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.

F. The director shall adopt minimum emissions standards pursuant to § 49-447 with which the various classes of vehicles shall be required to comply as follows:

1. For the purpose of determining compliance with minimum emissions standards in area B:

(a) A motor vehicle manufactured in or before the 1980 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test condition. A diesel powered vehicle is subject to only a loaded test condition. The conditioning mode shall, at the option of the vehicle owner or owner's agent, be administered only after the vehicle has failed the curb idle test condition. Upon completion of such conditioning mode, a vehicle that has failed the curb idle test condition may be retested in the curb idle test condition. If the vehicle passes such retest, it shall be deemed in compliance with minimum emissions standards unless the vehicle fails the tampering inspection pursuant to subsection G of this section or the liquid fuel leak inspection pursuant to subsection Z of this section.

(b) A motor vehicle manufactured in or after the 1981 model year, other than a diesel powered vehicle, shall be required to take and pass the curb idle test condition and the loaded test condition or an onboard diagnostic check as may be required pursuant to title II of the clean air act.

2. For purposes of determining compliance with minimum emissions standards and functional tests in area A:

(a) Motor vehicles manufactured in or after model year 1981 with a gross vehicle weight rating of eighty-five hundred pounds or less, other than diesel powered vehicles, shall be required to take and pass a transient loaded emissions test or an onboard diagnostic check as may be required pursuant to title II of the clean air act.

(b) Motor vehicles other than those prescribed by subdivision (a) of this paragraph and other than diesel powered vehicles shall be required to take and pass a steady state loaded test and a curb idle emissions test.

(c) A diesel powered motor vehicle applying for registration or reregistration in area A shall be required to take and pass an annual emissions test conducted at an official emissions inspection station or a fleet emissions inspection station as follows:

(i) A loaded, transient or any other form of test as provided for in rules adopted by the director for vehicles with a gross vehicle weight rating of eight thousand five hundred pounds or less.

(ii) A test that conforms with the society for automotive engineers standard J1667 for vehicles with a gross vehicle weight rating of more than eight thousand five hundred pounds.

(d) Motor vehicles by specific class or model year shall be required to take and pass any of the following tests:

(i) An evaporative system purge test.

(ii) An evaporative system integrity test.

(e) An onboard diagnostic check may be required pursuant to title II of the clean air act.

3. Any constant four wheel drive vehicle shall be required to take and pass a curb idle emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act.

4. Fleet operators in area B must comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit under § 49-546 shall be tested as follows:

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(a) A motor vehicle manufactured in or before the 1980 model year shall take and pass only the curb idle test condition, except that a diesel powered vehicle is subject to only a loaded test condition.

(b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test condition and a twenty-five hundred revolutions per minute unloaded test condition.

5. Vehicles owned or operated by the United States, this state or a political subdivision of this state shall comply with this subsection without regard to whether those vehicles are required to be registered in this state, except that alternative fuel vehicles of a school district that is located in area A shall be required to take and pass the curb idle test condition and the loaded test condition.

6. Fleet operators in area A shall comply with this section, except that used vehicles sold by a motor vehicle dealer who is a fleet operator and who has been issued a permit pursuant to § 49-546 for purposes of determining compliance with minimum emission standards in area A shall be tested as follows:

(a) A motor vehicle manufactured in or before the 1980 model year shall take and pass the curb idle test condition, except that a diesel powered vehicle is subject to only a loaded test condition.

(b) A motor vehicle manufactured in or after the 1981 model year shall take and pass the curb idle test condition and a two thousand five hundred revolutions per minute unloaded test condition.

7. Beginning on January 1, 2004 and except for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2<sup>3</sup> in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations § 86.088-11. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

8. Beginning on January 1, 2006 for any registered owner or lessee of a fleet of less than twenty-five vehicles, a diesel powered motor vehicle with a gross vehicle weight of more than twenty-six thousand pounds and for which gross weight fees are paid pursuant to title 28, chapter 15, article 2 in area A shall not be allowed to operate in area A unless it was manufactured in or after the 1988 model year or is powered by an engine that is certified to meet or surpass emissions standards contained in 40 Code of Federal Regulations § 86.088-11. This paragraph does not apply to vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

G. In addition to an emissions inspection, a vehicle is subject to a tampering inspection on at least a biennial basis if the vehicle was manufactured after the 1974 model year and the vehicle is not subject to a transient loaded emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act. The director shall adopt vehicle configuration guidelines for the tampering inspection which shall be based on the original configuration of the vehicle when manufactured. The tampering inspection shall consist of the following:

1. A visual check to determine the presence of properly installed catalytic converters.
2. An examination to determine the presence of an operational air pump.
3. In area A, if the vehicle was manufactured after the 1974 model year and is not subject to a transient loaded emissions test or an onboard diagnostic check as required pursuant to title II of the clean air act, a visual inspection for the presence or malfunction of the positive crankcase ventilation system and the evaporative control system.

H. Vehicles required to be inspected shall undergo a functional test of the gas cap to determine if the cap holds pressure within limits prescribed by the director, except for any vehicle that is subject to an evaporative system integrity test.

1. Motor vehicles failing the initial or subsequent test are not subject to a penalty fee for late registration renewal if the original testing was accomplished before the expiration date



and if the registration renewal is received by the motor vehicle division or the county assessor within thirty days of the original test.

J. The director may adopt rules for purposes of implementation, administration, regulation and enforcement of the provisions of this article including:

1. The submission of records relating to the emissions inspection of vehicles inspected by another jurisdiction in accordance with another inspection law and the acceptance of such inspection for compliance with the provisions of this article.
2. The exemption from inspection of:
  - (a) A motor vehicle manufactured in or before the 1966 model year.
  - (b) New vehicles originally registered at the time of initial retail sale and titling in this state pursuant to § 28-2153 or 28-2154.
  - (c) Vehicles registered pursuant to title 28, chapter 7, article 7 or 8.
  - (d) New vehicles before the sixth registration year after initial purchase or lease.
  - (e) Vehicles which will not be available within the state during the ninety days prior to registration.
  - (f) Golf carts.
  - (g) Electrically-powered vehicles.
  - (h) Vehicles with an engine displacement of less than ninety cubic centimeters.
  - (i) The sale of vehicles between motor vehicle dealers.
  - (j) Vehicles leased to a person residing outside of area A or area B by a leasing company whose place of business is in area A or area B.
  - (k) Collectible vehicles.
  - (l) Motorcycles.
3. Compiling and maintaining records of emissions test results after servicing.
4. A procedure which shall allow the vehicle service and repair industry to compare the calibration accuracy of its emissions testing equipment with the department's calibration standards.
5. Training requirements for automotive repair personnel using emissions measuring equipment whose calibration accuracy has been compared with the department's calibration standards.
6. Any other rule which may be required to accomplish the provisions of this article.

K. The director, after consultation with automobile manufacturers and the vehicle service and repair industry, shall establish by rule a definition of "low emissions tune-up" for motor vehicles subject to inspection under this article. The definition shall specify repair procedures which, when implemented, will reduce vehicle emissions.

L. The director shall adopt rules which specify that the estimated retail cost of all recommended maintenance and repairs shall not exceed the amounts prescribed in this subsection, except that if a vehicle fails a tampering inspection there is no limit on the cost of recommended maintenance and repairs. The director shall issue a certificate of waiver for a vehicle which has failed reinspection, if the director has determined that all recommended maintenance and repairs have been performed. If, after reinspection, the director has determined that the vehicle is in compliance with minimum emissions standards or that all recommended maintenance and repairs for compliance with minimum emissions standards have been performed, but that tampering discovered at a tampering inspection has not been repaired, the director may issue a certificate of waiver if the owner of the vehicle provides to the director a written statement from an automobile parts or repair business that an emissions control device which is necessary to repair the tampering is not available and cannot be obtained from any usual source of supply before the vehicle's current registration expires. Rules adopted by the director for the purpose of establishing the estimated retail cost of all recommended maintenance and repairs pursuant to this subsection shall specify that:

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1. In area A the cost shall not exceed:
  - (a) Five hundred dollars for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
  - (b) Five hundred dollars for a diesel powered vehicle with tandem axles.
  - (c) For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
    - (i) Two hundred dollars for such a vehicle manufactured in or before the 1974 model year.
    - (ii) Three hundred dollars for such a vehicle manufactured in the 1975 through 1979 model years.
    - (iii) Four hundred fifty dollars for such a vehicle manufactured in or after the 1980 model year.
2. In area B the cost shall not exceed:
  - (a) Three hundred dollars for a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds.
  - (b) Three hundred dollars for a diesel powered vehicle with tandem axles.
3. For a vehicle other than a diesel powered vehicle with a gross weight in excess of twenty-six thousand pounds and other than a diesel powered vehicle with tandem axles:
  - (a) Fifty dollars for such a vehicle manufactured in or before the 1974 model year.
  - (b) Two hundred dollars for such a vehicle manufactured in the 1975 through 1979 model years.
  - (c) Three hundred dollars for such a vehicle manufactured in or after the 1980 model year.

M. Each person whose vehicle has failed an emissions inspection shall be provided a list of those general recommended tune-up procedures for vehicles which are designed to reduce vehicle emissions levels. The list shall include the following notice: "This test is the result of federal law. You may wish to contact your representative in the United States Congress."

N. Notwithstanding any other provisions of this article, the director may adopt rules allowing exemptions from the requirement that all vehicles must meet the minimum standards for registration or reregistration.

O. The director of environmental quality shall establish, in cooperation with the assistant director for the motor vehicle division of the department of transportation:

1. An adequate method for identifying bona fide residents residing outside of area A or area B to ensure that such residents are exempt from compliance with the inspection program established by this article and rules adopted under this article.
2. A written notice that shall accompany the vehicle registration application forms that are sent to vehicle owners pursuant to § 28-2151 and that shall accompany or be included as part of the vehicle emissions test results that are provided to vehicle owners at the time of the vehicle emissions test. This written notice shall describe at least the following:
  - (a) The restriction of the waiver program to one time per vehicle and a brief description of the implications of this limit.
  - (b) The availability and a brief description of the vehicle repair and retrofit program established pursuant to § 49-474.03.
  - (c) Notice that many vehicles carry extended warranties for vehicle emissions systems, and those warranties are described in the vehicle's owner's manual or other literature.
  - (d) A description of the catalytic converter replacement program established pursuant to § 49-474.03.

P. Notwithstanding any other law, if area A or area B is reclassified as an attainment area, emissions testing conducted pursuant to this article shall continue for vehicles registered inside that reclassified area, vehicles owned by a person who is subject to § 15-1444 or 15-1627 and vehicles registered outside of that reclassified area but used to commute to the driver's principal place of employment located within that reclassified area.

Q. A fleet operator who is issued a permit pursuant to § 49-546 may electronically transmit emissions inspection data to the department of transportation pursuant to rules adopted by the director of the department of transportation in consultation with the director of environmental quality.

R. The director shall prohibit a certificate of waiver pursuant to subsection L of this section for any vehicle which has failed inspection in area A due to the catalytic converter system.

S. The director shall establish provisions for rapid testing of certain vehicles and to allow fleet operators, singly or in combination, to contract directly for vehicle emissions testing.

T. Each vehicle emissions control station in area A shall have a sign posted to be visible to persons who are having their vehicles tested. This sign shall state that enhanced testing procedures are a direct result of federal law.

U. The initial adoption of rules pursuant to this section shall be deemed emergency rules pursuant to § 41-1026.

V. The director of environmental quality and the director of the department of transportation shall implement a system to exchange information relating to the waiver program, including information relating to vehicle emissions test results and vehicle registration information.

W. Any person who sells a vehicle that has been issued a certificate of waiver pursuant to this section after January 1, 1997 and who knows that a certificate of waiver has been issued after January 1, 1997 for that vehicle shall disclose to the buyer before completion of the sale that a certificate of waiver has been issued for that vehicle.

X. Vehicles that fail the emissions test at emission levels higher than twice the standard established for that vehicle class by the department pursuant to § 49-447 are not eligible for a certificate of waiver pursuant to this section unless the vehicle is repaired sufficiently to achieve an emissions level below twice the standard for that class of vehicle.

Y. If an insurer notifies the department of transportation of the cancellation or nonrenewal of collectible vehicle or classic automobile insurance coverage for a collectible vehicle, the department of transportation shall cancel the registration of the vehicle and the vehicle's exemption from emissions testing pursuant to this section unless evidence of coverage is presented to the department of transportation within sixty days.

Z. In addition to an emissions inspection, a vehicle is subject to a liquid fuel leak inspection on at least a biennial basis if the vehicle was manufactured after the 1974 model year and is not a diesel vehicle. The director shall adopt rules prescribing procedures and standards for the liquid fuel leak inspection.

AA. For the purposes of this section, "collectible vehicle" means a vehicle that complies with both of the following:

1. Either:
  - (a) Bears a model year date of original manufacture that is at least fifteen years old.
  - (b) Is of unique or rare design, of limited production and an object of curiosity.
2. Meets both of the following criteria:
  - (a) Is maintained primarily for use in car club activities, exhibitions, parades or other functions of public interest or for a private collection and is used only infrequently for other purposes.
  - (b) Has a collectible vehicle or classic automobile insurance coverage that restricts the collectible vehicle mileage or use, or both, and requires the owner to have another vehicle for personal use.

Added as § 36-1772 by Laws 1974, Ch. 158, § 1. Amended by Laws 1975, Ch. 85, § 2; Laws 1976, Ch. 182, § 4; Laws 1980, Ch. 253, § 4, eff. Jan. 1, 1981; Laws 1985, Ch. 266, § 3, eff. Jan. 1, 1986; Laws 1986, Ch. 319, § 4, eff. Jan. 1, 1987. Renumbered as § 49-452 and amended by Laws 1986, Ch. 368, §§ 37, subsec. C, 111, eff. July 1, 1987. Amended by Laws 1987, Ch. 365, § 21, eff. Jan. 1, 1988; Laws 1988, Ch. 252, § 18, eff. Jan. 1, 1989; Laws 1989, Ch. 225, § 5; Laws 1991, Ch. 33, § 1; Laws 1992, Ch. 299, § 58; Laws 1993, Ch. 178, § 28, eff. April 20, 1993; Laws 1993, 6th S.S., Ch. 1, § 26, eff. Jan. 1, 1995; Laws 1994, Ch. 353, § 23, eff. April 26, 1994; Laws 1995, Ch. 241, § 49; Laws 1996, Ch. 220, § 71, eff. July 1, 1997; Laws 1996, 7th S.S., Ch. 6, § 32, eff. July 1, 1997; Laws 1997, Ch. 1, § 496, eff. Oct. 1, 1997; Laws 1998, Ch. 217, § 22; Laws 1998, 6th S.S., Ch. 1, § 2, eff. Dec. 22, 1998; Laws 1999, Ch. 298, § 3; Laws 2000, Ch. 193, § 578; Laws 2000, Ch. 404, § 2; Laws 2000, Ch. 405, § 34, eff. April 28, 2000; Laws 2000, 7th S.S., Ch. 1, § 22, eff. Dec. 14, 2000; Laws 2001, Ch. 371, § 9; Laws 2004, Ch. 73, § 1; Laws 2005, Ch. 76, § 1, eff. April 30, 2007; Laws 2007, Ch. 171, §§ 4 and 5; Laws 2007, Ch. 292, § 19; Laws 2008, Ch. 64, § 1.

49-542.05. Alternative fuel vehicles

A. EACH ALTERNATIVE FUEL VEHICLE, EXCEPT FOR VEHICLES FUELED BY HYDROGEN, AS DEFINED IN SECTION 43-1086 THAT IS REGISTERED IN OR USED TO COMMUTE INTO AREA A OR AREA B PURSUANT TO SECTION 49-542, SUBSECTION A IS SUBJECT TO THE EMISSIONS INSPECTION REQUIREMENTS PRESCRIBED IN THIS ARTICLE AND SHALL BE TESTED BEFORE THE VEHICLE IS REGISTERED IN THIS STATE AS AN ALTERNATIVE FUEL VEHICLE BOTH WHILE OPERATING ON GASOLINE AND WHILE OPERATING ON ALTERNATIVE FUEL, IF APPLICABLE. IN SUBSEQUENT YEARS, THE VEHICLE SHALL BE TESTED BOTH WHILE OPERATING ON GASOLINE AND WHILE OPERATING ON ALTERNATIVE FUEL, IF APPLICABLE, PURSUANT TO THE REQUIREMENTS OF SECTION 49-542.

B. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL COMPILE AND MAINTAIN DATA REGARDING THE RESULTS OF EMISSIONS INSPECTIONS OF ALL ALTERNATIVE FUEL VEHICLES PURSUANT TO THIS ARTICLE.



49-543. Emissions inspection costs; disposition; fleet  
inspection; certificates

A. The director shall fix, regulate and alter in accordance with this section the fees required to be paid for the full costs of the vehicle emissions inspection program pursuant to this article including administration, implementation and enforcement.

~~C.~~ B. EXCEPT AS PROVIDED IN SECTION 49-542.05, the registration renewal notice required for the second through fifth registration year of a new vehicle shall include a notice to the vehicle owner that even though an emissions inspection test is not required pursuant to ~~subsection B of this section~~ SECTION 49-542, SUBSECTION J, PARAGRAPH 2, SUBDIVISION (d) the owner may choose to have an emissions inspection because of vehicle emissions performance warranty limitations on emissions components of the vehicle.

~~D.~~ C. The fees charged for official emissions inspection shall be uniform as applied to each class of vehicle which shall be defined by the director. Except for fees collected by the director pursuant to section 49-546, the inspection fees required to be paid pursuant to this article may be collected with the registration fee by the registering officer at the time and place of motor vehicle registration pursuant to title 28, chapter 7, article 5 and deposited, pursuant to sections 35-146 and 35-147, in the

emissions inspection fund in accordance with the rules adopted by the director or may be collected by the independent contractor at the time of inspection by means of an approved check or cash.

~~E.~~ D. Any person, except a person who has been issued a certificate of waiver pursuant to section 49-542, subsection L, whose vehicle has been inspected at an official emissions inspection station shall, if the vehicle was not found to comply with the minimum standards, have the vehicle repaired, including recommended repair or replacement of emissions control devices as a result of tampering, and have the right within sixty consecutive calendar days but not thereafter to return the vehicle for one reinspection without charge. The department may provide for additional reinspections without charge. A vehicle shall not be deemed to pass a reinspection unless the tampering discovered during the tampering inspection is repaired with new or reconditioned emissions control devices.

~~F.~~ E. The department shall issue certificates of inspection to owners of fleet emissions inspection stations. Each certificate shall be validated by the fleet emissions inspection stations in a manner required by the director at the time that each owner's fleet vehicle has been inspected or has passed inspection. The validated certificate of inspection shall indicate at the time of registration that the owner's fleet vehicle has been inspected and that the vehicle has passed inspection.

~~G.~~ F. The director shall fix an emissions inspection fee before inspection certificates may be issued to the owner of any fleet emissions inspection station. Such fee shall be uniform for each inspection certificate issued and shall be based upon the director's estimated costs to the state of administering and enforcing the provisions of this article as they apply to fleet emissions inspection stations and the vehicles inspected in fleet emissions inspection stations. The director shall deposit, pursuant to sections 35-146 and 35-147, all such monies collected by the director pursuant to this article in the emissions inspection fund.

49-545. Agreement with independent contractor: qualifications of contractor; agreement provisions

A. The director is authorized to enter into an emissions inspection agreement with one or more independent contractors, subject to public bidding, to provide for the construction, equipment, establishment, maintenance and operation of any official emissions inspection stations in such numbers and locations as may be required to provide vehicle owners reasonably convenient access to inspection facilities for the purpose of obtaining compliance with this article and the rules adopted pursuant to this article. The agreement may provide that official inspection stations shall be placed in permanent or movable buildings at particular locations as well as in mobile units for conveyance from one preannounced particular location to another.

B. The director is prohibited from entering into an emissions inspection agreement with any independent contractor who:

1. Is engaged in the business of manufacturing, selling, maintaining or repairing vehicles, except that the independent contractor shall not be precluded from maintaining or repairing any vehicle owned or operated by the independent contractor.

2. Does not have the capability, resources or technical and management skill to adequately construct, equip, operate and maintain a sufficient number of official emissions inspection stations to meet the demand for inspection of every vehicle which is required to be submitted for inspection pursuant to this article.

C. All persons employed by the independent contractor in the performance of an emissions inspection agreement are deemed to be employees of the independent contractor and not of this state. No employee of the independent contractor shall wear any badge, insignia, patch, emblem, device, word or series of words which would tend to indicate that such person is employed by this state. Employees of the independent contractor are specifically prohibited under this subsection from wearing the flag of this state, the words "state of Arizona", the words "official emissions inspection program" or any similar emblem or phrase.

D. The emissions inspection agreement authorized by this section shall contain, in addition to any other provisions, provisions relating to the following:

1. A contract term or duration of BETWEEN FIVE AND seven ~~and one-half~~ years with reasonable compensation to the contractor if the provisions of this article are repealed.



2. That nothing in the agreement or contract shall require the state to purchase any asset or assume any liability if such agreement or contract is not renewed.

3. The minimum requirements for adequate staff, equipment, management and hours and place of operation of official emissions inspection stations.

4. The submission of such reports and documentation concerning the operation of official emissions inspection stations as the director and the auditor general may require.

5. Surveillance by the department of environmental quality and the auditor general to ensure compliance with vehicular emissions standards, procedures, rules and laws.

6. The right of this state, upon providing reasonable notice to the independent contractor, to terminate the contract with the independent contractor and THE RIGHT OF THIS STATE ON TERMINATION OF THE CONTRACT to assume operation of the vehicle emissions inspection program THROUGH ANOTHER CONTRACT PROVIDER OR OTHERWISE.

7. The right of this state upon termination of the term of the agreement or upon assumption of the operation of the program to have transferred and assigned to it for reasonable compensation any interest in land, buildings, improvements, equipment, parts, tools and services used by the independent contractors in their operation of the program.

8. The right of this state upon termination of the term of the agreement or assumption of the operation of the program to have transferred and assigned to it any contract rights, and related obligations, for land, buildings, improvements, equipment, parts, tools and services used by the independent contractors in their operation of the program.

9. The obligation of the independent contractors to provide in any agreement to be executed by them, and to maintain in any agreements previously executed by them, for land, buildings, improvements, equipment, parts, tools and services used in their operation of the program for the right of the independent contractors to assign to this state any of their rights and obligations under such contract.

10. THE RIGHT OF THE INDEPENDENT CONTRACTOR, IN THE EVENT THE CONTRACT IS TERMINATED AND THE STATE ELECTS TO ASSUME OPERATION OF THE VEHICLE EMISSIONS INSPECTION PROGRAM THROUGH ANOTHER CONTRACTOR OR OTHERWISE, TO RETAIN AND NOT TRANSFER TO THE STATE ANY INTEREST IN OR ANY CONTRACT RIGHTS AND RELATED OBLIGATIONS FOR IMPROVEMENTS, EQUIPMENT, PARTS, TOOLS AND SERVICES USED BY THE INDEPENDENT CONTRACTOR IN THE OPERATION OF THE PROGRAM AND WHICH ARE PROPRIETARY IN NATURE, AS MAY BE MORE SPECIFICALLY SET FORTH IN THE CONTRACT.

~~10.~~ 11. The amounts of liquidated damages payable by this state to the independent contractor if the state exercises its right to terminate the contract at the conclusion of the first, second, third or fourth EACH year of the contract pursuant to paragraph 6 of this subsection. The damages



recoverable by the independent contractor if the state exercises its right to terminate the contract shall be limited to the liquidated damages specified in the contract.

ii. 12. Any other provision deemed necessary by the director for the administration or enforcement of the emissions inspection agreement.

~~E. In conjunction with the attorney general and the department of administration,~~ The department of environmental quality shall establish bid specifications or contract terms for a contract with an independent contractor as provided in this section, review bids for award of a contract with the independent contractors and negotiate any terms of a contract with the independent contractors.

F. In evaluating bids for an emissions inspection agreement, no additional consideration shall be given to a bid solely on the basis of the type of conditioning mode proposed in the bid.

~~G. Before entering into any contract the director shall inquire into the marketplace of independent contractors and based upon this review shall select the independent contractor who in the sole discretion of the director is best qualified to perform the duties required by this article. After a contract is awarded to an independent contractor, the director may modify the contract with the independent contractor to allow the contractor and the state to comply with amendments to applicable statutes or rules. These modifications are exempt from public bidding and may include the addition, deletion or alteration of any contract provision in order to make compliance feasible, including inspection fees and services rendered. Provisions relating to contract term or duration may be amended, except that the term or duration of the contract in existence on the effective date of this section AUGUST 6, 1999 shall not be extended beyond December 31, 2001. Any proposed modification or amendment to the contract is subject to prior review by the joint legislative budget committee. If the director cannot negotiate an acceptable modification of the contract, the state may terminate the contract.~~

H. The following ~~applies~~ APPLY for any contract that takes effect beginning on or after January 1, 2002 AND for which the contractor will be providing services under this section:

1. The department of environmental quality shall report at the end of each calendar quarter to the joint legislative budget committee on the status of the contract process, discussions, development of the request for proposal, contract negotiations, and any other information as may be requested.

2. The contract terms are subject to prior review by the joint legislative budget committee before placement of any advertisement ~~relating~~ THAT SOLICITS A RESPONSE to requests for proposal.

3. Any proposed modification or amendment to the contract is subject to prior review by the joint legislative budget committee.

**49-550. Violation; classification; civil penalty**

A. Except as provided in subsection B of this section, any person who violates any provision of this article or any rule or regulation of the director adopted under this article is guilty of a class 2 misdemeanor.

B. Any person who makes or issues any imitation or counterfeit of an official certificate or certificates of inspection or waiver is guilty of a class 5 felony.

C. Any person who knowingly demands or collects a fee for the inspection of a vehicle other than the fee fixed by the director for the inspection of vehicles of the same class is guilty of a class 2 misdemeanor.

D. Any person who makes or provides to the director the written statement required to obtain a certificate of waiver pursuant to section 49-542, subsection J, knowing the statement to be false, is guilty of a class 2 misdemeanor.

E. In addition to any other criminal penalty provided by law, a person who owns a vehicle and whose residence is located outside of a nonattainment area but who commutes in that vehicle to the driver's principal place of employment located within a nonattainment area without complying with this article is subject to a civil penalty of fifty dollars for a first violation of this subsection. For a second violation of this subsection within a one year period a court shall impose a civil penalty of three hundred dollars. A court shall impose a civil penalty of twenty-five dollars for a first time violation of this subsection if the owner presents evidence that the vehicle is in compliance with this article.

F. IN ADDITION TO ANY OTHER CRIMINAL PENALTY PROVIDED BY LAW, ANY DEALER LICENSED TO SELL MOTOR VEHICLES, PURSUANT TO TITLE 28, CHAPTER 8, WHOSE PLACE OF BUSINESS IS LOCATED IN A NONATTAINMENT AREA AND DELIVERS A VEHICLE THAT DOES NOT CONFORM WITH THIS SECTION IS SUBJECT TO A CIVIL PENALTY OF ONE THOUSAND DOLLARS FOR A FIRST VIOLATION OF THIS SUBSECTION. FOR THE SECOND VIOLATION OF THIS SUBSECTION WITHIN A ONE YEAR PERIOD A COURT SHALL IMPOSE A CIVIL PENALTY OF TWO THOUSAND DOLLARS AND A SUSPENSION OF THEIR LICENSE FOR A PERIOD OF NINETY DAYS.



49-551. Air quality fee; air quality fund; purpose

A. Every person who is required to register a motor vehicle in this state pursuant to section 28-2153 shall pay, in addition to the registration fee, an annual air quality fee at the time of vehicle registration of one dollar fifty cents.

B. The registering officer shall collect the fees and immediately transmit the air quality fees to the state treasurer. The state treasurer shall deposit the fees in the air quality fund established pursuant to subsection C of this section.

C. An air quality fund is established in the state treasury consisting of monies received pursuant to this section, gifts, grants and donations, and monies appropriated by the legislature. The department of environmental quality shall administer the fund. Monies appropriated for purposes prescribed by paragraph 6 of this subsection and gifts, grants and donations designated for purposes prescribed by paragraph 6 of this subsection shall be accounted for in one separate account within the fund. The department of environmental quality shall administer the fund. Except as provided in paragraph 6 of this subsection, monies in the air quality fund shall be used for:

1. Air quality research, experiments and programs conducted by or for the department for the purpose of bringing ~~vehicle emissions control areas~~ AREA A OR AREA B into attainment status, improving air quality in areas of this state outside of ~~the vehicle emissions control areas~~ AREA A OR AREA B and reducing levels of particulate and ozone pollution both inside and outside of vehicle emissions control areas of this state.

2. Funding the Arizona clean air fund established by section 41-1516. The sum of two hundred fifty thousand dollars shall annually be transferred to the fund.

3. Determining the cause of visual air pollution in counties with a population of four hundred thousand persons or more according to the most recent United States decennial census.

4. Conducting the hazardous air pollutants research program and preparing the report as prescribed by section 49-426.08.

5. Developing and adopting rules in compliance with sections 49-426.03, 49-426.04, 49-426.05 and 49-426.06.

6. Conducting a public education program to reduce emissions of ozone forming substances in cooperation with Maricopa county and other affected parties, including private industries. To the extent possible, this program shall be coordinated with other public and private efforts to increase public awareness of air quality issues. ~~This program shall be implemented on or before May 1, 1995 and shall conclude no earlier than September 30, 1996.~~ In addition, the department shall accelerate pollution prevention technical assistance efforts pursuant to section 49-965, subsection A, paragraph 6 in order to avoid ozone violations in calendar years 1995 and 1996. The department shall identify sources that emit ozone forming substances and shall establish a clearinghouse for information on the supply of products

that may be used to substitute for substances that contribute to ozone formation.

D. No disbursement or expenditure of monies in the air quality fund may be made for any purposes other than those set forth in subsections C, E and G of this section.

E. The department of environmental quality shall allocate and the state treasurer shall distribute four hundred thousand dollars from the air quality fund to the department of administration for the purposes prescribed by section 49-588 in eight installments in each of the first eight months of a fiscal year.

F. This section does not apply to an electrically powered golf cart or an electrically powered vehicle.

G. Monies in the fund do not revert to the general fund. The department may make grants to a regional planning agency, county, city or town located within a vehicle emissions control area or areas which have achieved maintenance status for the purpose of air quality research or implementation of programs designed to accomplish the purposes of this section.

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✓  
Sec. 21. Title 49, chapter 3, article 5, Arizona Revised Statutes, is amended by adding section 49-553, to read:

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49-553. Reports to legislature by department of environmental quality

A. THE DEPARTMENT OF ENVIRONMENTAL QUALITY WITH THE SUPPORT OF THE DEPARTMENT OF WEIGHTS AND MEASURES AND THE DEPARTMENT OF TRANSPORTATION SHALL DEVELOP DATA AND REPORT ON THE FOLLOWING:

1. THE BENEFITS, TEST METHODS AND FEASIBILITY OF TESTING GASOLINE AND DIESEL POWERED VEHICLES FOR OXIDE OF NITROGEN AND DIESEL POWERED VEHICLES FOR VEHICLE EMISSIONS.

2. THE METROPOLITAN AIR QUALITY BENEFITS DERIVED FROM THE EMISSIONS TESTING OF VEHICLES REGISTERED IN AREAS CONTIGUOUS TO THE NONATTAINMENT AREAS FOR AUTOMOTIVE RELATED POLLUTANTS.

3. THE EFFECTIVENESS OF THE VEHICLE EMISSIONS TESTING PROGRAM IN REDUCING CARBON MONOXIDE AND OTHER FORMS OF POLLUTION.

4. THE EFFECTIVENESS OF THE MEASURES SET FORTH IN SECTION 41-2083 AND TITLE 41, CHAPTER 15, ARTICLE 6 IN REDUCING CARBON MONOXIDE AND HYDROCARBON EMISSIONS.

5. THE RESULTS OF STUDIES WHICH THE DIRECTOR SHALL CONDUCT SHOWING THE COSTS AND BENEFITS OF THE CARBON MONOXIDE REDUCTION MEASURES ADOPTED BY THIS CHAPTER AND RECOMMENDATIONS AS TO HOW BENEFITS MAY BE INCREASED AND COSTS DECREASED.

6. THE SPECIFIC CAUSES OF CARBON MONOXIDE CONCENTRATIONS AT AIR QUALITY MONITORS WHICH EXCEED FEDERAL STANDARDS AND RECOMMENDATIONS CONCERNING SPECIFIC TRAFFIC FLOW IMPROVEMENTS THAT MAY REDUCE SUCH CONCENTRATIONS.

B. THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL CONDUCT RESEARCH TO QUANTIFY THE EFFECT OF ALTERNATIVE FUELS ON TOXIC COMPONENTS OF VEHICULAR EMISSIONS. THIS SHALL INCLUDE ALDEHYDES, PARTICULARLY FORMALDEHYDE, BENZENE AND OTHER AROMATICS.

C. THE DIRECTOR SHALL TRANSMIT THE REPORTS REQUIRED BY THIS SECTION TO THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE AIR QUALITY COMPLIANCE ADVISORY COMMITTEE ESTABLISHED PURSUANT TO SECTION 49-403 ON OR BEFORE OCTOBER 1, 1988 AND ON OR BEFORE OCTOBER 1 OF EACH YEAR THEREAFTER.

D. THE DEPARTMENT SHALL ACQUIRE, WITH MONIES FROM THE AIR QUALITY FUND, EQUIPMENT CAPABLE OF MEASURING THE EMISSIONS EFFECTS OF THE USE OF OXYGENATED GASOLINE BLENDS BY MEANS OF THE FEDERAL TEST PROCEDURES. THE DEPARTMENT SHALL USE THE EQUIPMENT FOR THE PURPOSE OF EMISSIONS TESTING OF THE VEHICLES REQUIRED TO BE TESTED PURSUANT TO SECTION 49-404.

E. THE DEPARTMENT MAY HIRE CONSULTANTS FOR THE PURPOSE OF ANALYZING THE COSTS AND BENEFITS OF THE CARBON MONOXIDE REDUCTION MEASURES ADOPTED BY THIS CHAPTER AND TO DESIGN AND EXECUTE AND TO EVALUATE THE RESULTS OF THE TESTING PROGRAM REQUIRED BY SUBSECTION C OF THIS SECTION



49-557. Government vehicles: emissions inspections:  
noncompliance: vehicle operation privilege suspension

A. EACH VEHICLE THAT IS OWNED BY THE UNITED STATES GOVERNMENT AND THAT IS DOMICILED IN THIS STATE FOR MORE THAN NINETY CONSECUTIVE DAYS AND EACH VEHICLE THAT IS OWNED BY A STATE OR POLITICAL SUBDIVISION OF THIS STATE SHALL COMPLY WITH SECTION 49-542. ON COMPLIANCE, THE DEPARTMENT SHALL ISSUE A GOVERNMENT ENTITY COMPLIANCE STICKER FOR THE VEHICLE. THE GOVERNMENT ENTITY COMPLIANCE STICKER SHALL BE PLACED ON THE VEHICLE AS PRESCRIBED BY RULE ADOPTED BY THE DEPARTMENT.

B. IF A VEHICLE DESCRIBED IN SUBSECTION A OF THIS SECTION DOES NOT HAVE A CURRENT GOVERNMENT ENTITY COMPLIANCE STICKER, A LAW ENFORCEMENT OFFICER SHALL ISSUE A CITATION TO THE OPERATOR OF THE VEHICLE FOR A VIOLATION OF THIS SECTION. ON RECEIPT OF THE ABSTRACT OF CONVICTION FOR A VIOLATION OF THIS SECTION, THE DEPARTMENT OF TRANSPORTATION SHALL IMMEDIATELY SUSPEND THE PRIVILEGE TO OPERATE THE VEHICLE ON THE HIGHWAYS OF THIS STATE UNTIL THAT VEHICLE COMPLIES WITH SECTION 49-542.

Sec. 46. Section 49-571, Arizona Revised Statutes, is amended to read:  
49-571. Clean burning alternative fuel requirements for new buses: definition

A. A city, town or county which purchases buses for use in a county with a population of more than five hundred thousand persons ~~according to the most recent United States decennial census~~ shall only purchase buses which operate on clean burning alternative fuel.

B. If a city, town or county is unable to purchase a sufficient number of buses which operate on clean burning alternative fuel to meet the requirements of subsection A due to the unavailability of those types of buses, the city, town or county shall convert a sufficient number of buses in their present fleet which operate on any fuel listed in subsection C so that the number of the converted buses along with the buses operating on clean burning alternative fuel equals or exceeds the amount required pursuant to subsection A.

C. In this section, "clean burning alternative fuel" means:

1. Natural gas.
2. Liquefied petroleum gas.
3. A blend of unleaded gasoline that contains at minimum eighty-five per cent ethanol by volume or eighty-five per cent methanol by volume.
4. Neat methanol.
5. Neat ethanol.
6. Diesel fuel if combined with compressed natural gas or liquefied petroleum gas or alcohol.
7. Hydrogen.
8. Electricity.
9. Solar energy.
10. Liquefied natural gas.

11. An emulsion of water-phased hydrocarbon fuel that contains not less than twenty per cent water by volume and that complies with any of the following:

(a) Is used in an engine that is certified to meet at a minimum the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or 88.105-94.

(b) Is used in an engine that is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency.

(c) Is used in an engine that is the subject of a waiver for that specific engine application from the United States environmental protection agency's memorandum 1-A addendum requirements and that waiver is documented to the reasonable satisfaction of the department of commerce energy office.

12. A combination of at least seventy per cent alternative fuel and no more than thirty per cent petroleum based fuel and that operates in an engine that meets the United States environmental protection agency low emission vehicle standard pursuant to 40 Code of Federal Regulations section ~~88.104-95~~ 88.104-94 or 88.105-94 and is certified by the engine manufacturer to consume at least seventy per cent alternative fuel during normal vehicle operations.

D. Any fuels or combination of fuels listed in subsection C shall qualify as clean burning in new or converted buses by demonstrating levels of emission requirements pursuant to title II of the clean air act.



49-573. Emissions controls; federal vehicles; definition

A. The operator of a United States government owned vehicle fleet based primarily in this state shall develop and implement a vehicle fleet plan for the purpose of encouraging and progressively increasing the use of alternative fuels in United States government owned vehicles. The plan shall include a timetable for increasing the use of alternative fuels in fleet vehicles either through purchase or conversion. At a minimum, the alternative fuel vehicles shall comply with any one of the following:

1. The United States environmental protection agency standards for low emission vehicles pursuant to 40 Code of Federal Regulations section 88.104-94 or 88.105-94.

2. The vehicle engine is certified by the engine modifier to meet the addendum to memorandum 1-A of the United States environmental protection agency, as printed in the federal register, volume 62, number 207, October 27, 1997, pages 55635 through 55637.

3. The vehicle engine is the subject of a waiver for that specific engine application from the United States environmental protection agency's addendum to memorandum 1-A requirements and that waiver is documented to the reasonable satisfaction of the department of commerce energy office.

B. The timetable shall reflect the following schedule and percentage of vehicles which operate on alternative fuels:

1. At least ten per cent of the total fleet by December 31, 1994.

2. At least forty per cent of the total fleet by December 31, 1995.

3. For fleets operating primarily in counties with a population of more than one million two hundred thousand persons according to the most recent United States decennial census, at least ninety per cent of the total fleet by December 31, 1997 and each year thereafter.

C. The requirements of subsections A and B of this section may be waived on receipt of certification supported by evidence acceptable to the department of environmental quality that the United States government fleet operator is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using alternative fuels at a projected cost that is reasonably expected to result in net costs of no greater than thirty per cent more than the net costs associated with the continued use of conventional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. An entity that receives a waiver pursuant to this section shall retrofit fleet heavy-duty diesel vehicles with a gross vehicle weight of eight thousand five hundred pounds or more, that were manufactured in or before model year 1993 and that are the subject of the waiver, with a technology that is effective at reducing particulate emissions at least twenty-five per cent or more and that has been approved by the United States environmental protection agency pursuant to the urban bus engine retrofit/rebuild program. The entity shall comply with the implementation schedule pursuant to section 49-555.

D. AN OPERATOR OF A FLEET THAT IS SUBJECT TO SUBSECTIONS A AND B OF THIS SECTION AND THAT DOES NOT COMPLY WITH THE STATUTORY TIMETABLE AND PERCENTAGE GOALS FOR ALTERNATIVE FUEL VEHICLES SHALL FILE A REPORT WITH THE DEPARTMENT OF COMMERCE ENERGY OFFICE, THE HOUSE OF REPRESENTATIVES FEDERAL MANDATES AND STATES' RIGHTS AND ENVIRONMENT COMMITTEES, OR THEIR SUCCESSOR COMMITTEES, AND THE SENATE GOVERNMENT AND ENVIRONMENTAL STEWARDSHIP AND COMMERCE, AGRICULTURE AND NATURAL RESOURCES COMMITTEES, OR THEIR SUCCESSOR COMMITTEES. THE REPORT SHALL INCLUDE THE TOTAL NUMBER OF VEHICLES IN THE

OPERATOR'S FLEET BY CLASS AND THE PERCENTAGE THAT IS CAPABLE OF OPERATING ON ALTERNATIVE FUEL. THE OPERATOR SHALL FILE THE REPORT ON OR BEFORE OCTOBER 1, 1999, APRIL 1, 2000 AND OCTOBER 1, 2000.

E. AN OPERATOR OF A FLEET THAT DOES NOT FILE A REPORT AS PRESCRIBED IN SUBSECTION D OF THIS SECTION SHALL NOT OPERATE A VEHICLE IN AREA A AS DEFINED IN SECTION 49-541 NINETY DAYS AFTER THE REPORTING DATE. ONCE AN OPERATOR OF A FLEET FILES THE REPORT THIS SUBSECTION SHALL NOT APPLY.

~~θ~~ F. For the purpose of this section "alternative fuel" means fuel types and power sources as defined pursuant to section 41-803:

Sec. 23. Title 49, chapter 3, Arizona Revised Statutes, is amended by adding article 8, to read:

ARTICLE 8. TRAVEL REDUCTION PROGRAMS

49-581. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ALTERNATE MODE" MEANS ANY MODE OF COMMUTE TRANSPORTATION OTHER THAN THE SINGLE OCCUPANCY MOTOR VEHICLE.
2. "APPROVABLE TRAVEL REDUCTION PLAN" MEANS A PLAN SUBMITTED BY A MAJOR EMPLOYER THAT MEETS THE REQUIREMENTS SET FORTH IN SECTION 49-588.
3. "BOARD" MEANS THE AIR QUALITY ADVISORY COUNCIL IN A COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS WHICH IS DESIGNATED BY THE BOARD OF SUPERVISORS AS THE RESPONSIBLE AGENCY TO IMPLEMENT AND ENFORCE THIS ARTICLE.
4. "CARPOOL" OR "VANPOOL" MEANS TWO OR MORE PERSONS TRAVELING IN AN AUTOMOBILE, TRUCK OR VAN TO OR FROM WORK.
5. "COMMUTE TRIP" MEANS A TRIP TAKEN BY AN EMPLOYEE TO OR FROM WORK WITHIN A NONATTAINMENT AREA.
6. "COMMUTER MATCHING SERVICE" MEANS A SYSTEM, WHETHER IT USES COMPUTER OR MANUAL METHODS, WHICH ASSISTS IN MATCHING EMPLOYEES FOR THE PURPOSE OF SHARING RIDES TO REDUCE THE DRIVE ALONE TRAVEL.
7. "EMPLOYER" MEANS A SOLE PROPRIETOR, PARTNERSHIP, CORPORATION, UNINCORPORATED ASSOCIATION, COOPERATIVE, JOINT VENTURE, AGENCY,



DEPARTMENT, DISTRICT OR OTHER INDIVIDUAL OR ENTITY, EITHER PUBLIC OR PRIVATE, THAT EMPLOYS WORKERS.

8. "FULL-TIME EQUIVALENT EMPLOYEES" MEANS THE NUMBER OF EMPLOYEES AN EMPLOYER WOULD HAVE IF THE EMPLOYER'S WORK NEEDS WERE SATISFIED BY EMPLOYEES WORKING FORTY HOUR WORKWEEKS. THE NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES FOR ANY EMPLOYER IS CALCULATED BY DIVIDING THE TOTAL NUMBER OF ANNUAL WORK HOURS PAID BY THE EMPLOYER BY TWO THOUSAND EIGHTY WORK HOURS IN A YEAR.

9. "MAJOR EMPLOYER" MEANS AN EMPLOYER THAT EMPLOYS ONE HUNDRED OR MORE FULL-TIME EQUIVALENT EMPLOYEES AT A SINGLE WORK SITE DURING A TWENTY-FOUR HOUR PERIOD FOR AT LEAST SIX MONTHS DURING THE YEAR.

10. "MODE" MEANS THE TYPE OF CONVEYANCE USED IN TRANSPORTATION, INCLUDING SINGLE OCCUPANCY MOTOR VEHICLE, RIDESHARE VEHICLES, TRANSIT, BICYCLE AND WALKING.

11. "MOTOR VEHICLE" MEANS ANY SELF-PROPELLED VEHICLE INCLUDING A CAR, VAN, BUS, MOTORCYCLE AND ALL OTHER MOTORIZED VEHICLES.

12. "NONATTAINMENT AREA" HAS THE SAME MEANING AS PROVIDED IN SECTION 49-541.

13. "POLITICAL SUBDIVISION" MEANS A CITY, TOWN OR COUNTY OF THIS STATE.

14. "PUBLIC INTEREST GROUP" MEANS ANY NONPROFIT GROUP WHOSE PURPOSE IS TO FURTHER THE WELFARE OF THE COMMUNITY.

15. "REGIONAL" MEANS AN AREA WHICH ENCOMPASSES OR OVERLAPS TERRITORY WITHIN THE JURISDICTION OF TWO OR MORE POLITICAL SUBDIVISIONS OF THIS STATE.

16. "REGIONAL PROGRAM" MEANS THE COMBINATION OF ALL IMPLEMENTED PLANS WITHIN A NONATTAINMENT AREA WHICH PROGRAM SHALL BEGIN IN JANUARY, 1989.

17. "RIDESHARING" MEANS TRANSPORTATION OF MORE THAN ONE PERSON FOR COMMUTE PURPOSES, IN A MOTOR VEHICLE, WITH OR WITHOUT THE ASSISTANCE OF A COMMUTER MATCHING SERVICE.

18. "STAFF" MEANS THE COUNTY STAFF ASSIGNED TO THE TASK FORCE.

19. "TRANSIT" MEANS A BUS OR OTHER PUBLIC CONVEYANCE SYSTEM.

20. "TRANSPORTATION COORDINATOR" MEANS A PERSON DESIGNATED BY AN EMPLOYER, PROPERTY MANAGER OR TRANSPORTATION MANAGEMENT ASSOCIATION AS THE LEAD PERSON IN DEVELOPING AND IMPLEMENTING A TRAVEL REDUCTION PLAN.

21. "TRANSPORTATION MANAGEMENT ASSOCIATION" MEANS A GROUP OF EMPLOYERS OR ASSOCIATIONS FORMALLY ORGANIZED TO SEEK SOLUTIONS FOR TRANSPORTATION PROBLEMS EXPERIENCED BY THE GROUP.

22. "TRAVEL REDUCTION PLAN" MEANS A WRITTEN REPORT OUTLINING TRAVEL REDUCTION MEASURES.

23. "TRAVEL REDUCTION PROGRAM" MEANS A PROGRAM THAT IMPLEMENTS A TRAVEL REDUCTION PLAN BY AN EMPLOYER AND IS DESIGNED TO ACHIEVE A PREDETERMINED LEVEL OF TRAVEL REDUCTION THROUGH VARIOUS INCENTIVES AND DISINCENTIVES.

24. "TRAVEL REDUCTION PROGRAM REGIONAL TASK FORCE" OR "TASK FORCE" MEANS THE TASK FORCE ESTABLISHED PURSUANT TO THIS ARTICLE.

25. "VEHICLE MILES TRAVELED" MEANS THE NUMBER OF MILES TRAVELED BY A MOTOR VEHICLE FOR COMMUTE TRIPS.

26. "VEHICLE OCCUPANCY" MEANS THE NUMBER OF OCCUPANTS IN A MOTOR VEHICLE INCLUDING THE DRIVER.

27. "VOLUNTARY PARTICIPANT" MEANS AN EMPLOYER THAT IS NOT INCLUDED IN THE DEFINITION OF MAJOR EMPLOYER AND CHOOSES TO PARTICIPATE IN A TRAVEL REDUCTION PROGRAM.

28. "WORK SITE" MEANS A BUILDING AND ANY GROUPING OF BUILDINGS WHICH ARE LOCATED WITHIN THE JURISDICTION OF A POLITICAL SUBDIVISION, WHICH ARE ON PHYSICALLY CONTIGUOUS PARCELS OF LAND OR ON PARCELS SEPARATED SOLELY BY PRIVATE OR PUBLIC ROADWAYS OR RIGHTS-OF-WAY AND WHICH ARE OWNED OR OPERATED BY THE SAME EMPLOYER.



49-582. Travel reduction program regional  
task force; composition

A. A TRAVEL REDUCTION PROGRAM REGIONAL TASK FORCE IS ESTABLISHED IN A COUNTY WITH A POPULATION OF ONE MILLION TWO HUNDRED THOUSAND OR MORE PERSONS FOR THE PURPOSES PRESCRIBED IN THIS ARTICLE. THE REGIONAL PUBLIC TRANSPORTATION AUTHORITY ESTABLISHED UNDER TITLE 28, CHAPTER 20 AND THE REGIONAL PLANNING AGENCY FOR THE COUNTY SHALL PROVIDE ASSISTANCE TO THE TASK FORCE. THE BOARD SHALL APPOINT A DIRECTOR TO CHAIR THE TASK FORCE AND SUPERVISE THE STAFF. THE DIRECTOR OF THE TASK FORCE IS NOT A VOTING MEMBER.

B. THE COUNTY BOARD OF SUPERVISORS SHALL APPOINT VOTING MEMBERS TO THE TASK FORCE FOR TERMS ESTABLISHED BY THE BOARD OF SUPERVISORS. THE MEMBERS SHALL REPRESENT INTERESTS AFFECTED BY THE TRAVEL REDUCTION PROGRAM. MEMBERS MAY BE SELECTED TO REPRESENT MAJOR EMPLOYERS, PUBLIC INTEREST GROUPS, OWNERS OF BUSINESS PARKS, INDUSTRIAL PARKS, OFFICE BUILDINGS OR SHOPPING CENTERS OR TRANSPORTATION MANAGEMENT ASSOCIATIONS OR POLITICAL SUBDIVISIONS WITHIN THE COUNTY.

C. THE BOARD OF SUPERVISORS SHALL DETERMINE THE METHOD OF SELECTING THE MEMBERS OF THE TASK FORCE IN AN EQUITABLE MANNER AND DETERMINE THE NUMBER OF MEMBERS ON THE TASK FORCE WHICH IS SUFFICIENT TO EFFECTIVELY IMPLEMENT THE TRAVEL REDUCTION PROGRAM PRESCRIBED BY THIS ARTICLE.

49-583. Duties and powers of the task force

A. THE TASK FORCE SHALL REVIEW AND APPROVE THE BASELINE SURVEY DISTRIBUTED TO MAJOR EMPLOYERS FOR THE PURPOSE OF COLLECTING DATA ON EMPLOYEE COMMUTING PATTERNS. THE TASK FORCE SHALL PROVIDE UNIFORM FORMATS FOR DATA TO BE PROVIDED BY EACH EMPLOYER ON THE COMMUTING PATTERNS OF ITS EMPLOYEES AND THE EFFECTIVENESS OF ITS TRAVEL REDUCTION PLAN. COLLECTED DATA SHALL INCLUDE THE MODE USED AND DISTANCE TRAVELED FOR COMMUTE TRIPS. THE TASK FORCE SHALL ESTABLISH UNIFORM REQUIREMENTS FOR RECORD KEEPING AND REPORTING AS NECESSARY TO COMPLY WITH THIS ARTICLE AND REASONABLE DEADLINES FOR SUBMITTAL OF ADDITIONAL DATA AS REQUIRED.

B. THE TASK FORCE SHALL:

1. REVIEW ALL RESPONSES BY MAJOR EMPLOYERS TO THE ANNUAL SURVEY AND DETERMINE IF THEY MEET THE REQUIREMENTS OF THIS ARTICLE. IF ANY RESPONSE IS NOT APPROVED THE TASK FORCE MAY DIRECT THE EMPLOYER TO SUBMIT ADDITIONAL DATA WITHIN THIRTY DAYS. IF SUBSEQUENT SUBMISSIONS OF DATA ARE NOT APPROVED, THE TASK FORCE SHALL TRANSMIT THE NAME OF THE MAJOR EMPLOYER AND SUPPORTING DATA TO THE BOARD FOR ENFORCEMENT ACTION.

2. REVIEW THE TRAVEL REDUCTION PLAN SUBMITTED BY EACH MAJOR EMPLOYER TO ASCERTAIN IF THE PLAN ACHIEVES THE TARGETED INCREASE IN TRAVEL REDUCTION MEASURES ALONG WITH THE STAFF REPORT ON THE PLAN. IF THE PLAN IS APPROVED, THE TASK FORCE SHALL TRANSMIT THE PLAN TO THE BOARD FOR APPROVAL. IF THE PLAN IS NOT APPROVED, THE TASK FORCE SHALL DESCRIBE THE INADEQUACIES AND DIRECT THE MAJOR EMPLOYER TO MODIFY THE PLAN WITHIN THIRTY DAYS. IF THE PLAN AS MODIFIED IS NOT APPROVED THE TASK FORCE SHALL TRANSMIT THE NAME OF THE MAJOR EMPLOYER ALONG WITH SUPPORTING DATA TO THE BOARD FOR ENFORCEMENT ACTION.

3. MONITOR THE IMPLEMENTATION OF EACH TRAVEL REDUCTION PLAN AS SUBMITTED BY EACH MAJOR EMPLOYER. IF A MAJOR EMPLOYER HAS NOT IMPLEMENTED THE APPROVED PLAN, THE TASK FORCE SHALL DESCRIBE THE INADEQUACIES AND SHALL DIRECT MODIFICATIONS IN THE PLAN IMPLEMENTATION. IF THE MAJOR EMPLOYER'S EFFORTS REMAIN INADEQUATE, THE TASK FORCE SHALL TRANSMIT THE NAME OF THE MAJOR EMPLOYER ALONG WITH SUPPORTING DATA TO THE BOARD FOR ENFORCEMENT ACTION.

4. FOR EACH MAJOR EMPLOYER WHOSE TRAVEL REDUCTION PLAN FAILS TO ACHIEVE THE TARGET TRAVEL REDUCTION GOALS, DIRECT THE STAFF TO WORK WITH THE EMPLOYER TO INCREASE ALTERNATE MODES USAGE AND REDUCE VEHICLE MILES TRAVELED IN KEEPING WITH REGIONAL GOALS. SUCH MAJOR EMPLOYERS SHALL MEET WITH THE STAFF AND SUBMIT A PLAN ADDENDUM OUTLINING ACTIVITIES AIMED AT CORRECTING THE PLAN DEFICIENCIES, UNLESS THE MAJOR EMPLOYER'S CURRENT EFFORTS ARE JUDGED TO BE SUFFICIENT BASED ON:

(a) THE COST OF THE EMPLOYER'S TRAVEL REDUCTION PROGRAM COMPARED TO THE AVERAGE COST OF SUCH PROGRAMS FOR ALL MAJOR EMPLOYERS.

(b) UNUSUAL CIRCUMSTANCES FACED BY THE MAJOR EMPLOYER.

THE TASK FORCE SHALL REFER MAJOR EMPLOYERS THAT FAIL TO SUBMIT AN ADDENDUM WITHIN NINETY DAYS AFTER THE DATE OF WRITTEN NOTICE TO THE BOARD.

C. THE TASK FORCE SHALL DIRECT THE STAFF TO IDENTIFY AND CONTACT POTENTIAL VOLUNTARY PARTICIPANTS TO ENCOURAGE AND ASSIST THEM IN PARTICIPATING IN COOPERATIVE EFFORTS TO COLLECT DATA ON COMMUTING PATTERNS, NEEDS AND DESIRES OF THEIR EMPLOYEES AND THEIR TENANTS' EMPLOYEES. THESE POTENTIAL VOLUNTARY PARTICIPANTS SHALL INCLUDE PROPERTY MANAGERS AND OTHER NONMAJOR EMPLOYERS THAT MAY WISH TO PARTICIPATE IN A TRAVEL REDUCTION PROGRAM. THE TASK FORCE SHALL ENCOURAGE THESE OWNERS, MANAGERS AND EMPLOYERS TO FORM TRANSPORTATION MANAGEMENT ASSOCIATIONS. AMONG OTHER ACTIVITIES THE TRANSPORTATION MANAGEMENT ASSOCIATIONS MAY DISSEMINATE INFORMATION ON ALTERNATE MODES OF TRANSPORTATION. THE TASK FORCE SHALL ENCOURAGE THE TRANSPORTATION MANAGEMENT ASSOCIATIONS TO ASSIST MEMBER EMPLOYERS IN DEVELOPING AND IMPLEMENTING TRAVEL REDUCTION PLANS.

D. THE TASK FORCE SHALL REVIEW THE PERFORMANCE OF THE REGIONAL PROGRAM ANNUALLY AND PREPARE A REPORT TO THE BOARD. THESE REPORTS SHALL INCLUDE SUCCESSES AND PROBLEM AREAS AND RECOMMEND REVISIONS TO THIS ARTICLE, AS NECESSARY.

49-584. Staff duties

THE STAFF SHALL PROVIDE SUPPORT TO THE TASK FORCE AND THE MAJOR EMPLOYERS. THE STAFF SHALL:

1. PROVIDE ASSISTANCE TO EACH EMPLOYER IN COORDINATING DATA COLLECTION, DISSEMINATION OF INFORMATION ON AIR QUALITY, ALTERNATIVE MODES

PROGRAMS, DEVELOPING A TRAVEL REDUCTION PLAN AND INCREASING THE EFFECTIVENESS OF SELECTED TRAVEL REDUCTION MEASURES.

2. COORDINATE TRAINING PROGRAMS FOR MAJOR EMPLOYERS TO ASSIST THEM IN TRAINING THEIR TRANSPORTATION COORDINATOR, PREPARING AND IMPLEMENTING THEIR TRAVEL REDUCTION PLANS AND PREPARING ANNUAL REPORTS.

3. COORDINATE SURVEY AND DATA COLLECTION ACTIVITIES AND OVERALL PROGRAM MONITORING WITH THE TASK FORCE AND THE TECHNICAL ADVISORY COMMITTEE

4. UNDER DIRECTION OF THE TASK FORCE, DEVELOP AN IMPLEMENTATION SCHEDULE FOR ANNUAL SURVEYS OF THE MAJOR EMPLOYER COMMUNITY.



**49-585. Powers and duties of the board**

**A. THE BOARD SHALL EVALUATE MAJOR EMPLOYERS' TRAVEL REDUCTION PLANS RECEIVED FROM THE TASK FORCE. THE BOARD HAS NINETY DAYS TO OBJECT TO ANY SUCH PLAN RECEIVED. OTHERWISE THE PLAN IS AUTOMATICALLY APPROVED. ANY OBJECTION SHALL BE BASED ON THE CRITERIA SET FORTH IN SECTION 49-588. IF THE BOARD OBJECTS, THE PLAN IS NOT APPROVED AND SHALL BE RETURNED TO THE TASK FORCE WITH APPROPRIATE COMMENTS FOR REVIEW AND REVISION IN CONSULTATION WITH THE EMPLOYER.**

**B. THE BOARD SHALL RECEIVE RECOMMENDATIONS FOR ENFORCEMENT FROM THE TASK FORCE. THE BOARD SHALL DETERMINE IF ENFORCEMENT ACTION IS APPROPRIATE AND SHALL TAKE SUCH ACTION AS IT DEEMS NECESSARY.**

**49-586. Enforcement by cities or towns**

A CITY OR TOWN MAY TAKE ENFORCEMENT ACTION AGAINST A MAJOR EMPLOYER WHOSE WORK SITE IS WITHIN THE JURISDICTION OF THE CITY OR TOWN AND WHICH IS IN VIOLATION OF THIS ARTICLE. THIS ENFORCEMENT ACTION SHALL BE BASED ON CRITERIA PRESCRIBED BY THIS ARTICLE.



49-588. Requirements for major employers

A. IN EACH YEAR OF THE REGIONAL PROGRAM EACH MAJOR EMPLOYER SHALL:

1. PROVIDE EACH REGULAR EMPLOYEE WITH INFORMATION ON ALTERNATE MODE OPTIONS AND TRAVEL REDUCTION MEASURES. THIS INFORMATION SHALL ALSO BE PROVIDED TO NEW EMPLOYEES AT THE TIME OF HIRING.

2. PARTICIPATE IN A SURVEY AND REPORTING EFFORT AS DIRECTED BY THE TASK FORCE AND AS SCHEDULED BY THE STAFF. THE RESULTS OF THIS SURVEY SHALL FORM A BASELINE AGAINST WHICH ATTAINMENT OF THE TARGETS IN SUBSECTION D OF THIS SECTION SHALL BE MEASURED AS FOLLOWS:

(a) THE BASELINE FOR PARTICIPATION IN ALTERNATIVE MODES OF TRANSPORTATION SHALL BE BASED ON THE PROPORTION OF EMPLOYEES COMMUTING BY SINGLE OCCUPANCY VEHICLES.

(b) THE BASELINE FOR VEHICLE MILES TRAVELED SHALL BE THE AVERAGE VEHICLE MILES TRAVELED FROM PLACE OF RESIDENCE TO WORK PER EMPLOYEE FOR EMPLOYEES NOT RESIDING ON THE WORK SITE.

3. PREPARE AND SUBMIT A TRAVEL REDUCTION PLAN FOR SUBMITTAL TO THE STAFF AND PRESENTATION TO THE TASK FORCE. THE STAFF SHALL ASSIST IN PREPARING THE PLAN. MAJOR EMPLOYERS SHALL SUBMIT PLANS WITHIN NINE WEEKS AFTER THEY RECEIVE SURVEY DATA RESULTS. THE PLAN SHALL CONTAIN THE FOLLOWING ELEMENTS:

(a) THE NAME OF THE DESIGNATED TRANSPORTATION COORDINATOR.

(b) A DESCRIPTION OF EMPLOYEE INFORMATION PROGRAMS AND OTHER TRAVEL REDUCTION MEASURES WHICH HAVE BEEN COMPLETED IN THE PREVIOUS YEAR.

(c) A DESCRIPTION OF TRAVEL REDUCTION MEASURES TO BE UNDERTAKEN BY THE MAJOR EMPLOYER IN THE COMING YEAR. THE FOLLOWING MEASURES MAY BE INCLUDED:

(i) A COMMUTER MATCHING SERVICE TO FACILITATE EMPLOYEE RIDESHARING FOR WORK TRIPS.

(ii) PROVISION OF VANS FOR VANPOOLING.

(iii) SUBSIDIZED CARPOOLING OR VANPOOLING WHICH MAY INCLUDE PAYMENT FOR FUEL, INSURANCE OR PARKING.

(iv) USE OF COMPANY VEHICLES FOR CARPOOLING.

(v) PROVISION FOR PREFERENTIAL PARKING FOR CARPOOL OR VANPOOL USERS WHICH MAY INCLUDE CLOSE-IN PARKING OR COVERED PARKING FACILITIES.

(vi) COOPERATION WITH OTHER TRANSPORTATION PROVIDERS TO PROVIDE ADDITIONAL REGULAR OR EXPRESS SERVICE BUSES TO THE WORK SITE.

(vii) SUBSIDIZED BUS FARES.

(viii) CONSTRUCTION OF SPECIAL LOADING AND UNLOADING FACILITIES FOR TRANSIT AND CARPOOL AND VANPOOL USERS.

(ix) COOPERATION WITH POLITICAL SUBDIVISIONS TO CONSTRUCT WALKWAYS OR BICYCLE ROUTES TO THE WORK SITE.

(x) PROVISION OF BICYCLE RACKS, LOCKERS AND SHOWERS FOR EMPLOYEES WHO WALK OR BICYCLE TO AND FROM WORK.

(xi) PROVISION OF A SPECIAL INFORMATION CENTER WHERE INFORMATION ON ALTERNATE MODES AND OTHER TRAVEL REDUCTION MEASURES IS AVAILABLE.

(xii) ESTABLISHMENT OF A FULL-TIME OR PART-TIME WORK AT HOME PROGRAM FOR EMPLOYEES.

(xiii) ESTABLISHMENT OF A PROGRAM OF ADJUSTED WORK HOURS WHICH MAY INCLUDE COMPRESSED WORKWEEKS AND EMPLOYEE SELECTED STARTING AND STOPPING HOURS. WORK HOUR ADJUSTMENTS SHOULD NOT INTERFERE WITH OR DISCOURAGE THE USE OF RIDESHARING AND TRANSIT.

(xiv) ESTABLISHMENT OF A PROGRAM OF PARKING INCENTIVES SUCH AS A REBATE FOR EMPLOYEES WHO DO NOT USE THE PARKING FACILITY.

(xv) INCENTIVES TO ENCOURAGE EMPLOYEES TO LIVE CLOSER TO WORK.

(xvi) IMPLEMENTATION OF OTHER MEASURES DESIGNED TO REDUCE COMMUTE TRIPS SUCH AS THE PROVISION OF DAY CARE FACILITIES OR EMERGENCY TAXI SERVICES.

B. AN APPROVABLE TRAVEL REDUCTION PLAN SHALL MEET ALL OF THE FOLLOWING CRITERIA:

1. THE PLAN SHALL DESIGNATE A TRANSPORTATION COORDINATOR.
2. THE PLAN SHALL DESCRIBE A MECHANISM FOR REGULAR DISTRIBUTION OF ALTERNATE MODE TRANSPORTATION INFORMATION TO EMPLOYEES.

3. FOR EMPLOYERS THAT IN ANY YEAR MEET OR EXCEED ANNUAL REGIONAL TARGETS FOR TRAVEL REDUCTION, THE PLAN SHALL ACCURATELY AND COMPLETELY DESCRIBE CURRENT AND PLANNED TRAVEL REDUCTION MEASURES.

4. FOR EMPLOYERS THAT, IN ANY YEAR, FALL BELOW THE REGIONAL TARGETS FOR TRAVEL REDUCTION, THE PLAN SHALL INCLUDE COMMITMENTS TO IMPLEMENT:

- (a) AT LEAST TWO SPECIFIC TRAVEL REDUCTION MEASURES IN THE FIRST YEAR OF THE REGIONAL PROGRAM.

- (b) AT LEAST THREE SPECIFIC TRAVEL REDUCTION MEASURES IN THE SECOND YEAR OF THE REGIONAL PROGRAM.

- c. AFTER THE SECOND YEAR, THE TASK FORCE SHALL REVIEW THE TRAVEL REDUCTION PROGRAMS FOR EMPLOYERS NOT MEETING REGIONAL TARGETS AND MAY RECOMMEND ADDITIONAL MEASURES.

- D. EMPLOYERS SHALL IMPLEMENT ALL TRAVEL REDUCTION MEASURES THEY CONSIDER NECESSARY TO ATTAIN THE FOLLOWING REDUCTION IN THE PROPORTION OF EMPLOYEES COMMUTING BY SINGLE OCCUPANCY VEHICLES OR COMMUTER TRIP VEHICLE MILES TRAVEL REDUCTIONS PER REGULATED WORK SITE:

1. FIVE PER CENT REDUCTION IN THE PROPORTION OF EMPLOYEES COMMUTING BY SINGLE OCCUPANCY VEHICLES AS DETERMINED IN THE ANNUAL SURVEY IN THE FIRST YEAR.

2. IN THE SECOND YEAR, AN ADDITIONAL FIVE PER CENT REDUCTION IN THE PROPORTION OF EMPLOYEES COMMUTING BY SINGLE OCCUPANCY VEHICLES AS DETERMINED IN THE ANNUAL SURVEY.

- E. DURING THE SECOND YEAR OF THE REGIONAL PROGRAM, THE REGIONAL PLANNING AGENCY FOR THE COUNTY SHALL REVIEW THE REGIONAL PROGRAM AND ITS RESULTS AND RECOMMEND TO THE BOARD THE TARGET EMPLOYEE PARTICIPATION IN ALTERNATE MODES AND COMMUTER TRIP VEHICLE MILES TRAVEL REDUCTIONS FOR THE THIRD AND FOLLOWING YEARS. THE COUNTY SHALL ENACT AN ORDINANCE PRESCRIBING SUCH RECOMMENDATIONS INCLUDING POLICIES, STANDARDS AND CRITERIA DEVELOPED BY THE REGIONAL PLANNING AGENCY FOR AIR QUALITY.

**49-590. Requirements for high schools, community colleges and universities**

**A MAJOR EMPLOYER THAT IS A HIGH SCHOOL, COMMUNITY COLLEGE OR UNIVERSITY, IN DEVELOPING ITS SURVEY, TRAVEL REDUCTION PLAN OR TRAVEL REDUCTION PROGRAM, SHALL INCLUDE FULL-TIME STUDENTS IN DETERMINING THE REQUIREMENTS OF THIS ARTICLE.**



49-593. Violations; civil penalties

A. ON DETERMINING A VIOLATION OF THIS ARTICLE THE BOARD SHALL REQUEST THE COUNTY ATTORNEY TO TAKE APPROPRIATE LEGAL ACTION.

B. VIOLATIONS OF ANY OF THE FOLLOWING REQUIREMENTS MAY SUBJECT A MAJOR EMPLOYER TO INCREASED CIVIL PENALTIES:

1. FAILURE TO COLLECT OR SUPPLY INFORMATION REQUESTED BY THE TASK FORCE.

2. FAILURE TO DISSEMINATE INFORMATION ON ALTERNATE MODES AND OTHER TRAVEL REDUCTION MEASURES AS SPECIFIED IN THIS ARTICLE.

3. FAILURE TO DESIGNATE A TRANSPORTATION COORDINATOR.

4. FAILURE TO SUBMIT AN APPROVABLE TRAVEL REDUCTION PLAN.

5. FAILURE TO IMPLEMENT AN APPROVED PLAN WITHIN THE TIME SCHEDULE PROVIDED OR FAILURE TO PERFORM A REVISION OF A PLAN AS REQUIRED BY THE TASK FORCE.

C. FAILURE BY A MAJOR EMPLOYER TO MEET TRAVEL REDUCTION GOALS AS PRESCRIBED IN SECTION 49-588 DOES NOT CONSTITUTE A VIOLATION IF THE MAJOR EMPLOYER IS ATTEMPTING IN GOOD FAITH TO MEET THE GOALS.

D. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, ANY EMPLOYER THAT VIOLATES THE REQUIREMENTS OF THIS ARTICLE IS SUBJECT TO A CIVIL PENALTY OF NOT TO EXCEED ONE HUNDRED DOLLARS FOR A FIRST VIOLATION, TWO HUNDRED DOLLARS FOR A SECOND VIOLATION WITHIN ONE YEAR AND THREE HUNDRED DOLLARS FOR EACH ADDITIONAL VIOLATION WITHIN ONE YEAR. VIOLATIONS OF THIS ARTICLE WHICH CONTINUE FOR MORE THAN ONE DAY CONSTITUTE VIOLATIONS ON EACH DAY. ALL CIVIL PENALTIES COLLECTED SHALL BE DEPOSITED IN THE COUNTY GENERAL FUND.