

REFERENCE TITLE: air quality program

State of Arizona  
Senate  
Forty-eighth Legislature  
First Regular Session  
2007

## **SB 1552**

Introduced by  
Senators Allen, Huppenthal

### AN ACT

AMENDING SECTION 9-500.04, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.27; AMENDING SECTIONS 11-871 AND 11-872, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 6, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-877 AND 11-878; AMENDING SECTIONS 28-1098, 49-426, 49-457, 49-480, 49-501 AND 49-541, ARIZONA REVISED STATUTES; RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-500.04, Arizona Revised Statutes, is amended to  
3 read:

4 9-500.04. Air quality control; definitions

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

7 1. If the city has a population exceeding fifty thousand persons  
8 according to the 1995 special census, adjust the work hours of at least  
9 eighty-five per cent of municipal employees each year beginning October 1 and  
10 ending April 1 in order to reduce the level of carbon monoxide, OZONE AND  
11 PARTICULATE MATTER concentrations caused by vehicular travel.

12 2. In area A, in consultation with the designated metropolitan  
13 planning organization, synchronize traffic control signals on all existing  
14 and new roadways, within and across jurisdictional boundaries, ~~which~~ THAT  
15 have ~~a traffic flow~~ AVERAGE DAILY TRIPS exceeding fifteen thousand motor  
16 vehicles per day.

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

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

25 5. IN AREA A, IN ORDER TO REDUCE PARTICULATE MATTER IN AMBIENT AIR:

26 (a) BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION,  
27 PROHIBIT THE OPERATION OF LEAF BLOWERS, EXCEPT WHILE IN VACUUM MODE, ON ANY  
28 HIGH POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF ENVIRONMENTAL  
29 QUALITY AND PROHIBIT THE BLOWING OF LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS AT  
30 ANY TIME BY EMPLOYEES OR CONTRACTORS OF THAT CITY OR TOWN.

31 (b) NO LATER THAN OCTOBER 31, 2007, ADOPT, IMPLEMENT AND ENFORCE AN  
32 ORDINANCE THAT BANS THE OPERATION OF LEAF BLOWERS, EXCEPT WHILE IN VACUUM  
33 MODE, ON ANY HIGH POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF  
34 ENVIRONMENTAL QUALITY AND THAT BANS THE BLOWING OF LANDSCAPE DEBRIS INTO  
35 PUBLIC ROADWAYS AT ANY TIME BY ANY PERSON.

36 ~~5-~~ 6. In area B, synchronize traffic control signals on all roadways  
37 ~~which~~ THAT have ~~a traffic flow~~ AVERAGE DAILY TRIPS exceeding fifteen thousand  
38 motor vehicles per day.

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

43 C. Except as provided in subsection F of this section, the governing  
44 body of a city or town in area A as defined in section 49-541 in a county  
45 with a population of more than one million two hundred thousand persons

1 according to the most recent United States decennial census shall develop and  
2 implement a vehicle fleet plan for the purpose of encouraging and  
3 progressively increasing the use of alternative fuels and clean burning fuels  
4 in city or town owned vehicles. The plan shall include a timetable for  
5 increasing the use of alternative fuels and clean burning fuels in fleet  
6 vehicles either through purchase or conversion.

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

- 9 1. At least eighteen per cent of the total fleet by December 31, 1995.
- 10 2. At least twenty-five per cent of the total fleet by December 31,  
11 1996.
- 12 3. At least fifty per cent of the total fleet by December 31, 1998.
- 13 4. At least seventy-five per cent of the total fleet by December 31,  
14 2000 and each year thereafter.

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

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

1 measured over the expected useful life of the equipment or facilities  
2 supplied.

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

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

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

11 H. For the purposes of this section, "alternative fuel" and "clean  
12 burning fuel" have the same meanings prescribed in section 1-215.

13 Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is  
14 amended by adding section 9-500.27, to read:

15 9-500.27. Air quality; public safety; uncovered loads; civil  
16 penalties

17 ON OR BEFORE SEPTEMBER 1, 2007, A CITY OR TOWN SHALL ADOPT, IMPLEMENT  
18 AND ENFORCE AN ORDINANCE THAT PROVIDES THAT:

19 1. FOR THE PURPOSE OF HIGHWAY SAFETY OR AIR POLLUTION PREVENTION, A  
20 PERSON SHALL NOT DRIVE OR MOVE A VEHICLE ON A ROADWAY UNLESS THE VEHICLE IS  
21 CONSTRUCTED OR LOADED IN A MANNER TO PREVENT ANY OF ITS LOAD FROM DROPPING,  
22 SIFTING, LEAKING OR OTHERWISE ESCAPING FROM THE VEHICLE, EXCEPT THAT BOTH OF  
23 THE FOLLOWING ARE PERMITTED:

24 (a) SUFFICIENT SAND MAY BE DROPPED FOR THE PURPOSE OF SECURING  
25 TRACTION.

26 (b) WATER OR ANOTHER SUBSTANCE MAY BE SPRINKLED ON A ROADWAY IN  
27 CLEANING OR MAINTAINING THE ROADWAY.

28 2. A PERSON SHALL NOT OPERATE A VEHICLE ON A ROADWAY WITH A LOAD  
29 UNLESS THE LOAD AND ANY COVERING ON THE LOAD ARE SECURELY FASTENED IN A  
30 MANNER TO PREVENT THE COVERING OR LOAD FROM BECOMING LOOSE, DETACHED OR IN  
31 ANY MANNER A HAZARD TO OTHER USERS OF THE ROADWAY.

32 3. IF A PERSON IS FOUND IN VIOLATION OF AN ORDINANCE ADOPTED PURSUANT  
33 TO THIS SECTION AND THE VIOLATION:

34 (a) DOES NOT CAUSE ANY DAMAGE OR INJURY AND IS THE PERSON'S:

35 (i) FIRST VIOLATION IN A SIXTY MONTH PERIOD, THE PERSON IS SUBJECT TO  
36 A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

37 (ii) SECOND OR SUBSEQUENT VIOLATION IN A SIXTY MONTH PERIOD, THE  
38 PERSON IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN THREE HUNDRED FIFTY  
39 DOLLARS.

40 (b) RESULTS IN AN ACCIDENT CAUSING SERIOUS PHYSICAL INJURY AS DEFINED  
41 IN SECTION 13-105 TO ANOTHER PERSON, THE PERSON IS SUBJECT TO A CIVIL PENALTY  
42 OF NOT MORE THAN FIVE HUNDRED DOLLARS.

43 (c) RESULTS IN AN ACCIDENT CAUSING THE DEATH OF ANOTHER PERSON, THE  
44 PERSON IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

1           Sec. 3. Section 11-871, Arizona Revised Statutes, is amended to read:  
2           11-871. Emissions control; no burn; exemptions; penalty

3           A. A county that contains any part of area A, as defined in section  
4 49-541, shall, ~~by September 1, 1999,~~ develop, implement and enforce in area  
5 A, as defined in section 49-541, an ordinance relating to residential wood  
6 burning restrictions, including a no burn restriction when monitoring or  
7 forecasting ~~indicates~~ BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PREDICTS the  
8 carbon monoxide standard is likely to be exceeded.

9           B. ON OR BEFORE OCTOBER 31, 2007, A COUNTY THAT CONTAINS ANY PART OF  
10 AREA A, AS DEFINED IN SECTION 49-541, SHALL AMEND THE ORDINANCE PRESCRIBED BY  
11 SUBSECTION A OF THIS SECTION TO INCLUDE A NO BURN RESTRICTION FOR ANY HIGH  
12 POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
13 FOR PARTICULATE MATTER.

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

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

19           2. Meets performance standards for new residential wood heaters  
20 manufactured on or after July 1, 1990 or sold at retail on or after July 1,  
21 1992 as prescribed by 40 Code of Federal Regulations part 60, subpart AAA.

22           3. Burns gaseous fuels, including gas logs.

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

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

27           1. A warning for the first violation.

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

30           3. The imposition of a civil penalty of one hundred dollars for ~~a~~ THE  
31 third ~~or any subsequent~~ violation.

32           4. THE IMPOSITION OF A CIVIL PENALTY OF TWO HUNDRED FIFTY DOLLARS FOR  
33 THE FOURTH OR ANY SUBSEQUENT VIOLATION.

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

40           Sec. 4. Section 11-872, Arizona Revised Statutes, is amended to read:  
41           11-872. Control techniques; rules; schedule for adoption

42           A. If the administrator of the United States environmental protection  
43 agency makes a finding relating to area A, as defined in section 49-541,  
44 pursuant to the clean air act amendments of 1990 (P.L. 101-549), section 172,  
45 the county shall adopt by rule the necessary emission limitations or other

1 standards reflecting control techniques guidelines issued by the United  
2 States environmental protection agency pursuant to the clean air act  
3 amendments of 1990, section 183 in order to achieve emissions reductions  
4 sufficient to respond to the finding.

5 B. The county shall begin to develop rules ~~which~~ THAT incorporate the  
6 provisions of the control techniques guidelines being developed by the United  
7 States environmental protection agency. The rule making process shall  
8 parallel as closely as possible the United States environmental protection  
9 agency process and incorporate adequate public notice and comment. The  
10 county shall make every practical effort to assure the rules are consistent  
11 with the concepts and provisions embodied in the United States environmental  
12 protection agency process. Within sixty days ~~of~~ AFTER the formal adoption of  
13 the United States environmental protection agency control techniques  
14 guidelines for an industry sector, the county shall adopt rules, emission  
15 limitations or other standards reflecting such guidelines. If the guidelines  
16 are required pursuant to subsection A of this section prior to formal  
17 adoption by the administrator of the guidelines, the county rules shall  
18 become effective within sixty days ~~of~~ AFTER the United States environmental  
19 protection agency finding. The county shall determine which industry sector  
20 shall be subject to the requirements of this section.

21 C. If the director of the department of environmental quality  
22 determines that emissions inventory data, monitoring information and modeling  
23 or projections indicate it is likely that reasonable further progress or  
24 attainment will not be achieved in order to comply with the clean air act  
25 amendments of 1990 OR ACHIEVE OR MAINTAIN NATIONAL AMBIENT AIR QUALITY  
26 STANDARDS OR OTHER AIR QUALITY STANDARDS APPLICABLE TO OZONE PRECURSORS, the  
27 county shall adopt rules necessary to achieve emissions reductions to achieve  
28 reasonable further progress or attainment. The rules shall be based on  
29 technically feasible controls to reduce the emissions of volatile organic  
30 compounds from industry sectors that the United States environmental  
31 protection agency is considering for control technique guidelines.

32 D. All emissions reductions required pursuant to this section shall be  
33 achieved FOR PURPOSES OF THE ONE-HOUR OZONE STANDARD no later than June 1,  
34 1996 AND FOR PURPOSES OF THE EIGHT-HOUR AVERAGED OZONE STANDARD NO LATER THAN  
35 DECEMBER 31, 2008.

36 Sec. 5. Title 11, chapter 6, article 4, Arizona Revised Statutes, is  
37 amended by adding sections 11-877 and 11-878, to read:

38 11-877. Air quality control measures

39 IN ORDER TO REDUCE PARTICULATE MATTER IN AMBIENT AIR, THE BOARD OF  
40 SUPERVISORS OF ANY COUNTY THAT CONTAINS ANY PORTION OF AREA A, AS DEFINED IN  
41 SECTION 49-541, SHALL DEVELOP, IMPLEMENT AND ENFORCE IN AREA A THE FOLLOWING  
42 AIR QUALITY CONTROL MEASURES:

43 1. BEGINNING ON THE EFFECTIVE DATE OF THIS SECTION, PROHIBIT THE  
44 OPERATION OF LEAF BLOWERS, EXCEPT WHILE IN VACUUM MODE, ON ANY HIGH POLLUTION  
45 ADVISORY DAY FORECAST BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND PROHIBIT

1 THE BLOWING OF LANDSCAPE DEBRIS INTO PUBLIC ROADWAYS AT ANY TIME BY EMPLOYEES  
2 OR CONTRACTORS OF THAT COUNTY.

3 2. NO LATER THAN OCTOBER 31, 2007, ADOPT, IMPLEMENT AND ENFORCE AN  
4 ORDINANCE THAT BANS THE OPERATION OF LEAF BLOWERS, EXCEPT WHILE IN VACUUM  
5 MODE, ON ANY HIGH POLLUTION ADVISORY DAY FORECAST BY THE DEPARTMENT OF  
6 ENVIRONMENTAL QUALITY AND THAT BANS THE BLOWING OF LANDSCAPE DEBRIS INTO  
7 PUBLIC ROADWAYS AT ANY TIME BY ANY PERSON.

8 11-878. Air quality; public safety; uncovered loads; civil  
9 penalties

10 ON OR BEFORE SEPTEMBER 1, 2007, A COUNTY SHALL ADOPT, IMPLEMENT AND  
11 ENFORCE AN ORDINANCE THAT PROVIDES THAT:

12 1. FOR THE PURPOSE OF HIGHWAY SAFETY OR AIR POLLUTION PREVENTION, A  
13 PERSON SHALL NOT DRIVE OR MOVE A VEHICLE ON A ROADWAY UNLESS THE VEHICLE IS  
14 CONSTRUCTED OR LOADED IN A MANNER TO PREVENT ANY OF ITS LOAD FROM DROPPING,  
15 SIFTING, LEAKING OR OTHERWISE ESCAPING FROM THE VEHICLE, EXCEPT THAT BOTH OF  
16 THE FOLLOWING ARE PERMITTED:

17 (a) SUFFICIENT SAND MAY BE DROPPED FOR THE PURPOSE OF SECURING  
18 TRACTION.

19 (b) WATER OR ANOTHER SUBSTANCE MAY BE SPRINKLED ON A ROADWAY IN  
20 CLEANING OR MAINTAINING THE ROADWAY.

21 2. A PERSON SHALL NOT OPERATE A VEHICLE ON A ROADWAY WITH A LOAD  
22 UNLESS THE LOAD AND ANY COVERING ON THE LOAD ARE SECURELY FASTENED IN A  
23 MANNER TO PREVENT THE COVERING OR LOAD FROM BECOMING LOOSE, DETACHED OR IN  
24 ANY MANNER A HAZARD TO OTHER USERS OF THE ROADWAY.

25 3. IF A PERSON IS FOUND IN VIOLATION OF AN ORDINANCE ADOPTED PURSUANT  
26 TO THIS SECTION AND THE VIOLATION:

27 (a) DOES NOT CAUSE ANY DAMAGE OR INJURY AND IS THE PERSON'S:

28 (i) FIRST VIOLATION IN A SIXTY MONTH PERIOD, THE PERSON IS SUBJECT TO  
29 A CIVIL PENALTY OF NOT MORE THAN TWO HUNDRED FIFTY DOLLARS.

30 (ii) SECOND OR SUBSEQUENT VIOLATION IN A SIXTY MONTH PERIOD, THE  
31 PERSON IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN THREE HUNDRED FIFTY  
32 DOLLARS.

33 (b) RESULTS IN AN ACCIDENT CAUSING SERIOUS PHYSICAL INJURY AS DEFINED  
34 IN SECTION 13-105 TO ANOTHER PERSON, THE PERSON IS SUBJECT TO A CIVIL PENALTY  
35 OF NOT MORE THAN FIVE HUNDRED DOLLARS.

36 (c) RESULTS IN AN ACCIDENT CAUSING THE DEATH OF ANOTHER PERSON, THE  
37 PERSON IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

38 Sec. 6. Section 28-1098, Arizona Revised Statutes, is amended to read:

39 28-1098. Vehicle loads; restrictions; civil penalties

40 A. FOR THE PURPOSE OF HIGHWAY SAFETY OR AIR POLLUTION PREVENTION, a  
41 person shall not drive or move a vehicle on a highway unless the vehicle is  
42 constructed or loaded in a manner to prevent any of its load from dropping,  
43 sifting, leaking or otherwise escaping from the vehicle, except that ~~either~~  
44 BOTH OF THE FOLLOWING ARE PERMITTED:

1           1. SUFFICIENT sand may be dropped for the purpose of securing  
2 traction.  
3           2. Water or another substance may be sprinkled on a roadway in  
4 cleaning or maintaining the roadway.  
5           B. A person shall not operate a vehicle on a highway with a load  
6 unless the load and any covering on the load are securely fastened in a  
7 manner to prevent the covering or load from becoming loose, detached or in  
8 any manner a hazard to other users of the highway.  
9           C. If a person is found in violation of this section and the  
10 violation:  
11           1. Does not cause any damage or injury and is the person's:  
12           (a) First violation in a sixty month period, the person is subject to a  
13 civil penalty of ~~up to~~ NOT MORE THAN two hundred fifty dollars.  
14           (b) Second or subsequent violation in a sixty month period, the person  
15 is subject to a civil penalty of ~~up to~~ NOT MORE THAN three hundred fifty  
16 dollars.  
17           2. Results in an accident causing serious physical injury as defined  
18 in section 13-105 to another person, the person is subject to a civil penalty  
19 of ~~up to~~ NOT MORE THAN five hundred dollars.  
20           3. Results in an accident causing the death of another person, the  
21 person is subject to a civil penalty of ~~up to~~ NOT MORE THAN one thousand  
22 dollars.  
23           Sec. 7. Section 49-426, Arizona Revised Statutes, is amended to read:  
24 49-426. Permits; duties of director; exceptions; applications;  
25 objections; fees  
26           A. A permit shall:  
27           1. Be issued by the director in compliance with the terms of this  
28 section.  
29           2. Be required for any person seeking a compliance extension pursuant  
30 to section 49-426.03, subsection B, paragraph 3 and section 112(a)(5) of the  
31 clean air act and for any person beginning actual construction of or  
32 operating any source, except as prescribed in subsection B of this section or  
33 section 49-426.01.  
34           B. ~~The provisions of~~ This section ~~shall~~ DOES not apply to motor  
35 vehicles, to agricultural vehicles or agricultural equipment used in normal  
36 farm operations, or to fuel burning equipment which, at a location or  
37 property other than a one or two family residence, is rated at less than one  
38 million British thermal units per hour. The director may establish by rule  
39 additional sources or classifications of sources for which a permit is not  
40 required and pollutant-emitting activities and emissions units at permitted  
41 sources that are not required to be included in the permit. The director  
42 shall not adopt such rules unless the director makes a written finding with  
43 supporting facts that the exempted source, class of sources,  
44 pollutant-emitting activities or emissions units will have an insignificant  
45 adverse impact on air quality. In adopting these rules, the director may



1 consider any rule that is adopted by the administrator pursuant to section  
2 502 of the clean air act and that exempts one or more source categories from  
3 the requirement to obtain a permit under title V of the clean air act.

4 C. Every application for a permit shall be filed in the manner and  
5 form prescribed by the director, and shall contain all the information  
6 necessary to enable the director to make the determination to grant or deny  
7 such application. THE DIRECTOR MAY REQUIRE THAT APPLICANTS INCLUDE  
8 CONSIDERATION OF THE CUMULATIVE IMPACT ON THE AIRSHED OF THE SOURCE BY  
9 CONSIDERING EMISSIONS FROM SOURCES IN PROXIMITY TO THE APPLICANT'S SOURCE.  
10 THE DIRECTOR MAY REQUIRE THE CUMULATIVE IMPACT INFORMATION BY WAY OF  
11 CUMULATIVE MODELING TO BE SUBMITTED BY THE APPLICANT OR BY WAY OF REQUIRING  
12 THE APPLICANT TO SUBMIT SUFFICIENT INFORMATION FOR THE DEPARTMENT TO PERFORM  
13 THE CUMULATIVE IMPACT MODELING REQUIRED FOR THE PERMIT APPLICATION. The  
14 director shall establish by rule requirements for permit applications,  
15 including the standard application form for title V sources. The director  
16 shall establish by rule requirements for applications for general permits.  
17 An application for a permit issued pursuant to title V of the clean air act  
18 shall include a compliance plan that describes how the applicant will comply  
19 with all of the applicable requirements of this chapter and the clean air  
20 act, including a schedule of compliance and a schedule under which progress  
21 reports will be submitted to the director at least every six months. The  
22 director may require that such application include all sources that are used  
23 or to be used by the applicant in a certain process or a single facility or  
24 location. Before acting on an application for a permit, the director may  
25 require the applicant to furnish further information or further plans or  
26 specifications. The director shall act, within a reasonable time, on such  
27 application and shall notify the applicant in writing of the proposed  
28 approval or denial of such application, except that the director may have a  
29 reasonable period of time in which to gather information, inspect premises,  
30 and issue such permits. The director shall adopt rules that establish  
31 procedures for determining when applications are complete, for processing  
32 applications and for reviewing permit actions. The director shall also  
33 establish by rule criteria for determining reasonable times for processing  
34 permit applications. Rules adopted pursuant to this subsection for permits  
35 issued pursuant to title V of the clean air act shall conform to the  
36 requirements of section 505(a) of the clean air act.

37 D. The director shall give notice of a proposed permit for a source  
38 required to obtain a permit pursuant to title V of the clean air act once  
39 each week for two consecutive weeks in two newspapers of general circulation  
40 in the county in which the source is or will be located. The notice shall  
41 describe the proposed permit and air contaminants to be emitted and shall  
42 state that any person may submit comments on the proposed permit and may  
43 request a public hearing. The director shall require the applicant at the  
44 time of the first notice to post the site where the source is or may be  
45 located. If permitted by federal, state and local law, the posting shall be

1 prominently placed at a site that is under the applicant's legal control and  
2 that is adjacent to the nearest public roadway. The posting shall be visible  
3 to the public using the public roadway and shall contain the information in  
4 the notice that is published by the director. If a public hearing is  
5 requested, the director shall require the applicant to place an additional  
6 posting that provides notice of the public hearing. A posting shall be  
7 maintained until the public comment period on the proposed permit is closed.  
8 The director shall make available to the public notices of proposed permits.  
9 Each public notice that is issued under this chapter shall be mailed to the  
10 permit applicant, to the affected federal, state and local agencies and to  
11 those persons who have requested in writing copies of proposed permit action  
12 notices. During the public comment period, any person may submit a request  
13 to the department to conduct a public hearing for the purpose of receiving  
14 oral or written comments on the proposed permit. A written comment shall  
15 state the name and mailing address of the person, shall be signed by the  
16 person, his agent or his attorney and shall clearly set forth reasons why the  
17 permit should or should not be issued. Grounds for comment are limited to  
18 whether the proposed permit meets the criteria for issuance prescribed in  
19 this section or in section 49-427. The department shall consider and prepare  
20 written responses to all comments received during the public comment period  
21 including comments made at a public hearing conducted by the department. At  
22 the time a final permit decision is made, copies of the department's  
23 responses shall be made available to the applicant and any person who  
24 commented on the proposed permit.

25 E. Permits or revisions issued pursuant to this section or section  
26 49-426.01 may be issued subject to such terms and conditions as are  
27 consistent with the requirements of this article, article 1 of this chapter  
28 and the clean air act and are found by the director to be necessary,  
29 following public notice and an opportunity for a public hearing as provided  
30 in subsection D or H of this section or in section 49-426.01, and subject to  
31 payment of a reasonable fee to be determined as follows:

32 1. For a source that is required to obtain a permit pursuant to title  
33 V of the clean air act, the director shall establish by rule a system of fees  
34 that is consistent with and equivalent to that prescribed by section 502 of  
35 the clean air act. These rules shall prescribe procedures for increasing the  
36 fee each year by the percentage if any by which the consumer price index for  
37 the immediately preceding calendar year exceeds the consumer price index for  
38 calendar year 1989.

39 2. For a facility that is required to obtain a permit pursuant to this  
40 chapter but that is not required to obtain a permit pursuant to title V of  
41 the clean air act, the director shall determine a fee based on the total  
42 actual cost of processing the permit application, but not exceeding  
43 twenty-five thousand dollars.

1 The director shall establish an annual inspection fee, not to exceed the  
2 average cost of inspection. The director shall adopt, by rule, criteria for  
3 determining fees and for public hearings.

4 F. Permits issued pursuant to this section shall be issued for a  
5 period of five years.

6 G. Except as provided in subsection H of this section, any person  
7 burning used oil, used oil fuel, hazardous waste or hazardous waste fuel in  
8 any machine, incinerator or device shall first obtain a permit from the  
9 director. Any permit issued by the director under this subsection shall  
10 contain, at a minimum, conditions governing:

11 1. Limitations on the types, amounts and feed rates of used oil, used  
12 oil fuel, hazardous waste or hazardous waste fuel which may be burned.

13 2. The frequency and types of fuel testing to be conducted by the  
14 person.

15 3. The frequency and type of emissions testing or monitoring to be  
16 conducted by the person.

17 4. Requirements for record keeping and reporting.

18 5. Numeric emission limitations expressed in pounds per hour and tons  
19 per year for air contaminants to be emitted from the facility burning  
20 off-specification used oil fuel, hazardous waste or hazardous waste fuel.

21 H. The director may issue a general permit for a defined class of  
22 facilities if the class contains a large number of facilities that are  
23 substantially similar in nature and that have substantially similar emissions  
24 and if the following conditions are met:

25 1. A general permit shall comply with all of the requirements for  
26 permits prescribed by this section except for the requirements of subsection  
27 D of this section and shall be consistent with the clean air act.

28 2. The director shall give notice of the proposed general permit once  
29 each week for two consecutive weeks in a newspaper of general circulation in  
30 each county. The notice shall describe the proposed general permit, the  
31 general class of sources that would be subject to the proposed permit and the  
32 air contaminants to be emitted. The notice shall also state that any person  
33 may submit comments on the proposed general permit and may request a public  
34 hearing. A written comment shall state the name of the person and the  
35 person's agent or attorney and shall clearly set forth reasons why the  
36 general permit should or should not be issued. Grounds for comment are  
37 limited to whether the proposed general permit meets the criteria for  
38 issuance prescribed in this section or section 49-427.

39 3. On issuance of a general permit any person seeking to permit a  
40 source under this subsection shall submit an application pursuant to  
41 subsection C of this section.

42 4. If the director approves an application to be permitted under a  
43 general permit, the director shall provide notice of the approval in a  
44 newspaper of general circulation in the county in which the source is or will  
45 be located.

1           5. If a person violates a general permit, the director may require the  
2 source to obtain a permit pursuant to subsection A of this section.

3           6. A general permit may be revoked or revised at any time by the  
4 director if necessary to comply with this chapter. If the director revokes  
5 or revises a general permit, the director shall notify all persons whose  
6 sources are affected by the revocation or revision and shall include notice  
7 of procedures to obtain a permit pursuant to subsection A of this section or  
8 notice of procedures for compliance with the revisions.

9           7. The director by rule shall adopt procedures for the issuance of  
10 general permits.

11           8. The director may adopt conditions in a general permit applicable to  
12 sources located in a specified geographic area either independently of or  
13 upon petition by a county air pollution control officer.

14           I. Permits issued pursuant to this section for a source required to  
15 obtain a permit under title V of the clean air act shall contain all of the  
16 following:

17           1. Conditions reflecting all applicable requirements of this article  
18 and rules adopted pursuant to this article.

19           2. Enforceable emission limitations and standards.

20           3. A schedule for compliance, if applicable.

21           4. The requirement to submit at least every six months the results of  
22 any required monitoring.

23           5. Any other conditions that are necessary to assure compliance with  
24 this article and the clean air act, including the applicable implementation  
25 plan.

26           J. The director may refuse to issue any permit to any source subject  
27 to the requirements of title V of the clean air act if the administrator  
28 objects to its issuance in a timely manner as prescribed under title V of the  
29 act.

30           K. If an applicant has submitted a timely and complete application for  
31 a permit required under this section, but final action has not been taken on  
32 that application, failure to obtain a permit shall not be a violation of this  
33 chapter unless the delay in final action is due to the failure of the  
34 applicant to submit information required or requested to process the  
35 application. This subsection does not apply to any person required to obtain  
36 a permit before commencing construction of a source as required under this  
37 section or any person seeking a permit revision as provided under section  
38 49-426.01.

39           L. The director may issue a single permit authorizing emissions from  
40 similar operations at multiple temporary locations, if the permit includes  
41 conditions that will assure compliance with all applicable requirements of  
42 this chapter and the clean air act at all locations. Any permit issued  
43 pursuant to this subsection shall require the applicant to notify the  
44 director in advance of each change in location. In issuing a single permit,

1 the director may require a separate permit fee for operations at each  
2 location.

3 M. In the case of a permit with a term of three or more years issued  
4 pursuant to the requirements of title V of the clean air act to a major  
5 source, the director shall require revisions to the permit to incorporate  
6 applicable standards and regulations adopted by the administrator pursuant to  
7 the clean air act after the issuance of the permit. The director shall  
8 require any revisions as expeditiously as practicable, but not later than  
9 eighteen months after the promulgation of such standards and regulations. No  
10 permit revision shall be required if the effective date of standards and  
11 regulations is after the expiration of the permit. Any permit revision  
12 required pursuant to this subsection shall be treated as a permit renewal.

13 N. Any permit issued pursuant to the requirements of this article and  
14 title V of the clean air act to a unit subject to the provisions of title IV  
15 of the clean air act shall include conditions prohibiting all of the  
16 following:

17 1. Annual emissions of sulfur dioxide in excess of the number of  
18 allowances to emit sulfur dioxide held by the owners or operators of the unit  
19 or by the designated representative of the owners or operators.

20 2. Amounts in excess of applicable emission rates.

21 3. The use of any allowance prior to the year for which it was  
22 allocated.

23 4. Contravention of any other provision of the permit.

24 O. The director shall adopt a rule specifying the notice, public  
25 participation requirements and other permit issuance procedures for permits  
26 that are not issued pursuant to title V of the clean air act.

27 P. In determining whether a permitting threshold established pursuant  
28 to this section applies to an existing source, the director shall exclude  
29 particulate matter that is not subject to a national ambient air quality  
30 standard under the clean air act.

31 Sec. 8. Section 49-457, Arizona Revised Statutes, is amended to read:

32 49-457. Agricultural best management practices committee;  
33 members; powers; permits; definitions

34 A. A best management practices committee for regulated agricultural  
35 activities is established.

36 B. The committee shall consist of:

37 1. The director OF ENVIRONMENTAL QUALITY or the director's designee.

38 2. The director of the ARIZONA department of agriculture or the  
39 director's designee.

40 3. The dean of the college of agriculture of the university of Arizona  
41 or the dean's designee.

42 4. The state director of the United States natural resources  
43 conservation service or the director's designee.

44 5. One person actively engaged in the production of citrus.

45 6. One person actively engaged in the production of vegetables.

- 1           7. One person actively engaged in the production of cotton.
- 2           8. One person actively engaged in the production of alfalfa.
- 3           9. One person actively engaged in the production of grain.
- 4           10. One soil taxonomist from the university of Arizona college of
- 5 agriculture.

6           C. The governor shall appoint the members designated pursuant to  
7 subsection ~~A~~ B, paragraphs 5 through 10 of this section for a term of six  
8 years. Members may be reappointed. Members are not entitled to compensation  
9 for their services but are entitled to receive reimbursement of expenses  
10 pursuant to ~~section 38-611, subsection D~~ TITLE 38, CHAPTER 4, ARTICLE 2.

11           D. The committee shall elect a chairman from the appointed members to  
12 serve a two year term.

13           E. The committee shall meet at the call of the chairman or at the  
14 request of a majority of the appointed members.

15           F. The department of environmental quality, the ARIZONA department of  
16 agriculture and the college of agriculture of the university of Arizona shall  
17 cooperate with and provide technical assistance and any necessary information  
18 to the committee. The department of environmental quality shall provide the  
19 necessary staff support and meeting facilities for the committee.

20           G. Notwithstanding subsections I, J and K of this section, a person  
21 engaged in a regulated agricultural activity on ~~the effective date of this~~  
22 ~~section~~ AUGUST 21, 1998 shall comply with the general permit as provided in  
23 subsection H of this section by December 31, 2001. A person who commences a  
24 regulated agricultural activity after December 31, 2000, ~~shall~~ shall comply with  
25 the general permit within eighteen months of commencing the activity.

26           H. By June 10, ~~2000~~ 2008, the committee shall adopt, by rule, an  
27 agricultural general permit specifying best management practices for  
28 regulated agricultural activities to reduce PM-10 particulate emissions,  
29 INCLUDING A RULE THAT PROHIBITS TILLING IN AREA A, AS DEFINED IN SECTION  
30 49-541, ON DAYS FOR WHICH THE DEPARTMENT OF ENVIRONMENTAL QUALITY HAS ISSUED  
31 A HIGH POLLUTION ADVISORY. A person subject to an agricultural general  
32 permit pursuant to this section is not subject to a permit issued pursuant to  
33 section 49-426 except as provided in subsection K of this section. The  
34 committee shall adopt by rule a list of best management practices, at least  
35 ~~one~~ TWO of which shall be used to demonstrate compliance with applicable  
36 provisions of the general permit no later than December 31, ~~2001~~ 2008. Best  
37 management practices may vary within ~~the Maricopa PM-10 particulate~~  
38 ~~nonattainment~~ area A, AS DEFINED IN SECTION 49-541, according to regional or  
39 geographical conditions or cropping patterns. The director shall submit the  
40 rule to the United States environmental protection agency as a revision to  
41 the applicable implementation plan within sixty days of adoption.

42           I. If the director determines that a person engaged in a regulated  
43 activity is not in compliance with the general permit, and that person has  
44 not previously been subject to a compliance order issued pursuant to this  
45 section, the director may serve upon the person by certified mail an order

1 requiring compliance with the general permit and notifying the person of the  
2 opportunity for a hearing pursuant to title 41, chapter 6, article 10. The  
3 order shall state with reasonable particularity the nature of the  
4 noncompliance and shall specify that the person has a period that the  
5 director determines is reasonable, but is not less than six months, to submit  
6 a plan to the supervisors of the natural resource conservation district in  
7 which the person engages in the regulated activity that specifies the best  
8 management practices from among those adopted in rule pursuant to subsection  
9 H of this section that the person will use to comply with the general permit.

10 J. If the director determines that a person engaged in a regulated  
11 activity is not in compliance with the general permit, and that person has  
12 previously submitted a plan pursuant to subsection I of this section, the  
13 director may serve upon the person by certified mail an order requiring  
14 compliance with the general permit and notifying the person of the  
15 opportunity for a hearing pursuant to title 41, chapter 6, article 10. The  
16 order shall state with reasonable particularity the nature of the  
17 noncompliance and shall specify that the person has a period that the  
18 director determines is reasonable, but is not less than six months, to submit  
19 a plan to the department that specifies the best management practices from  
20 among those adopted in rule pursuant to subsection H of this section that the  
21 person will use to comply with the general permit.

22 K. If a person fails to comply with the plan submitted pursuant to  
23 subsection J of this section, the director may revoke the agricultural  
24 general permit for that person and ~~to~~ require that the person obtain an  
25 individual permit pursuant to section 49-426. A revocation becomes effective  
26 after the director has provided the person with notice and an opportunity for  
27 a hearing pursuant to title 41, chapter 6, article 10.

28 L. The committee may periodically reexamine, evaluate and modify best  
29 management practices. Any approved modifications shall be submitted to the  
30 United States environmental protection agency as a revision to the applicable  
31 implementation plan.

32 M. The committee shall develop and commence an education program by  
33 June 10, 2000. The education program shall be conducted by the director or  
34 the director's designee or designees.

35 N. In this section, unless the context otherwise requires:

36 1. "Agricultural general permit" means best management practices that:

37 (a) Reduce PM-10 particulate emissions from tillage practices and from  
38 harvesting on a commercial farm.

39 (b) Reduce PM-10 particulate emissions from those areas of a  
40 commercial farm that are not normally in crop production.

41 (c) Reduce PM-10 particulate emissions from those areas of a  
42 commercial farm that are normally in crop production including prior to plant  
43 emergence and when the land is not in crop production.

44 2. "Applicable implementation plan" means that term as defined in 42  
45 United States Code [SECTION 7601\(q\)](#).

1           3. "Best management practices" means techniques THAT ARE verified by  
2 scientific research, ~~AND~~ AND that on a case by case basis are practical,  
3 economically feasible and effective in reducing PM-10 particulate emissions  
4 from a regulated agricultural activity.

5           4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix  
6 planning area as set forth in 40 Code of Federal Regulations ~~part~~ SECTION  
7 81.303.

8           5. "Regulated agricultural activities" means commercial farming  
9 practices that may produce PM-10 particulate emissions within ~~the Maricopa~~  
10 ~~PM-10 particulate nonattainment~~ area A AS DEFINED IN SECTION 49-541.

11           Sec. 9. Section 49-480, Arizona Revised Statutes, is amended to read:  
12           49-480. Permits; fees

13           A. The board of supervisors may adopt a program for the review,  
14 issuance, revision, administration and enforcement of permits and for public  
15 review of proposed permits for sources that are subject to section 49-426,  
16 subsection A, that are not under the jurisdiction of the state pursuant to  
17 section 49-402 and that are not otherwise exempt pursuant to section 49-426,  
18 subsection B and subsection K of this section. This program shall include  
19 provisions for administration, inspection and enforcement of general permits  
20 issued pursuant to section 49-426, subsection H and subsection J of this  
21 section.

22           B. Procedures for the review, issuance, revision and administration of  
23 permits issued pursuant to this section and required to be obtained pursuant  
24 to title V of the clean air act including sources that emit hazardous air  
25 pollutants shall be substantially identical to procedures for the review,  
26 issuance, revision and administration of permits issued by the department  
27 under this chapter. Such procedures shall comply with the requirements of  
28 sections 165, 173 and 408 and titles III and V of the clean air act and  
29 implementing regulations for sources subject to titles III and V of the clean  
30 air act. Procedures for the review, issuance, revision and administration of  
31 permits issued pursuant to this section and not required to be obtained  
32 pursuant to title V of the clean air act shall impose no greater procedural  
33 burden on the permit applicant than procedures for the review, issuance,  
34 revision and administration of permits issued by the department under  
35 sections 49-426 and 49-426.01 and other applicable provisions of this  
36 chapter. THE CONTROL OFFICER MAY REQUIRE THAT APPLICANTS INCLUDE  
37 CONSIDERATION OF THE CUMULATIVE IMPACT ON THE AIRSHED OF THE SOURCE BY  
38 CONSIDERING EMISSIONS FROM SOURCES IN PROXIMITY TO THE APPLICANT'S SOURCE.  
39 THE CONTROL OFFICER MAY REQUIRE THE CUMULATIVE IMPACT INFORMATION BY WAY OF  
40 CUMULATIVE MODELING TO BE SUBMITTED BY THE APPLICANT OR BY WAY OF REQUIRING  
41 THE APPLICANT TO SUBMIT SUFFICIENT INFORMATION FOR THE CONTROL OFFICER TO  
42 PERFORM THE CUMULATIVE IMPACT MODELING REQUIRED FOR THE PERMIT APPLICATION.

43           C. Upon adoption of a permit program by the board of supervisors  
44 pursuant to this section, no person may begin actual construction, operate or



1 make a modification to any source subject to the permit program without  
2 complying with the requirements of that program.

3 D. Permits issued pursuant to a program adopted under this section are  
4 subject to payment of a reasonable fee to be determined as follows:

5 1. For any source required to obtain a permit under title V of the  
6 clean air act, the board of supervisors shall establish by rule a system of  
7 fees consistent with and equivalent to that prescribed under section 502 of  
8 the clean air act. Such system shall prescribe procedures for increasing the  
9 fee each year by the percentage, if any by which the consumer price index for  
10 the most recent calendar year ending before the beginning of such year  
11 exceeds the consumer price index for the calendar year 1989.

12 2. For any facility subject to the permitting requirements of this  
13 chapter but not required to obtain a permit under title V of the clean air  
14 act, the board of supervisors shall determine a permit fee based on all  
15 reasonable direct and indirect costs required to administer the permit, but  
16 not exceeding twenty-five thousand dollars.

17 The board of supervisors shall establish an annual inspection fee, not to  
18 exceed the average cost of services.

19 E. Funds received for permits issued pursuant to this section shall be  
20 deposited in a special public health fund and shall be used by the control  
21 officer to defray the costs of implementing this article.

22 F. Permits issued pursuant to this section for a source required to  
23 obtain a permit under title V of the clean air act shall, and for a source  
24 that is not required to obtain a title V permit may, contain all of the  
25 following:

26 1. Conditions reflecting all applicable requirements of this article  
27 and rules adopted pursuant to this article.

28 2. Enforceable emission limitations and standards.

29 3. A schedule for compliance, if applicable.

30 4. The requirement to submit at least every six months the results of  
31 any required monitoring.

32 5. Any other conditions that are necessary to assure compliance with  
33 this article and the clean air act, including the applicable implementation  
34 plan.

35 G. The control officer may refuse to issue any permit to any source  
36 subject to the requirements of title V of the clean air act if the  
37 administrator objects to its issuance in a timely manner as prescribed under  
38 title V of the act.

39 H. In the case of a permit with a term of three or more years issued  
40 pursuant to the requirements of title V of the clean air act to a major  
41 source, the control officer shall require revisions to the permit to  
42 incorporate applicable standards and regulations adopted by the administrator  
43 pursuant to the clean air act after the issuance of the permit. The control  
44 officer shall require any revisions as expeditiously as practicable but not  
45 later than eighteen months after the promulgation of such standards and

1 regulations. No permit revision shall be required if the effective date of  
2 the standards and regulations is after the expiration of the permit. Any  
3 permit revision required pursuant to this subsection shall be treated as a  
4 permit renewal.

5 I. Except as provided in section 49-426, subsection B and subsection A  
6 of this section, any person burning used oil, used oil fuel, hazardous waste  
7 or hazardous waste fuel in any machine, incinerator or device shall first  
8 obtain a permit from the control officer. Any permit issued by the control  
9 officer under this subsection shall contain, at a minimum, conditions  
10 governing:

11 1. Limitations on the types, amounts and feed rates of used oil, used  
12 oil fuel, hazardous waste or hazardous waste fuel which may be burned.

13 2. The frequency and types of fuel testing to be conducted by the  
14 person.

15 3. The frequency and type of emissions testing or monitoring to be  
16 conducted by the person.

17 4. Requirements for record keeping and reporting.

18 5. Numeric emission limitations expressed in pounds per hour and tons  
19 per year for air contaminants to be emitted from the facility burning used  
20 oil, used oil fuel, hazardous waste or hazardous waste fuel.

21 J. The board of supervisors may authorize by rule the control officer  
22 to issue a general permit for a defined class of facilities if that class of  
23 facilities has not been issued a general permit by the director for sources  
24 in that county pursuant to section 49-426, subsection H. The criteria for  
25 issuance of a general permit are those applicable to the director pursuant to  
26 section 49-426, subsection G.

27 K. The board of supervisors may identify by rule sources or  
28 classifications of sources for which a permit is not required and  
29 pollutant-emitting activities and emissions units at permitted sources that  
30 are not subject to inclusion in the permit. The criteria for exemptions  
31 granted pursuant to this subsection are those applicable to exemptions  
32 granted by the director pursuant to section 49-426, subsection B.

33 L. In determining whether a permitting threshold established pursuant  
34 to this section applies to an existing source, the control officer shall  
35 exclude particulate matter that is not subject to a national ambient air  
36 quality standard under the clean air act.

37 M. The board of supervisors may adopt a rule or ordinance that  
38 establishes less burdensome permit procedures and requirements for permits  
39 that are not required to be obtained pursuant to title V of the clean air  
40 act. Until the effective date of a rule or ordinance adopted by a board of  
41 supervisors pursuant to this section, the control officer, either on the  
42 control officer's own initiative or on the request of a permit applicant, may  
43 waive requirements that are not appropriate for non-title V sources.

1           Sec. 10. Section 49-501, Arizona Revised Statutes, is amended to read:  
2           49-501. Unlawful open burning; exceptions; fine; definition

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

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

8           2. FROM MAY 1 THROUGH SEPTEMBER 30 EACH YEAR, IT IS UNLAWFUL FOR ANY  
9 PERSON TO IGNITE, CAUSE TO BE IGNITED, PERMIT TO BE IGNITED OR SUFFER, ALLOW  
10 OR MAINTAIN ANY OPEN OUTDOOR FIRE IN AREA A AS DEFINED IN SECTION 49-541.

11           ~~C.~~ B. The following fires are excepted from ~~the provisions of~~ this  
12 section:

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

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

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

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

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

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

36           ~~D.~~ C. Permission for the setting of any fire given by a public  
37 officer in the performance of official duty under subsection ~~C.~~ B, paragraph  
38 2, 3 or 4 OF THIS SECTION shall be given in writing and a copy of the written  
39 permission shall be transmitted immediately to the director OF ENVIRONMENTAL  
40 QUALITY and the control officer of the county, district or region in which  
41 such fire is allowed. The setting of any such fire shall be conducted in a  
42 manner and at such time as approved by the control officer or the director OF  
43 ENVIRONMENTAL QUALITY, unless doing so would defeat the purpose of the  
44 exemption.

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

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

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

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

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

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

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

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

38           ~~G.~~ F. Nothing in this section is intended to permit any practice  
39 which is a violation of any statute, ordinance, rule or regulation in a  
40 county with a population in excess of one million two hundred thousand  
41 persons according to the most recent United States decennial census.  
42 **NOTWITHSTANDING ANY OTHER LAW, SUCH A COUNTY SHALL PROHIBIT BY ORDINANCE THE**  
43 **USE OF WOOD BURNING CHIMINEAS, OUTDOOR FIRE PITS AND SIMILAR OUTDOOR FIRES ON**  
44 **THOSE DAYS FOR WHICH THE COUNTY HAS ISSUED A NO BURN DAY RESTRICTION.**

1 ~~H.~~ G. A person who violates any provision of this section may be  
2 served a notice of violation and be subject to the enforcement provisions of  
3 this article to the same extent as a person violating any rule or regulation  
4 adopted pursuant to this article.

5 ~~I.~~ H. Any violation of this section shall be punishable by a fine not  
6 to exceed twenty-five dollars.

7 ~~B.~~ I. FOR THE PURPOSES OF THIS SECTION, "open outdoor fire", ~~as used~~  
8 ~~in this section~~, means any combustion of combustible material of any type  
9 outdoors, in the open where the products of combustion are not directed  
10 through a flue. FOR THE PURPOSES OF THIS SUBSECTION, "flue", ~~as used in~~  
11 ~~this subsection~~, means any duct or passage for air, gases or the like, such  
12 as a stack or chimney.

13 Sec. 11. Section 49-541, Arizona Revised Statutes, is amended to read:

14 49-541. Definitions

15 In this article, unless the context otherwise requires:

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

17 (a) In Maricopa county:

- 18 Township 8 north, range 2 east and range 3 east
- 19 Township 7 north, range 2 west through range 5 east
- 20 Township 6 north, range 5 west through range 6 east
- 21 Township 5 north, range 5 west through range 7 east
- 22 Township 4 north, range 5 west through range 8 east
- 23 Township 3 north, range 5 west through range 8 east
- 24 Township 2 north, range 5 west through range 8 east
- 25 Township 1 north, range 5 west through range 7 east
- 26 Township 1 south, range 5 west through range 7 east
- 27 Township 2 south, range 5 west through range 7 east
- 28 Township 3 south, range 5 west through range 1 east
- 29 Township 4 south, range 5 west through range 1 east

30 TOWNSHIP 8 NORTH, RANGE 4 WEST THROUGH 7 WEST, THAT PORTION WITHIN  
31 MARICOPA COUNTY

32 TOWNSHIP 7 NORTH, RANGE 3 WEST AND 4 WEST, THAT PORTION WITHIN MARICOPA  
33 COUNTY

- 34 TOWNSHIP 7 NORTH, RANGE 5 WEST THROUGH 7 WEST
- 35 TOWNSHIP 6 NORTH, RANGE 6 WEST AND RANGE 7 WEST
- 36 TOWNSHIP 5 NORTH, RANGE 6 WEST AND RANGE 7 WEST
- 37 TOWNSHIP 4 NORTH, RANGE 6 WEST AND RANGE 7 WEST
- 38 TOWNSHIP 3 NORTH, RANGE 6 WEST AND RANGE 7 WEST
- 39 TOWNSHIP 2 NORTH, RANGE 6 WEST AND RANGE 7 WEST
- 40 TOWNSHIP 1 NORTH, RANGE 6 WEST AND RANGE 7 WEST
- 41 TOWNSHIP 1 SOUTH, RANGE 6 WEST AND RANGE 7 WEST
- 42 TOWNSHIP 2 SOUTH, RANGE 6 WEST AND RANGE 7 WEST
- 43 TOWNSHIP 3 SOUTH, RANGE 6 WEST AND RANGE 7 WEST
- 44 TOWNSHIP 4 SOUTH, RANGE 6 WEST AND RANGE 7 WEST

- 1 (b) In Pinal county:
- 2 Township 1 north, range 8 east and range 9 east
- 3 Township 1 south, range 8 east and range 9 east
- 4 Township 2 south, range 8 east and range 9 east
- 5 Township 3 south, range 7 east through range 9 east
- 6 TOWNSHIP 1 NORTH, RANGE 10 EAST
- 7 TOWNSHIP 1 SOUTH, RANGE 10 EAST
- 8 TOWNSHIP 2 SOUTH, RANGE 10 EAST
- 9 TOWNSHIP 3 SOUTH, RANGE 10 EAST
- 10 TOWNSHIP 4 SOUTH, RANGE 2 EAST THROUGH RANGE 4 EAST
- 11 TOWNSHIP 4 SOUTH, RANGE 8 EAST THROUGH RANGE 10 EAST
- 12 TOWNSHIP 5 SOUTH, RANGE 2 EAST THROUGH RANGE 10 EAST
- 13 TOWNSHIP 6 SOUTH, RANGE 2 EAST THROUGH RANGE 10 EAST
- 14 TOWNSHIP 7 SOUTH, RANGE 3 EAST THROUGH RANGE 10 EAST
- 15 TOWNSHIP 8 SOUTH, RANGE 6 EAST THROUGH RANGE 10 EAST
- 16 TOWNSHIP 9 SOUTH, RANGE 6 EAST THROUGH RANGE 8 EAST

- 17 (c) In Yavapai county:
- 18 Township 7 north, range 1 east and range 1 west through range 2 west
- 19 Township 6 north, range 1 east and range 1 west
- 20 TOWNSHIP 8 NORTH, RANGE 4 WEST THROUGH RANGE 7 WEST, THAT PORTION
- 21 WITHIN YAVAPAI COUNTY
- 22 TOWNSHIP 7 NORTH, RANGE 3 WEST AND RANGE 4 WEST, THAT PORTION WITHIN
- 23 YAVAPAI COUNTY

24 2. "Area B" means the area delineated AS FOLLOWS:

- 25 (a) In Pima county: ~~as township~~
- 26 TOWNSHIPS 11 and 12 south, range 12 through RANGE 14 east, ~~township~~
- 27 TOWNSHIPS 13 through 15 south, range 11 through RANGE 16 east, ~~township~~
- 28 Township 16 south, range 12 through RANGE 16 east, excluding any
- 29 portion of the Coronado national forest and the Saguaro national park.
- 30 TOWNSHIP 11 SOUTH, RANGE 10 EAST AND 11 EAST
- 31 TOWNSHIP 12 SOUTH, RANGE 10 EAST AND 11 EAST
- 32 TOWNSHIP 15 SOUTH, RANGE 17 EAST, EXCLUDING THAT PORTION WITHIN THE
- 33 SAGUARO NATIONAL PARK (EAST)
- 34 TOWNSHIP 16 SOUTH, RANGE 17 EAST
- 35 TOWNSHIP 17 SOUTH, RANGE 13 EAST THROUGH RANGE 17 EAST
- 36 TOWNSHIP 18 SOUTH, RANGE 13 EAST AND RANGE 14 EAST

- 37 (b) IN PINAL COUNTY:
- 38 TOWNSHIP 9 SOUTH, RANGE 9 EAST THROUGH RANGE 16 EAST
- 39 TOWNSHIP 10 SOUTH, RANGE 9 EAST THROUGH RANGE 16 EAST

40 3. "Certificate of inspection" means a serially numbered device or

41 symbol, as may be prescribed by the director, indicating that a vehicle has

42 been inspected pursuant to the provisions of section 49-546 and has passed

43 inspection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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