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**Jane Dee Hull
Secretary of State**

CHAPTER 258

HOUSE BILL 2113

AN ACT

AMENDING SECTIONS 41-2065, 41-2066 AND 41-2068, ARIZONA REVISED STATUTES; REPEALING SECTION 41-2069, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-426, 49-808, 49-809 AND 49-810, ARIZONA REVISED STATUTES; AMENDING SECTION 49-814, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1995, CHAPTER 202, SECTION 17; AMENDING TITLE 49, CHAPTER 4, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-816, 49-817 AND 49-818; RELATING TO USED OIL.

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

2 Section 1. Section 41-2065, Arizona Revised Statutes, is amended to
3 read:

4 41-2065. Powers and duties; definition

5 A. The department shall:

6 1. Maintain custody of the state standards of weight and measure that
7 are traceable to the United States prototype standards and that are supplied
8 to the states by the federal government or that are otherwise approved as
9 being satisfactory by the national institute of standards and technology.

10 2. Keep the state primary standards in a safe and suitable place in
11 the metrology laboratory of the department and insure that they shall not be
12 removed from the laboratory except for repairs or for calibration as may be
13 prescribed by the national institute of standards and technology.

14 3. Keep accurate records of all standards and equipment.

15 4. Make any rules necessary to carry out the provisions of this
16 chapter and adopt reasonable rules for the enforcement of this chapter, which
17 rules shall have the force and effect of law. Such rules shall be adopted
18 pursuant to chapter 6 of this title. In making such rules, the director
19 shall consider, as far as is practicable, the requirements established by
20 other states and by authority of the United States, except that no rules
21 shall be made in conflict with the provisions of this chapter.

1 5. Publish such rules adopted pursuant to this chapter and issue
2 appropriate copies at no cost to all new applicants for licensure and
3 certification. Updated copies of the rules shall be distributed, on request,
4 at no cost to the public.

5 6. Investigate complaints made to the department concerning violations
6 of the provisions of this chapter and, upon its own initiative, conduct such
7 investigations as deemed appropriate to develop information relating to
8 prevailing procedures in commercial quantity determination and relating to
9 possible violations of this chapter, and in order to promote the general
10 objective of accuracy in the determination and representation of quantity in
11 commercial transactions.

12 7. Establish labeling standards, establish standards of weight,
13 measure or count and establish reasonable standards of fill for any packaged
14 commodity, and may establish standards for open dating information.

15 8. Grant, pursuant to this chapter, exemptions from the licensing
16 provisions of this chapter for weighing and measuring instruments, standards
17 or devices when the ownership or use of the instrument or device is limited
18 to federal, state or local government agencies in the performance of official
19 functions. On request, the department shall conduct inspections of the
20 instruments, standards or devices and charge a fee pursuant to section
21 41-2092, subsection B.

22 9. Delegate to appropriate personnel any of the responsibilities of
23 the director for the proper administration of this chapter.

24 10. Inspect and test weights and measures kept, offered or exposed for
25 sale.

26 11. Inspect and test, to ascertain if they are correct, weights and
27 measures commercially used either:

28 (a) In determining the weight, measure or count of commodities or
29 things sold, or offered or exposed for sale, on the basis of weight, measure
30 or count.

31 (b) In computing the basic charge or payment for services rendered on
32 the basis of weight, measure or count.

33 12. Test all commodities and weights and measures used in every public
34 institution, for the maintenance of which funds are appropriated by the
35 legislature.

36 13. Test, approve for use and affix a seal of approval for use of all
37 weights, measures, commercial devices and liquid fuel measuring devices
38 manufactured in or brought into this state as it finds to be correct, and
39 shall reject and mark as rejected such weights, measures and devices as it
40 finds to be incorrect. Weights, measures and devices that have been rejected
41 may be seized by the department if not corrected within the time specified
42 or if used or disposed of in a manner not specifically authorized. The
43 department shall condemn and may seize weights, measures and devices that are
44 found to be incorrect and that are not capable of being made correct.

1 14. Sample and test gasoline which is stored, sold or exposed or
2 offered for sale or which is stored for use by a fleet owner to determine
3 whether the gasoline meets the standards for gasoline set forth in section
4 41-2083 and article 6 of this chapter and in any rule adopted by the director
5 pursuant to this chapter. For the purposes of this paragraph, "fleet owner"
6 has the same meaning as prescribed in section 41-2121.

7 15. Test all stage I and stage II vapor recovery systems that are
8 installed or operated in this state not less than annually and if the systems
9 are determined to be in compliance with the law affix a seal of approval for
10 use and reject, mark as rejected and stop the use of those systems determined
11 not to be in compliance with the law.

12 16. Inspect facilities at which gasoline or oxygenated fuel is stored,
13 sold or exposed or offered for sale to determine whether dispensing devices
14 are properly labeled.

15 17. Publish and distribute to consumers weighing and measuring
16 information.

17 18. Weigh, measure or inspect packaged commodities kept, offered or
18 exposed for sale, sold or in the process of delivery to determine whether
19 they contain the amounts represented and whether they are kept, offered or
20 exposed for sale in accordance with this chapter or rules adopted pursuant
21 thereto. In carrying out the provisions of this section, the director shall
22 employ recognized sampling procedures, such as are designated in appropriate
23 national institute of standards and technology handbooks and supplements
24 thereto, except as modified or rejected by rule.

25 19. Allow reasonable variations from the stated quantity of contents
26 only after a commodity has entered intrastate commerce. Such variations
27 shall include those caused by loss or gain of moisture during the course of
28 good distribution practice or by unavoidable deviations in good manufacturing
29 practice.

30 20. Prescribe the standards of weight and measure and additional
31 equipment methods of test and inspection to be employed in the enforcement
32 of this chapter. The director may prescribe or provide the official test and
33 inspection forms to be used in the enforcement of this chapter.

34 21. Apply to any court of competent jurisdiction for a temporary or
35 permanent injunction restraining any person from violating any provision of
36 this chapter.

37 22. Report to the governor on August 1 each year and at such other
38 times as may be required on the work accomplished under the provisions of
39 this chapter.

40 23. Employ such personnel as needed to assist in administering the
41 provisions of this chapter.

42 ~~24. Adopt rules to sample and test used oil or used oil fuel to the~~
43 ~~allowable levels prescribed by section 49-801 and any rules adopted pursuant~~
44 ~~to section 49-801.~~

1 ~~25. Establish by rule fees, including late charges, if any, to be paid~~
2 ~~by a used oil or used oil fuel transporter, generator, marketer or burner to~~
3 ~~cover the full cost of each test conducted as prescribed by paragraph 24 and~~
4 ~~issue stop use and stop sale orders as provided in subsection F of this~~
5 ~~section.~~

6 ~~26.~~ 24. Establish by rule labeling standards for tanks and containers
7 of liquid fuels ~~and used oil.~~

8 B. The director may provide for the periodic examination and
9 inspection of metering devices of utility companies, including but not
10 limited to such devices utilized to measure usage of electricity, natural gas
11 or water by a consumer.

12 C. The director may establish standards for the presentation of
13 cost-per-unit information. Nothing in this subsection shall be construed to
14 mandate the use of cost-per-unit information in connection with the sale of
15 any standard packed commodity.

16 D. The director may, when necessary to carry out the provisions of
17 this chapter, adopt and enforce rules relating to quality standards for
18 gasoline, motor fuel, kerosene, oil, except used oil fuel, and hazardous
19 waste fuel, lubricating oils, lubricants, antifreeze and other liquid or
20 gaseous fuels. The director shall adopt rules to assure that oxygenated
21 fuels, as described in article 6 of this chapter, stored, used, sold, or
22 exposed or offered for use or sale are blended and stored, sold, exposed or
23 offered in such a manner as to assure that the oxygenated fuels are properly
24 blended, that they meet the standards set forth in section 41-2083 and
25 article 6 of this chapter, and in rules adopted pursuant to this chapter, and
26 that dispensers at which the oxygenated fuels are dispensed are labeled as
27 defined by rule of the department in such a manner as to notify persons of
28 the type of oxygenated fuel being dispensed and the maximum percentage of
29 oxygenate by volume contained in the oxygenated fuel. The director of the
30 department of weights and measures shall consult with the director of the
31 department of environmental quality in adopting rules pursuant to this
32 subsection.

33 E. All testing and inspection conducted pursuant to this chapter
34 shall, to the extent practicable, be done without prior notice and by a
35 random systematic method determined by the director. The testing and
36 inspection may be done by private persons and firms pursuant to contracts
37 entered into by the director in accordance with chapter 23 of this title.
38 The director shall establish, by rule, qualifications of persons and firms
39 for selection for purposes of this subsection. The persons or firms
40 conducting the testing and inspection shall immediately report to the
41 department any violations of the provisions of this chapter and incorrect
42 weights, measures and devices for investigation and enforcement by the
43 department. A person or firm that tests or inspects a weight, measure or
44 device which is rejected shall not correct the defect causing the rejection.

1 ~~F. The director has full enforcement powers prescribed under this~~
2 ~~section and section 41-2066 with respect to used oil as defined in section~~
3 ~~49-801. Fees and late charges collected by the director pursuant to~~
4 ~~subsection A, paragraph 25 of this section shall be deposited monthly in the~~
5 ~~weights and measures used oil fund established by section 41-2069. Failure~~
6 ~~to pay the prescribed fee and late charge, if required, shall result in the~~
7 ~~department issuing a stop use or stop sale order until the fees are paid in~~
8 ~~full.~~

9 ~~G.~~ F. For purposes of the labeling requirements prescribed in this
10 section, "oxygenated fuel" means a motor fuel blend containing 1.8 per cent
11 or more by weight of oxygen.

12 Sec. 2. Section 41-2066, Arizona Revised Statutes, is amended to read:
13 41-2066. Enforcement powers of the director and inspectors

14 A. When necessary for the enforcement of this chapter ~~and title 49,~~
15 ~~chapter 4, article 7~~ and rules adopted pursuant to this chapter ~~and title 49,~~
16 ~~chapter 4, article 7,~~ the director or his agents and inspectors shall:

17 1. Enter any commercial, nonprofit business or governmental premises
18 during normal operating hours, except that if such premises are not open to
19 the public, he shall first present his credentials.

20 2. Issue stop-use, hold and removal orders with respect to any weights
21 and measures commercially used, stop-sale, hold and removal orders with
22 respect to any packaged commodities, ~~or~~ bulk commodities OR LIQUID FUEL kept,
23 offered or exposed for sale and stop-use, stop-sale, hold and removal orders
24 with respect to any liquid fuel, ~~used oil or used oil fuel~~ found to be in
25 violation of this chapter or rules adopted pursuant to this chapter. ~~The~~
26 ~~director of the department of weights and measures shall inform the director~~
27 ~~of the department of environmental quality of any action taken pursuant to~~
28 ~~this paragraph which relates to used oil or used oil fuel.~~

29 3. Seize for use as evidence, without formal warrant, any incorrect
30 or unapproved weight, measure, package or commodity found to be used,
31 retained, offered or exposed for sale or sold in violation of the provisions
32 of this chapter or rules adopted pursuant thereto.

33 4. Stop any commercial vehicle upon reasonable cause to believe that
34 the vehicle contains evidence of a violation of any provision of this chapter
35 and, after presentment of his credentials, inspect the contents, require that
36 the person in charge of the vehicle produce any documents in his possession
37 concerning the contents and require him to proceed with the vehicle to some
38 specified place for inspection.

39 B. With respect to the enforcement of this chapter ~~and title 49,~~
40 ~~chapter 4, article 7,~~ the director or his agents or inspectors may issue a
41 citation to any violators of this chapter in accordance with the provisions
42 of section 13-3903.

43 C. The director, his agents or an inspector may apply for a special
44 inspection warrant for inspection of real or personal property for the

1 purpose of enforcement of this chapter and ~~title 49, chapter 4, article 7.~~
2 Such a special inspection warrant shall be issued ~~in the same manner and in~~
3 ~~the same form as a special inspection warrant for air pollution~~ as provided
4 in section 49-433.

5 Sec. 3. Section 41-2068, Arizona Revised Statutes, is amended to read:

6 41-2068. Fees to general fund

7 The director shall remit all fees collected, ~~except monies collected~~
8 ~~pursuant to section 41-2069,~~ to the state treasurer to be deposited in the
9 state general fund.

10 Sec. 4. Repeal

11 Section 41-2069, Arizona Revised Statutes, is repealed.

12 Sec. 5. Section 49-426, Arizona Revised Statutes, is amended to read:

13 49-426. Permits; duties of director; exceptions; applications;
14 objections; fees

15 A. A permit shall:

16 1. Be issued by the director in compliance with the terms of this
17 section.

18 2. Be required for any person seeking a compliance extension pursuant
19 to section 49-426.03, subsection B, paragraph 3 and section 112(a)(5) of the
20 clean air act and for any person commencing construction, operating or making
21 a modification to any source, except as prescribed in subsection B of this
22 section or section 49-426.01.

23 B. The provisions of this section shall not apply to motor vehicles,
24 to agricultural vehicles or agricultural equipment used in normal farm
25 operations, or to fuel burning equipment which, in the aggregate with other
26 such equipment of the applicant at the same location or property other than
27 a one or two family residence, is rated at less than five hundred thousand
28 British thermal units per hour. The director may establish by rule
29 additional sources or classifications of sources for which a permit is not
30 required. The director shall not adopt such a rule unless the director finds
31 that the source or class of sources will have an insignificant adverse impact
32 on air quality. In adopting these rules, the director may consider any rule
33 that is adopted by the administrator pursuant to section 502 of the clean air
34 act and that exempts one or more source categories from the requirement to
35 obtain a permit.

36 C. Every application for a permit shall be filed in the manner and
37 form prescribed by the director, and shall contain all the information
38 necessary to enable the director to make the determination to grant or deny
39 such application. The director shall establish by rule requirements for
40 permit applications, including a standard application form. The director
41 shall establish by rule requirements for applications for general permits.
42 An application shall include a compliance plan that describes how the
43 applicant will comply with all of the applicable requirements of this chapter
44 and the clean air act, including a schedule of compliance and a schedule

1 under which progress reports will be submitted to the director at least every
2 six months. The director may require that such application include all
3 sources that are used or to be used by the applicant in a certain process or
4 a single facility or location. Before acting on an application for a permit,
5 the director may require the applicant to furnish further information or
6 further plans or specifications. The director shall act, within a reasonable
7 time, on such application and shall notify the applicant in writing of the
8 proposed approval or denial of such application, except that the director may
9 have a reasonable period of time in which to gather information, inspect
10 premises, and issue such permits. The director shall adopt rules that
11 establish procedures for determining when applications are complete, for
12 processing applications and for reviewing permit actions. The director shall
13 also establish by rule criteria for determining reasonable times for
14 processing permit applications. Rules adopted pursuant to this subsection
15 shall conform to the requirements of section 505(a) of the clean air act.

16 D. The director shall give notice of the proposed permit once each
17 week for two consecutive weeks in two newspapers of general circulation in
18 the county in which the source is or will be located. The notice shall
19 describe the proposed permit and air contaminants to be emitted and shall
20 state that any person may submit comments on the proposed permit and may
21 request a public hearing. The director shall require the applicant at the
22 time of the first notice to post the site where the source is or may be
23 located. If permitted by federal, state and local law, the posting shall be
24 prominently placed at a site that is under the applicant's legal control and
25 that is adjacent to the nearest public roadway. The posting shall be visible
26 to the public using the public roadway and shall contain the information in
27 the notice that is published by the director. If a public hearing is
28 requested, the director shall require the applicant to place an additional
29 posting that provides notice of the public hearing. A posting shall be
30 maintained until the public comment period on the proposed permit is closed.
31 The director shall make available to the public notices of proposed permits.
32 Each public notice that is issued under this chapter shall be mailed to the
33 permit applicant, to the affected federal, state and local agencies and to
34 those persons who have requested in writing copies of proposed permit action
35 notices. During the public comment period, any person may submit a request
36 to the department to conduct a public hearing for the purpose of receiving
37 oral or written comments on the proposed permit. A written comment shall
38 state the name and mailing address of the person, shall be signed by the
39 person, his agent or his attorney and shall clearly set forth reasons why the
40 permit should or should not be issued. Grounds for comment are limited to
41 whether the proposed permit meets the criteria for issuance prescribed in
42 this section or in section 49-427. The department shall consider and prepare
43 written responses to all comments received during the public comment period
44 including comments made at a public hearing conducted by the department. At

1 the time a final permit decision is made, copies of the department's
2 responses shall be made available to the applicant and any person who
3 commented on the proposed permit.

4 E. Permits or revisions issued pursuant to this section or section
5 49-426.01 may be issued subject to such terms and conditions as are
6 consistent with the requirements of this article, article 1 of this chapter
7 and the clean air act and are found by the director to be necessary,
8 following public notice and an opportunity for a public hearing as provided
9 in subsection D or H of this section or in section 49-426.01, and subject to
10 payment of a reasonable fee to be determined as follows:

11 1. For a source that is required to obtain a permit pursuant to title
12 V of the clean air act, the director shall establish by rule a system of fees
13 that is consistent with and equivalent to that prescribed by section 502 of
14 the clean air act. These rules shall prescribe procedures for increasing the
15 fee each year by the percentage if any by which the consumer price index for
16 the immediately preceding calendar year exceeds the consumer price index for
17 calendar year 1989.

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

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

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

28 G. Except as provided in section 49-808, subsection E and subsection
29 B of this section, any person burning used oil, used oil fuel, hazardous
30 waste or hazardous waste fuel shall first obtain a permit from the director.
31 Any permit issued by the director under this subsection shall contain, at a
32 minimum, conditions governing:

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

35 2. The frequency and types of fuel testing to be conducted by the
36 person.

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

39 4. Requirements for record keeping and reporting.

40 5. Numeric emission limitations expressed in pounds per hour and tons
41 per year for air contaminants to be emitted from the facility burning ~~used~~
42 ~~oil~~, OFF-SPECIFICATION used oil fuel, hazardous waste or hazardous waste
43 fuel.

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

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

8 2. The director shall give notice of the proposed general permit once
9 each week for two consecutive weeks in a newspaper of general circulation in
10 each county. The notice shall describe the proposed general permit, the
11 general class of sources that would be subject to the proposed permit and the
12 air contaminants to be emitted. The notice shall also state that any person
13 may submit comments on the proposed general permit and may request a public
14 hearing. A written comment shall state the name of the person and the
15 person's agent or attorney and shall clearly set forth reasons why the
16 general permit should or should not be issued. Grounds for comment are
17 limited to whether the proposed general permit meets the criteria for
18 issuance prescribed in this section or section 49-427.

19 3. On issuance of a general permit any person seeking to permit a
20 source under this subsection shall submit an application pursuant to
21 subsection C of this section.

22 4. If the director approves an application to be permitted under a
23 general permit, the director shall provide notice of the approval in a
24 newspaper of general circulation in the county in which the source is or will
25 be located.

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

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

34 7. The director by rule shall adopt procedures for the issuance of
35 general permits.

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

39 I. Permits issued pursuant to this section shall contain all of the
40 following:

41 1. Conditions reflecting all applicable requirements of this article
42 and rules adopted pursuant to this article.

43 2. Enforceable emission limitations and standards.

44 3. A schedule for compliance, if applicable.

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

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

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

10 K. If an applicant has submitted a timely and complete application for
11 a permit required under this section, but final action has not been taken on
12 that application, failure to obtain a permit shall not be a violation of this
13 chapter unless the delay in final action is due to the failure of the
14 applicant to submit information required or requested to process the
15 application. This subsection does not apply to any person required to obtain
16 a permit before commencing construction of a source as required under this
17 section or any person seeking a permit revision as provided under section
18 49-426.01.

19 L. The director may issue a single permit authorizing emissions from
20 similar operations at multiple temporary locations, if the permit includes
21 conditions that will assure compliance with all applicable requirements of
22 this chapter and the clean air act at all locations. Any permit issued
23 pursuant to this subsection shall require the applicant to notify the
24 director in advance of each change in location. In issuing a single permit,
25 the director may require a separate permit fee for operations at each
26 location.

27 M. In the case of a permit with a term of three or more years issued
28 pursuant to the requirements of title V of the clean air act to a major
29 source, the director shall require revisions to the permit to incorporate
30 applicable standards and regulations adopted by the administrator pursuant
31 to the clean air act after the issuance of the permit. The director shall
32 require any revisions as expeditiously as practicable, but not later than
33 eighteen months after the promulgation of such standards and regulations.
34 No permit revision shall be required if the effective date of standards and
35 regulations is after the expiration of the permit. Any permit revision
36 required pursuant to this subsection shall be treated as a permit renewal.

37 N. Any permit issued pursuant to the requirements of this article and
38 title V of the clean air act to a unit subject to the provisions of title IV
39 of the clean air act shall include conditions prohibiting all of the
40 following:

41 1. Annual emissions of sulfur dioxide in excess of the number of
42 allowances to emit sulfur dioxide held by the owners or operators of the unit
43 or by the designated representative of the owners or operators.

44 2. ~~Exceedances~~ AMOUNTS IN EXCESS of applicable emission rates.

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

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

4 Sec. 6. Section 49-808, Arizona Revised Statutes, is amended to read:
5 49-808. Standards applicable to burners

6 A. A person shall not burn off-specification used oil fuel except in
7 the following devices:

8 1. Industrial furnaces identified as proper for burning
9 off-specification used oil in the federal act.

10 2. Boilers that are designated as proper for burning off-specification
11 used oil in the federal act and that meet any one of the following criteria:

12 (a) Industrial boilers located on the site of a facility engaged in
13 a manufacturing process where substances are transformed into new products,
14 including the component parts of products, by mechanical or chemical
15 processes.

16 (b) Utility boilers used to produce electric power, steam or heated
17 or cooled air or other gases or fluids for sale.

18 B. Industrial boilers which are identified as proper for burning
19 off-specification used oil under subsection A of this section and which are
20 owned or operated by a business classified as standard industrial code number
21 4911 under the federal office of management and budget standard
22 classification manual may burn off-specification used oil fuel either:

23 1. As prescribed in subsection D of this section.

24 2. As prescribed in this subsection if the off-specification used oil
25 fuel is generated by the operation of that business, except that the business
26 shall not burn off-specification used oil fuel as prescribed in this
27 subsection from October 1 through March 31 in a boiler located in an area
28 that has not attained state and federal ambient air quality standards for
29 ozone and carbon monoxide. Industrial boilers that burn off-specification
30 used oil fuel as prescribed in this subsection are subject to the applicable
31 operating permit requirements of sections 49-426 and 49-480.

32 C. The burning of off-specification used oil fuel in hospitals,
33 schools and health care facilities shall be prohibited.

34 D. Industrial furnaces and boilers identified as proper for burning
35 off-specification used oil under subsection A of this section are subject to
36 the applicable operating permit requirements in sections 49-426 and 49-480.
37 The operating permits for such industrial furnaces and boilers shall require
38 periodic emissions monitoring or sampling and the reporting of the monitoring
39 and sampling results to appropriate regulatory authorities. The owners or
40 operators of such industrial furnaces or boilers which burn or plan to burn
41 off-specification used oil shall, prior to filing an application for an
42 operating permit under section 49-426 or 49-480, determine the impact of
43 burning off-specification used oil fuel on ambient air quality. The owner
44 or operator shall submit the determination with the application. The

1 director or the county air pollution control officer, as appropriate, shall
2 not issue the operating permit unless the owner or operator demonstrates to
3 the satisfaction of the director or county air pollution control officer, as
4 appropriate, that operation of the furnace or boiler is in compliance with
5 the operating permit and this article and will not endanger human health or
6 the environment.

7 E. Burners shall notify the director in writing of the name, address,
8 location and telephone number of each facility that burns used oil fuel and
9 shall provide a general description of used oil fuel management activities.
10 Owners and operators of space heaters, flame producing weed control devices
11 and agricultural frost protection devices are exempt from this notification
12 requirement.

13 F. A burner who accepts the first shipment of used oil from a marketer
14 shall provide the marketer with a one-time written and signed notice
15 certifying the following:

16 1. He has notified the director of the location and provided a general
17 description of his used oil fuel management activities.

18 2. He will burn off-specification used oil fuel only in the devices
19 listed in subsection A of this section.

20 G. Burners that treat off-specification used oil fuel by processing,
21 blending or other treatment in order to meet the standards for
22 on-specification used oil shall provide sufficient analyses or other
23 information required by rule of the director ~~of the department of weights and~~
24 ~~measures~~ documenting that the used oil fuel meets the standards for
25 on-specification oil.

26 H. A burner who receives a manifest from a transporter or marketer
27 shall keep a copy of that manifest for a period of three years from the date
28 of receipt. A burner shall keep for three years copies of analyses of used
29 oil fuel required by subsection F of this section. A burner shall keep a
30 copy of each certification notice provided to a marketer under subsection E
31 of this section for three years from the date he last receives used oil from
32 that marketer.

33 I. A burner of used oil fuel shall obtain a United States
34 environmental protection agency number and shall use that number on its
35 manifests and notices.

36 J. A burner authorized to burn on-specification used oil fuel is not
37 liable in any criminal proceeding for a violation of subsection A of this
38 section relating to the burning of off-specification used oil fuel if that
39 person in good faith relied on the certification of a marketer provided under
40 section 49-807, subsection B, paragraph 7 that the used oil fuel was
41 on-specification used oil fuel.

1 K. A burner authorized to burn on-specification used oil fuel which
2 burns used oil fuel generated by the operation of its business is not liable
3 in any criminal proceeding for a violation of subsection A of this section
4 relating to the burning of off-specification used oil fuel if that burner in
5 good faith relies on a program of unannounced testing and certification by
6 the department of ~~weights and measures~~ that the used oil fuel tested is
7 on-specification used oil fuel. The director of ~~the department of weights~~
8 ~~and measures~~ shall determine by rule appropriate criteria for any program of
9 testing and certification pursuant to this subsection, including abrogation
10 of the exception for criminal proceedings in the event of repeated
11 violations.

12 L. The burner shall submit a report to the department on or before
13 March 1 of each year containing all of the following information for the
14 preceding calendar year:

15 1. The total volume of used oil fuel received from marketers during
16 the preceding calendar year.

17 2. The total volume of used oil fuel received from out-of-state
18 marketers.

19 3. The total volume of on-specification used oil fuel received from
20 marketers.

21 4. The total volume of off-specification used oil fuel received from
22 marketers.

23 5. The total volume of used oil generated by the burner at the site
24 at which the burner operates.

25 6. The total volume of on-specification used oil fuel burned.

26 7. The total volume of off-specification used oil fuel burned.

27 M. A burner of off-specification used oil fuel that is not generated
28 by the operation of the business of the burner shall not burn
29 off-specification used oil fuel except in a device that would be authorized
30 to burn the off-specification used oil fuel, as if it were hazardous waste
31 fuel, in accordance with regulations promulgated under section 3004(q) of the
32 federal act. This subsection shall not affect any other requirements for the
33 management of off-specification used oil fuel as specified elsewhere in this
34 article or law.

35 Sec. 7. Section 49-809, Arizona Revised Statutes, is amended to read:

36 49-809. Rule making authority

37 No later than July 1, ~~1992~~ 1998 the director shall adopt rules pursuant
38 to title 41, chapter 6 ~~for transporters, marketers or burners of used oil~~
39 ~~fuel~~ NECESSARY for the proper administration and enforcement of this article.

40 Sec. 8. Section 49-810, Arizona Revised Statutes, is amended to read:

41 49-810. Violation; classification

42 A. A person who knowingly violates the requirements of section 49-803,
43 49-804, 49-805, 49-807, ~~or~~ 49-808 OR 49-816 is guilty of a class 2
44 misdemeanor.

1 B. An act or omission punishable under this section or any other
2 section of criminal law may be punished under both, but any punishments,
3 including fines, shall be concurrent.

4 Sec. 9. Section 49-814, Arizona Revised Statutes, as amended by Laws
5 1995, chapter 202, section 17, is amended to read:

6 49-814. Used oil penalty; disposition of revenue; definition

7 A. A used oil penalty of six cents per gallon is established for
8 on-specification used oil that is burned by a burner and that is not
9 generated by the operation of the business of the burner.

10 B. A used oil penalty of twenty cents per gallon is established for
11 off-specification used oil that is burned by a burner and that is not
12 generated by the operation of the business of the burner.

13 C. The director shall collect the penalties established by subsections
14 A and B of this section from the burners of the on-specification and
15 off-specification used oil. The penalties shall be paid as determined by the
16 department. The director shall adopt rules to administer this section.

17 D. Monies collected pursuant to subsection C of this section shall be
18 apportioned as follows:

19 1. Fifty per cent to be deposited to the solid waste fee fund
20 established pursuant to section 49-881.

21 2. Fifty per cent to be deposited to the ~~weights and measures~~ used oil
22 fund established pursuant to section ~~41-2069~~ 49-818.

23 E. A burner of on-specification used oil shall be entitled to a credit
24 of six cents per gallon or gallon equivalent for the use of each gallon or
25 gallon equivalent of clean-burning fuel by the burner against the total
26 penalty incurred by the burner pursuant to subsection A of this section. A
27 credit earned during the period of January 1 through December 31 shall expire
28 unless used during the same calendar year. The credit shall only be applied
29 for clean-burning fuels burned at the same site at which penalties were
30 incurred for the burning of on-specification used oil.

31 F. For the purpose of this section "clean-burning fuel" means one of
32 the following:

- 33 1. Ethanol.
- 34 2. Methanol.
- 35 3. Propane.
- 36 4. Natural gas.
- 37 5. Solar energy.
- 38 6. Geothermal energy.
- 39 7. Hydrogen.

40 Sec. 10. Title 49, chapter 4, article 7, Arizona Revised Statutes, is
41 amended by adding sections 49-816, 49-817 and 49-818, to read:

1 49-816. Used oil labeling; testing

2 ALL CONTAINERS OR TANKS USED FOR STORING USED OIL SHALL BE CLEARLY
3 MARKED WITH THE WORDS "USED OIL". THE DEPARTMENT MAY ESTABLISH BY RULE
4 ADDITIONAL LABELING STANDARDS FOR CONTAINERS AND TANKS OF USED OIL. THE
5 DEPARTMENT MAY SAMPLE AND TEST USED OIL OR USED OIL FUEL TO DETERMINE ITS
6 PROPERTIES OR CHARACTERISTICS AS PRESCRIBED BY THIS ARTICLE AND ANY RULES
7 ADOPTED PURSUANT TO THIS ARTICLE.

8 49-817. Enforcement powers of the director and inspectors

9 WHEN NECESSARY FOR THE ENFORCEMENT OF THIS ARTICLE AND RULES ADOPTED
10 PURSUANT TO THIS ARTICLE, THE DIRECTOR OR THE DIRECTOR'S AUTHORIZED AGENT MAY
11 ENTER ANY COMMERCIAL, NONPROFIT OR GOVERNMENTAL PREMISES DURING NORMAL
12 OPERATING HOURS. IF THE PREMISES ARE NOT OPEN TO THE PUBLIC, THE DIRECTOR
13 OR THE DIRECTOR'S AUTHORIZED AGENTS SHALL FIRST PRESENT AGENCY CREDENTIALS.

14 49-818. Used oil fund

15 A. A USED OIL FUND IS ESTABLISHED. THE DIRECTOR SHALL ADMINISTER THE
16 FUND. THE FUND CONSISTS OF MONIES APPROPRIATED BY THE LEGISLATURE AND USED
17 OIL PENALTIES COLLECTED PURSUANT TO SECTION 49-814. ON NOTICE FROM THE
18 DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS
19 PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE
20 CREDITED TO THE FUND. MONIES DEPOSITED IN THE FUND ARE EXEMPT FROM THE
21 PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

22 B. MONIES IN THE FUND SHALL BE USED FOR A QUALITY CONTROL AND QUALITY
23 ASSURANCE PROGRAM WHICH SHALL INCLUDE:

24 1. SAMPLE COLLECTION AND ANALYSIS OF USED OIL FUEL TO ASSURE THE FUEL
25 MEETS ON-SPECIFICATION CRITERIA PURSUANT TO SECTION 49-801, SUBSECTION A,
26 PARAGRAPH 6.

27 2. PROGRAM OVERSIGHT INCLUDING SAMPLE COLLECTION, ANALYSIS REVIEW,
28 DATA ENTRY, CONTRACTOR COORDINATION, INSPECTIONS, EQUIPMENT, ENFORCEMENT AND
29 RULE DEVELOPMENT FOR THE USED OIL PROGRAM.

30 C. NO LATER THAN DECEMBER 1 OF EACH YEAR, THE DIRECTOR SHALL PREPARE
31 A DETAILED ACCOUNTING OF HOW THE PENALTIES COLLECTED PURSUANT TO SECTION
32 49-814 FOR THE PREVIOUS FISCAL YEAR WERE SPENT AND SHALL PROVIDE THAT
33 ACCOUNTING TO THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER OF
34 THE HOUSE OF REPRESENTATIVES.

35 Sec. 11. Transfer of regulatory responsibility; effect of rules

36 Rules adopted by the department of weights and measures that relate to
37 used oil and used oil fuel remain in effect until superseded by rules of the
38 department of environmental quality, with the exception of Arizona
39 administrative code sections R20-2-803 and R20-2-807 which do not remain in
40 effect.

41 Sec. 12. Weights and measures used oil management fund;
42 transfer of personnel and unexpended monies

43 A. One of the two full-time positions employed by the department of
44 weights and measures for the purpose of compliance monitoring, testing,

1 investigation and enforcement activities pertaining to used oil and used oil
2 fuel is transferred to the department of environmental quality. The
3 remaining full-time position is abolished.

4 B. Notwithstanding section 4 of this act, any monies remaining in the
5 weights and measures used oil management fund on the effective date of this
6 act shall be transferred for deposit in the used oil fund established by
7 section 49-818, Arizona Revised Statutes, as added by this act. Those monies
8 shall be used to pay any outstanding claims, debts or other obligations that
9 were incurred by the weights and measures used oil management fund before the
10 effective date of this act.

11 Sec. 13. Retroactivity

12 This act applies retroactively to from and after June 30, 1996.

APPROVED BY THE GOVERNOR APRIL 23, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 1996