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**Jane Dee Hull
Secretary of State**

CHAPTER 364

HOUSE BILL 2547

AN ACT

AMENDING SECTIONS 49-426, 49-426.06, 49-480, 49-480.03 AND 49-480.04, ARIZONA
REVISED STATUTES; RELATING TO AIR QUALITY.

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

Section 1. Section 49-426, Arizona Revised Statutes, is amended to read:

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

A. A permit shall:

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

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

B. The provisions of this section shall not apply to motor vehicles, to agricultural vehicles or agricultural equipment used in normal farm operations, or to fuel burning equipment which, in the aggregate with other such equipment of the applicant at the same location or property other than a one or two family residence, is rated at less than five hundred thousand British thermal units per hour. The director may establish by rule additional sources or classifications of sources for which a permit is not required. The director shall not adopt such a rule unless the director finds that the source or class of sources will have an insignificant adverse impact on air quality. In adopting these rules, the director may consider any rule

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

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 shall establish by rule requirements for
8 permit applications, including a standard application form. The director
9 shall establish by rule requirements for applications for general permits.
10 An application shall include a compliance plan that describes how the
11 applicant will comply with all of the applicable requirements of this chapter
12 and the clean air act, including a schedule of compliance and a schedule
13 under which progress reports will be submitted to the director at least every
14 six months. The director may require that such application include all
15 sources that are used or to be used by the applicant in a certain process or
16 a single facility or location. Before acting on an application for a permit,
17 the director may require the applicant to furnish further information or
18 further plans or specifications. The director shall act, within a reasonable
19 time, on such application and shall notify the applicant in writing of the
20 proposed approval or denial of such application, except that the director may
21 have a reasonable period of time in which to gather information, inspect
22 premises, and issue such permits. The director shall adopt rules that
23 establish procedures for determining when applications are complete, for
24 processing applications and for reviewing permit actions. The director shall
25 also establish by rule criteria for determining reasonable times for
26 processing permit applications. Rules adopted pursuant to this subsection
27 shall conform to the requirements of section 505(a) of the clean air act.

28 D. The director shall give notice of the proposed permit once each
29 week for two consecutive weeks in two newspapers of general circulation in
30 the county in which the source is or will be located. The notice shall
31 describe the proposed permit and air contaminants to be emitted and shall
32 state that any person may submit comments on the proposed permit and may
33 request a public hearing. The director shall require the applicant at the
34 time of the first notice to post the site where the source is or may be
35 located. If permitted by federal, state and local law, the posting shall be
36 prominently placed at a site that is under the applicant's legal control and
37 that is adjacent to the nearest public roadway. The posting shall be visible
38 to the public using the public roadway and shall contain the information in
39 the notice that is published by the director. If a public hearing is
40 requested, the director shall require the applicant to place an additional
41 posting that provides notice of the public hearing. A posting shall be
42 maintained until the public comment period on the proposed permit is closed.
43 The director shall make available to the public notices of proposed permits.
44 Each public notice that is issued under this chapter shall be mailed to the

1 permit applicant, to the affected federal, state and local agencies and to
2 those persons who have requested in writing copies of proposed permit action
3 notices. During the public comment period, any person may submit a request
4 to the department to conduct a public hearing for the purpose of receiving
5 oral or written comments on the proposed permit. A written comment shall
6 state the name and mailing address of the person, shall be signed by the
7 person, his agent or his attorney and shall clearly set forth reasons why the
8 permit should or should not be issued. Grounds for comment are limited to
9 whether the proposed permit meets the criteria for issuance prescribed in
10 this section or in section 49-427. The department shall consider and prepare
11 written responses to all comments received during the public comment period
12 including comments made at a public hearing conducted by the department. At
13 the time a final permit decision is made, copies of the department's
14 responses shall be made available to the applicant and any person who
15 commented on the proposed permit.

16 E. Permits or revisions issued pursuant to this section or section
17 49-426.01 may be issued subject to such terms and conditions as are
18 consistent with the requirements of this article, article 1 of this chapter
19 and the clean air act and are found by the director to be necessary,
20 following public notice and an opportunity for a public hearing as provided
21 in subsection D or H of this section or in section 49-426.01, and subject to
22 payment of a reasonable fee to be determined as follows:

23 1. For a source that is required to obtain a permit pursuant to title
24 V of the clean air act, the director shall establish by rule a system of fees
25 that is consistent with and equivalent to that prescribed by section 502 of
26 the clean air act. These rules shall prescribe procedures for increasing the
27 fee each year by the percentage if any by which the consumer price index for
28 the immediately preceding calendar year exceeds the consumer price index for
29 calendar year 1989.

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

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

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

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

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

3 2. The frequency and types of fuel testing to be conducted by the
4 person.

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

7 4. Requirements for record keeping and reporting.

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

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

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

18 2. The director shall give notice of the proposed general permit once
19 each week for two consecutive weeks in a newspaper of general circulation in
20 each county. The notice shall describe the proposed general permit, the
21 general class of sources that would be subject to the proposed permit and the
22 air contaminants to be emitted. The notice shall also state that any person
23 may submit comments on the proposed general permit and may request a public
24 hearing. A written comment shall state the name of the person and the
25 person's agent or attorney and shall clearly set forth reasons why the
26 general permit should or should not be issued. Grounds for comment are
27 limited to whether the proposed general permit meets the criteria for
28 issuance prescribed in this section or section 49-427.

29 3. On issuance of a general permit any person seeking to permit a
30 source under this subsection shall submit an application pursuant to
31 subsection C of this section.

32 4. If the director approves an application to be permitted under a
33 general permit, the director shall provide notice of the approval in a
34 newspaper of general circulation in the county in which the source is or will
35 be located.

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

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

1 7. The director by rule shall adopt procedures for the issuance of
2 general permits.

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

6 I. Permits issued pursuant to this section shall contain all of the
7 following:

8 1. Conditions reflecting all applicable requirements of this article
9 and rules adopted pursuant to this article.

10 2. Enforceable emission limitations and standards.

11 3. A schedule for compliance, if applicable.

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

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

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

21 K. If an applicant has submitted a timely and complete application for
22 a permit required under this section, but final action has not been taken on
23 that application, failure to obtain a permit shall not be a violation of this
24 chapter unless the delay in final action is due to the failure of the
25 applicant to submit information required or requested to process the
26 application. This subsection does not apply to any person required to obtain
27 a permit before commencing construction of a source as required under this
28 section or any person seeking a permit revision as provided under section
29 49-426.01.

30 L. The director may issue a single permit authorizing emissions from
31 similar operations at multiple temporary locations, if the permit includes
32 conditions that will assure compliance with all applicable requirements of
33 this chapter and the clean air act at all locations. Any permit issued
34 pursuant to this subsection shall require the applicant to notify the
35 director in advance of each change in location. In issuing a single permit,
36 the director may require a separate permit fee for operations at each
37 location.

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

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

4 N. Any permit issued pursuant to the requirements of this article and
5 title V of the clean air act to a unit subject to the provisions of title IV
6 of the clean air act shall include conditions prohibiting all of the
7 following:

8 1. Annual emissions of sulfur dioxide in excess of the number of
9 allowances to emit sulfur dioxide held by the owners or operators of the unit
10 or by the designated representative of the owners or operators.

11 2. Exceedances of applicable emission rates.

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

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

15 O. IN DETERMINING WHETHER A PERMITTING THRESHOLD ESTABLISHED PURSUANT
16 TO THIS SECTION APPLIES TO AN EXISTING SOURCE, THE DIRECTOR SHALL EXCLUDE
17 PARTICULATE MATTER THAT IS NOT SUBJECT TO A NATIONAL AMBIENT AIR QUALITY
18 STANDARD UNDER THE CLEAN AIR ACT.

19 Sec. 2. Section 49-426.06, Arizona Revised Statutes, is amended to
20 read:

21 49-426.06. State program for control of hazardous air
22 pollutants

23 A. After publication of the report prescribed by section 49-426.08,
24 subsection B, the director shall by rule establish a state program for the
25 control of hazardous air pollutants that meets the requirements of this
26 section. The program established pursuant to this section shall apply to the
27 following sources:

28 1. Sources that emit or have the potential to emit with controls ten
29 tons per year or more of any hazardous air pollutant or twenty-five tons per
30 year or more of any combination of hazardous air pollutants.

31 2. Sources that are within a category designated pursuant to section
32 49-426.05 and that emit or have the potential to emit with controls one ton
33 per year or more of any hazardous air pollutant or two and one-half tons per
34 year of any combination of hazardous air pollutants.

35 B. After rules adopted pursuant to subsection A of this section become
36 effective pursuant to section 41-1032, a person shall not commence the
37 construction or modification of a source that is subject to this section
38 without first obtaining a permit or permit revision that complies with
39 section 49-426 and subsection C or D of this section. For purposes of
40 determining whether a change constitutes a modification, the director shall
41 by rule establish appropriate de minimis amounts for hazardous air pollutants
42 that are not federally listed hazardous air pollutants. In establishing de
43 minimis amounts, the director shall consider any relevant guidelines or
44 criteria promulgated by the administrator. A physical change to a source or

1 change in the method of operation of a source is not a modification subject
2 to this section if the change satisfies any of the following conditions:

3 1. The change complies with section 112(g)(1) of the clean air act.

4 2. The change, together with any other changes implemented or planned
5 by the source, qualifies the source for an alternative emission limitation
6 pursuant to section 112(i)(5) of the clean air act.

7 3. The change is required under a standard imposed pursuant to section
8 112(d) or 112(f) of the clean air act and the change is implemented after the
9 administrator promulgates the standard.

10 C. A permit or permit revision issued to a new or modified source that
11 is subject to the state hazardous air pollutant program under subsection A,
12 paragraph 1 of this section shall impose the maximum achievable control
13 technology for the new source or modification, unless the applicant
14 demonstrates pursuant to subsection D of this section that the imposition of
15 maximum achievable control technology is not necessary to avoid adverse
16 effects to human health or adverse environmental effects. A permit or permit
17 revision issued to a new or modified source that is subject to the state
18 hazardous air pollutant program under subsection A, paragraph 2 of this
19 section shall impose hazardous air pollutant reasonably available control
20 technology for the new source or modification, unless the applicant
21 demonstrates pursuant to subsection D of this section that the imposition of
22 hazardous air pollutant reasonably available control technology is not
23 necessary to avoid adverse effects to human health or adverse environmental
24 effects. When a reliable method of measuring emissions of a hazardous air
25 pollutant subject to this section is not available, the director shall not
26 require compliance with a numeric emission limit for the pollutant but shall
27 instead require compliance with a design, equipment, work practice or
28 operational standard, or a combination thereof. Standards imposed pursuant
29 to this subsection shall apply only to hazardous air pollutants emitted in
30 amounts exceeding the de minimis amounts established by the administrator or
31 by the director pursuant to subsection B of this section. The director shall
32 not impose a standard under this subsection that would require the
33 application of measures that are incompatible with measures required under
34 a standard imposed pursuant to section 49-426.03, subsection B.

35 D. If the owner or operator of a new source or modification subject
36 to this section establishes that the imposition of maximum achievable control
37 technology or hazardous air pollutant reasonably available control technology
38 is not necessary to avoid adverse effects to human health or adverse
39 environmental effects by conducting a scientifically sound risk management
40 analysis and submitting the results to the director with the permit
41 application for the new source or modification, the director shall exempt the
42 source from the imposition of such technology. The risk management analysis
43 may take into account the following factors:

1 1. The estimated actual exposure of persons living in the airshed of
2 the source.

3 2. Available epidemiological or other health studies.

4 3. Risks presented by background concentrations of hazardous air
5 pollutants.

6 4. Uncertainties in risk assessment methodology or other health
7 assessment techniques.

8 5. Health or environmental consequences from efforts to reduce the
9 risk.

10 6. The technological and commercial availability of control methods
11 beyond those otherwise required for the source and the cost of such methods.

12 E. Where maximum achievable control technology or hazardous air
13 pollutant reasonably available control technology has been established in a
14 general permit for a defined class of sources pursuant to subsection C of
15 this section and section 49-426, subsection H, the owner or operator of a
16 source within that class may obtain a variance from the standard by complying
17 with subsection D of this section at the time the source applies to be
18 permitted under the general permit. If the owner or operator makes the
19 demonstration required by subsection D of this section and otherwise
20 qualifies for the general permit, the director shall, in accordance with the
21 procedures established pursuant to section 49-426, approve the application
22 and issue a permit granting a variance from the specific provisions of the
23 general permit relating to the standard. Except as otherwise modified by the
24 variance, the general permit shall govern the source.

25 F. If the clean air act has established provisions, including specific
26 schedules, for the regulation of source categories pursuant to section
27 112(e)(5) and 112(n) of the clean air act, those provisions and schedules
28 shall apply to the regulation of those source categories under subsection B
29 of this section.

30 G. For any category or subcategory of facilities licensed by the
31 nuclear regulatory commission, the director shall not adopt or enforce any
32 standard or limitation respecting emissions of radionuclides which is more
33 stringent than the standard or limitation adopted by the administrator
34 pursuant to section 112 of the clean air act.

35 H. FOR PURPOSES OF SUBSECTION A OF THIS SECTION, IN DETERMINING
36 POTENTIAL TO EMIT, THE DIRECTOR SHALL CONSIDER CONTROLS THAT ARE ENFORCEABLE
37 UNDER ANY FEDERAL LAW OR REGULATION, STATE OR LOCAL LAW OR RULE OR THAT ARE
38 INHERENT IN THE DESIGN OF THE SOURCE.

39 I. IN DETERMINING WHETHER EMISSIONS FROM A SOURCE OR MODIFICATION
40 EXCEED THE THRESHOLDS PRESCRIBED BY SUBSECTION A OR B OF THIS SECTION, THE
41 DIRECTOR SHALL EXCLUDE PARTICULATE MATTER EMISSIONS THAT CONSIST OF NATURAL
42 CRUSTAL MATERIAL AND ARE PRODUCED EITHER BY NATURAL FORCES, SUCH AS WIND OR
43 EROSION, OR BY ANTHROPOGENIC ACTIVITIES, SUCH AS AGRICULTURAL OPERATIONS,
44 EXCAVATION, BLASTING, DRILLING, HANDLING, STORAGE, EARTH MOVING, CRUSHING,

1 GRINDING OR TRAFFIC OVER PAVED OR UNPAVED ROADS, OR OTHER SIMILAR ACTIVITIES.
2 NOTHING IN THIS SUBSECTION SHALL PRECLUDE THE REGULATION OF EMISSIONS OF
3 CRUSTAL MATERIALS AS PARTICULATE MATTER PURSUANT TO OTHER SECTIONS OF THIS
4 CHAPTER.

5 Sec. 3. Section 49-480, Arizona Revised Statutes, is amended to read:
6 49-480. Permits; fees

7 A. The board of supervisors may adopt a program for the review,
8 issuance, revision, administration and enforcement of permits and for public
9 review of proposed permits for sources subject to section 49-426, subsection
10 A that are not under the jurisdiction of the state pursuant to section 49-402
11 and that are not otherwise exempt pursuant to section 49-426, subsection B.
12 This program shall include provisions for administration, inspection and
13 enforcement of general permits issued pursuant to section 49-426, subsection
14 H.

15 B. Procedures for the review, issuance, revision and administration
16 of permits issued pursuant to this section and required to be obtained
17 pursuant to title V of the clean air act including sources that emit
18 hazardous air pollutants shall be identical to procedures for the review,
19 issuance, revision and administration of permits issued by the department
20 under this chapter. Such procedures shall comply with the requirements of
21 sections 165, 173, 408 and titles III and V of the clean air act and
22 implementing regulations for sources subject to titles III and V of the clean
23 air act. Procedures for the review, issuance, revision and administration
24 of permits issued pursuant to this section and not required to be obtained
25 pursuant to title V of the clean air act shall be consistent with and
26 equivalent to procedures for the review, issuance, revision and
27 administration of permits issued by the department under this chapter.

28 C. Upon adoption of a permit program by the board of supervisors
29 pursuant to this section, no person may commence construction, operate or
30 make a modification to any source subject to the permit program without
31 complying with the requirements of that program.

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

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

41 2. For any facility subject to the permitting requirements of this
42 chapter but not required to obtain a permit under title V of the clean air
43 act, the board of supervisors shall determine a permit fee based on all

1 reasonable direct and indirect costs required to administer the permit, but
2 not exceeding twenty-five thousand dollars.

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

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

8 F. Permits issued pursuant to this section shall contain all of the
9 following:

10 1. Conditions reflecting all applicable requirements of this article
11 and rules adopted pursuant to this article.

12 2. Enforceable emission limitations and standards.

13 3. A schedule for compliance, if applicable.

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

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

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

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

34 I. Except as provided in section 49-808, subsection E, section 49-426,
35 subsection B and subsection A of this section, any person burning used oil,
36 used oil fuel, hazardous waste or hazardous waste fuel shall first obtain a
37 permit from the control officer. Any permit issued by the control officer
38 under this subsection shall contain, at a minimum, conditions governing:

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

41 2. The frequency and types of fuel testing to be conducted by the
42 person.

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

1 4. Requirements for record keeping and reporting.

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

5 J. IN DETERMINING WHETHER A PERMITTING THRESHOLD ESTABLISHED PURSUANT
6 TO THIS SECTION APPLIES TO AN EXISTING SOURCE, THE CONTROL OFFICER SHALL
7 EXCLUDE PARTICULATE MATTER THAT IS NOT SUBJECT TO A NATIONAL AMBIENT AIR
8 QUALITY STANDARD UNDER THE CLEAN AIR ACT.

9 Sec. 4. Section 49-480.03, Arizona Revised Statutes, is amended to
10 read:

11 49-480.03. Federal hazardous air pollutant program; date
12 specified by administrator; prohibition

13 A. The board of supervisors shall adopt by rule a program for
14 administration and enforcement of the federal hazardous air pollutant program
15 established by section 112 of the clean air act. The program shall be
16 consistent with and meet the requirements of section 112 of the clean air act
17 and shall contain the following provisions:

18 1. After the date specified by the administrator in rules adopted
19 pursuant to section 112 (g)(1)(B) of the clean air act, no person may obtain
20 a permit or permit revision to modify a major source of federally listed
21 hazardous air pollutants or to construct a new major source of federally
22 listed hazardous air pollutants, unless the control officer determines that
23 the person will install the maximum achievable control technology for the
24 modification or new major source. For purposes of this paragraph, the terms
25 "major source" and "modification" have the meanings set forth in section
26 112(a) of the clean air act and implementing regulations adopted by the
27 administrator. A new or modified major source of federally listed hazardous
28 air pollutants means a major source that commences construction or a
29 modification after rules adopted by the board of supervisors pursuant to this
30 subsection become effective. A physical change to a source or change in the
31 method of operation of a source is not a modification subject to this
32 paragraph or paragraph 2 of this subsection if the change complies with
33 section 112(g)(1) of the clean air act.

34 2. After the date specified by the administrator in rules adopted
35 pursuant to section 112 (g)(1)(B) of the clean air act and until the
36 administrator adopts emissions standards establishing the maximum achievable
37 control technology for a source category or subcategory that includes a
38 source subject to paragraph 1 of this subsection, the control officer shall
39 determine the maximum achievable control technology for the modification or
40 the new major source on a case-by-case basis. If on the basis of this
41 case-by-case determination of the maximum achievable control technology the
42 control officer determines that it is not feasible to prescribe or enforce
43 an emission standard, a maximum achievable control technology standard

1 imposed pursuant to this paragraph may consist of a design, equipment, work
2 practice or operational standard, or a combination thereof.

3 3. If an existing source submits an application pursuant to section
4 49-480 which demonstrates that the source has achieved a reduction of ninety
5 per cent or more of federally listed hazardous air pollutants or ninety-five
6 per cent in the case of federally listed hazardous air pollutants that are
7 particulates, the control officer shall issue a permit or permit revision
8 allowing the source to meet an alternative emission limitation reflecting
9 such reduction in lieu of an emission limitation promulgated by the
10 administrator under section 112(d) of the clean air act. The application
11 shall comply with section 112(i)(5) of the clean air act and implementing
12 regulations adopted by the administrator. The alternative emission
13 limitation shall apply for a period of six years from the compliance date
14 otherwise applicable to the source under section 112(d) of the clean air act.

15 4. If the administrator fails to adopt a standard for a source
16 category or subcategory within eighteen months after the deadline established
17 for that category or subcategory pursuant to section 112(e)(1) and (3) of the
18 clean air act, the owner or operator of an existing major source in the
19 category or subcategory shall be required to submit a permit application for
20 such source pursuant to section 49-480, and the control officer, acting in
21 accordance with the procedures adopted pursuant to section 49-480, shall be
22 required to issue a permit establishing maximum achievable control technology
23 for the affected source on a case-by-case basis or, in the alternative, an
24 alternative emission limitation pursuant to paragraph 3 of this subsection.
25 If the control officer determines that it is not feasible to prescribe or
26 enforce an emission standard, a maximum achievable control technology
27 standard imposed pursuant to this paragraph may consist of a design,
28 equipment, work practice or operational standard, or a combination thereof.

29 5. When the administrator adopts and makes effective standards
30 pursuant to section 112(d) or 112(f) of the clean air act the board of
31 supervisors shall adopt those standards in the same manner as prescribed by
32 the administrator.

33 6. When a reliable method of measuring emissions of a hazardous air
34 pollutant subject to this section is not available, the control officer shall
35 not require compliance with a numeric emission limit for that pollutant but
36 shall instead require compliance with a design, equipment, work practice or
37 operational standard, or a combination of those standards. The provision
38 adopted pursuant to this paragraph shall not apply to sources or
39 modifications that commence construction after the permit program established
40 pursuant to section 49-426 becomes effective under section 502(h) of the
41 clean air act.

42 B. Where the clean air act has established provisions, including
43 specific schedules, for the regulation of source categories pursuant to
44 section 112(e)(5) and 112(n) of the clean air act, those provisions and

1 schedules shall apply to the regulation of those source categories under
2 subsection A of this section.

3 C. For any category or subcategory of facilities licensed by the
4 nuclear regulatory commission, the control officer shall not adopt or enforce
5 any standard or limitation respecting emissions of radionuclides which is
6 more stringent than the standard or limitation adopted by the administrator
7 pursuant to section 112 of the clean air act.

8 D. When the administrator makes one of the following findings pursuant
9 to section 112(n)(1)(A) of the clean air act the finding is effective for
10 purposes of the county's administration and enforcement of the federal
11 hazardous air pollutant program in the same manner as prescribed by the
12 administrator:

13 1. A finding that regulation is not appropriate or necessary.

14 2. A finding that alternative control strategies should be applied.

15 E. Notwithstanding any other law, a county board of supervisors shall
16 not adopt ~~nor shall~~ AND the control officer ~~adopt~~ SHALL NOT ENFORCE a rule
17 or ordinance that requires compliance with subsection A, paragraph 1 or 2 of
18 this section until after the date specified by the administrator as provided
19 in subsection A, paragraphs 1 and 2 of this section.

20 Sec. 5. Section 49-480.04, Arizona Revised Statutes, is amended to
21 read:

22 49-480.04. County program for control of hazardous air
23 pollutants

24 A. Within six months after the adoption of rules pursuant to section
25 49-426.06, subsection A, the board of supervisors shall by rule establish a
26 county program for the control of hazardous air pollutants meeting the
27 requirements of this section. The program established pursuant to this
28 section shall apply to the following sources:

29 1. Sources that emit or have the potential to emit with controls, ten
30 tons per year or more of any hazardous air pollutant or twenty-five tons per
31 year or more of any combination of hazardous air pollutants.

32 2. Sources that are within a category designated pursuant to section
33 49-426.05 and that emit or have the potential to emit, with controls, one ton
34 per year or more of any hazardous air pollutant or two and one-half tons per
35 year of any combination of hazardous air pollutants.

36 B. After the effective date of the rules adopted pursuant to
37 subsection A of this section, a person shall not commence the construction
38 or modification of a source that is subject to this section without first
39 obtaining a permit or permit revision meeting the requirements of section
40 49-480 and subsection C or D of this section. A physical change to a source
41 or change in the method of operation of a source is not a modification
42 subject to this section if the change satisfies any of the following
43 conditions:

1 1. The change complies with section 112(g)(1) of the clean air act.

2 2. The change, together with any other changes implemented or planned
3 by the source, qualifies the source for an alternative emission limitation
4 pursuant to section 112(I)(5) of the clean air act.

5 3. The change is required under a standard imposed pursuant to section
6 112(d) or 112(f) of the clean air act and the change is implemented after the
7 administrator promulgates the standard.

8 C. A permit issued to a new or modified source that is subject to the
9 county hazardous air pollutant program under subsection A, paragraph 1 of
10 this section shall impose the maximum achievable control technology for the
11 new source or modification, unless the applicant demonstrates pursuant to
12 subsection D of this section that the imposition of maximum achievable
13 control technology is not necessary to avoid adverse effects to human health
14 or adverse environmental effects. A permit or permit revision issued to a
15 new or modified source that is subject to the county hazardous air pollutant
16 program under subsection A, paragraph 2 of this section shall impose
17 hazardous air pollutant reasonably available control technology for the new
18 source or modification, unless the applicant demonstrates pursuant to
19 subsection D of this section that the imposition of hazardous air pollutant
20 reasonably available control technology is not necessary to avoid adverse
21 effects to human health or adverse environmental effects. When a reliable
22 method of measuring emissions of a hazardous air pollutant subject to this
23 section is not available, the control officer shall not require compliance
24 with a numeric emission limit for the pollutant but shall instead require
25 compliance with a design, equipment, work practice or operational standard,
26 or a combination thereof. Standards imposed pursuant to this subsection
27 shall apply only to hazardous air pollutants emitted in amounts exceeding the
28 de minimis amounts established by the administrator or by the director
29 pursuant to section 49-426.06, subsection B. The control officer shall not
30 impose a standard under this subsection that would require the application
31 of measures that are incompatible with measures required under a standard
32 imposed pursuant to section 49-480.03, subsection A.

33 D. If the owner or operator of a new source or modification subject
34 to this section establishes that the imposition of maximum achievable control
35 technology or hazardous air pollutant reasonably available control technology
36 is not necessary to avoid adverse effects to human health or adverse
37 environmental effects by conducting a scientifically sound risk management
38 analysis and submitting the results to the control officer with the permit
39 application for the new source or modification, the control officer shall
40 exempt the source from the imposition of such technology. The risk
41 management analysis may take into account the following factors:

42 1. The estimated actual exposure of persons living in the vicinity of
43 the source.

44 2. Available epidemiological or other health studies.

1 3. Risks presented by background concentrations of hazardous air
2 pollutants.

3 4. Uncertainties in risk assessment methodology or other health
4 assessment techniques.

5 5. Negative health or environmental consequences that would result
6 from efforts to reduce the risk.

7 6. The technological and commercial availability of control methods
8 beyond those otherwise required for the source and the cost of such methods.

9 E. If maximum achievable control technology or hazardous air pollutant
10 reasonably available control technology standard has been established in a
11 general permit for a defined class of sources pursuant to subsection C of
12 this section and sections 49-480 and 49-426, subsection H, the owner or
13 operator of a source within that class may obtain a variance from the
14 standard by complying with subsection D of this section at the time the
15 source applies to be permitted under the general permit. If the owner or
16 operator makes the demonstration required by subsection D of this section and
17 otherwise qualifies for the general permit, the control officer shall, in
18 accordance with the procedures established pursuant to sections 49-480 and
19 49-426, approve the application and issue a permit granting a variance from
20 the specific provisions of the general permit relating to the standard.
21 Except as otherwise modified by the variance, the general permit shall govern
22 the source.

23 F. If the clean air act has established provisions, including specific
24 schedules, for the regulation of source categories pursuant to section
25 112(e)(5) and 112(n) of the clean air act, those provisions and schedules
26 shall apply to the regulation of those source categories under subsection B
27 of this section.

28 G. For any category or subcategory of facilities licensed by the
29 nuclear regulatory commission, the control officer shall not adopt or enforce
30 any standard or limitation respecting emissions of radionuclides which is
31 more stringent than the standard or limitation adopted by the administrator
32 pursuant to section 112 of the clean air act.

33 H. Except as otherwise provided in subsection I of this section, the
34 program established pursuant to this section shall apply only to source
35 categories designated by the director pursuant to section 49-426.05,
36 subsection A and to hazardous air pollutants designated by the director
37 pursuant to section 49-426.03, subsection A and section 49-426.04.

38 I. When a new source that is within a category that has not been
39 designated pursuant to section 49-426.05, subsection A submits an application
40 for a permit pursuant to section 49-480, the control officer may suspend
41 action on the application pending the designation of the category by the
42 director pursuant to section 49-426.05, subsection A, if all of the following
43 conditions are satisfied:

1 1. The director makes the finding required by section 49-426.05,
2 subsection A for the category to which the source belongs.

3 2. The control officer provides notice of the director's finding and
4 the control officer's intent to suspend action on the application to the
5 applicant on or before the date that a completeness determination is due
6 under sections 49-480 and 49-426.

7 3. The applicant does not elect to comply with subsection C or D of
8 this section.

9 J. FOR PURPOSES OF SUBSECTION A OF THIS SECTION, IN DETERMINING
10 POTENTIAL TO EMIT, THE CONTROL OFFICER SHALL CONSIDER CONTROLS THAT ARE
11 ENFORCEABLE UNDER ANY FEDERAL LAW OR REGULATION, STATE OR LOCAL LAW OR RULE
12 OR THAT ARE INHERENT IN THE DESIGN OF THE SOURCE.

13 K. IN DETERMINING WHETHER EMISSIONS FROM A SOURCE OR MODIFICATION
14 EXCEED THE THRESHOLDS PRESCRIBED BY SUBSECTION A OR B OF THIS SECTION, THE
15 CONTROL OFFICER SHALL EXCLUDE PARTICULATE MATTER EMISSIONS THAT CONSIST OF
16 NATURAL CRUSTAL MATERIAL AND ARE PRODUCED EITHER BY NATURAL FORCES, SUCH AS
17 WIND OR EROSION, OR BY ANTHROPOGENIC ACTIVITIES, SUCH AS AGRICULTURAL
18 OPERATIONS, EXCAVATION, BLASTING, DRILLING, HANDLING, STORAGE, EARTH MOVING,
19 CRUSHING OR GRINDING OF CRUSTAL MATERIALS AND TRAFFIC OVER PAVED OR UNPAVED
20 ROADS, OR OTHER SIMILAR ACTIVITIES. NOTHING IN THIS SUBSECTION SHALL PRECLUDE
21 THE REGULATION OF EMISSIONS OF CRUSTAL MATERIALS AS PARTICULATE MATTER
22 PURSUANT TO OTHER SECTIONS OF THIS CHAPTER.

APPROVED BY THE GOVERNOR MAY 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 2, 1996