

Senate Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 180
SENATE BILL 1225

AN ACT

AMENDING SECTION 49-457, ARIZONA REVISED STATUTES; RELATING TO AIR POLLUTION CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-457, Arizona Revised Statutes, is amended to
3 read:

4 49-457. Agricultural best management practices committee;
5 members; powers; permits; definitions

6 A. A best management practices committee for regulated agricultural
7 activities is established.

8 B. The committee shall consist of:

- 9 1. The director of environmental quality or the director's designee.
10 2. The director of the Arizona department of agriculture or the
11 director's designee.
12 3. The dean of the college of agriculture of the university of Arizona
13 or the dean's designee.
14 4. The state director of the United States natural resources
15 conservation service or the director's designee.
16 5. One person actively engaged in the production of citrus.
17 6. One person actively engaged in the production of vegetables.
18 7. One person actively engaged in the production of cotton.
19 8. One person actively engaged in the production of alfalfa.
20 9. One person actively engaged in the production of grain.
21 10. One soil taxonomist from the university of Arizona college of
22 agriculture.
23 11. ONE PERSON ACTIVELY ENGAGED IN THE OPERATION OF A BEEF CATTLE FEED
24 LOT.
25 12. ONE PERSON ACTIVELY ENGAGED IN THE OPERATION OF A DAIRY.
26 13. ONE PERSON ACTIVELY ENGAGED IN THE OPERATION OF A POULTRY FACILITY.
27 14. ONE PERSON ACTIVELY ENGAGED IN THE OPERATION OF A SWINE FACILITY.
28 15. ONE PERSON WHO IS EMPLOYED BY A COUNTY AIR QUALITY DEPARTMENT OR
29 AGENCY.

30 C. The governor shall appoint the members designated pursuant to
31 subsection B, paragraphs 5 through ~~10~~ 15 of this section for a term of six
32 years. Members may be reappointed. Members are not entitled to compensation
33 for their services but are entitled to receive reimbursement of expenses
34 pursuant to title 38, chapter 4, article 2.

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

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

39 F. The department of environmental quality, the Arizona department of
40 agriculture and the college of agriculture of the university of Arizona shall
41 cooperate with and provide technical assistance and any necessary information
42 to the committee. The department of environmental quality shall provide the
43 necessary staff support and meeting facilities for the committee.

44 G. ~~Notwithstanding subsections I, J and K of this section, a person~~
45 ~~engaged in a regulated agricultural activity on August 21, 1998 shall comply~~

1 ~~with the general permit as provided in subsection H of this section by~~
2 ~~December 31, 2001.~~ A person who commences a regulated agricultural activity
3 after December 31, 2000 shall comply with the general permit within eighteen
4 months of commencing the activity.

5 ~~H. By June 10, 2000,~~ The committee shall adopt, by rule, an
6 agricultural general permit specifying best management practices for
7 regulated agricultural activities to reduce PM-10 particulate emissions. A
8 person WHO IS subject to an agricultural general permit pursuant to this
9 section is not subject to a permit issued pursuant to section 49-426 except
10 as provided in subsection K of this section. The committee shall adopt by
11 rule a list of best management practices, at least two of which shall be used
12 to demonstrate compliance with applicable provisions of the general permit ~~no~~
13 ~~later than December 31, 2007.~~ Best management practices may vary within the
14 regulated area, according to regional or geographical conditions or cropping
15 patterns. ~~The director shall submit the rule to the United States~~
16 ~~environmental protection agency as a revision to the applicable~~
17 ~~implementation plan no later than December 31, 2007.~~

18 I. If the director determines that a person WHO IS engaged in a
19 regulated activity is not in compliance with the general permit, and that
20 person has not previously been subject to a compliance order issued pursuant
21 to this section, the director may serve ~~upon~~ ON the person by certified mail
22 an order requiring compliance with the general permit and notifying the
23 person of the opportunity for a hearing pursuant to title 41, chapter 6,
24 article 10. The order shall state with reasonable particularity the nature
25 of the noncompliance and shall specify that the person has a period that the
26 director determines is reasonable, but is not less than six months, to submit
27 a plan to the supervisors of the natural resource conservation district in
28 which the person engages in the regulated activity that specifies the best
29 management practices from among those adopted in rule pursuant to subsection
30 H of this section that the person will use to comply with the general permit.

31 J. If the director determines that a person WHO IS engaged in a
32 regulated activity is not in compliance with the general permit, and that
33 person has previously submitted a plan pursuant to subsection I of this
34 section, the director may serve ~~upon~~ ON the person by certified mail an order
35 requiring compliance with the general permit and notifying the person of the
36 opportunity for a hearing pursuant to title 41, chapter 6, article 10. The
37 order shall state with reasonable particularity the nature of the
38 noncompliance and shall specify that the person has a period that the
39 director determines is reasonable, but is not less than six months, to submit
40 a plan to the department that specifies the best management practices from
41 among those adopted in rule pursuant to subsection H of this section that the
42 person will use to comply with the general permit.

43 K. If a person fails to comply with the plan submitted pursuant to
44 subsection J of this section, the director may revoke the agricultural
45 general permit for that person and require that the person obtain an

1 individual permit pursuant to section 49-426. A revocation becomes effective
2 after the director has provided the person with notice and an opportunity for
3 a hearing pursuant to title 41, chapter 6, article 10.

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

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

11 N. A BEST MANAGEMENT PRACTICE ADOPTED PURSUANT TO THIS SECTION DOES
12 NOT AFFECT ANY APPLICABLE REQUIREMENTS IN AN APPLICABLE IMPLEMENTATION PLAN
13 OR ANY OTHER APPLICABLE REQUIREMENTS OF THE CLEAN AIR ACT, INCLUDING SECTION
14 110(1) OF THE ACT (42 UNITED STATES CODE SECTION 7410(1)).

15 ~~N.~~ O. ~~IN~~ FOR THE PURPOSES OF this section, unless the context
16 otherwise requires:

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

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

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

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

25 (d) REDUCE PM-10 PARTICULATE EMISSIONS FROM THE ACTIVITIES OF A DAIRY,
26 A BEEF CATTLE FEED LOT, A POULTRY FACILITY OR A SWINE FACILITY, INCLUDING
27 PRACTICES RELATING TO THE FOLLOWING:

28 (i) UNPAVED ACCESS CONNECTIONS.

29 (ii) UNPAVED ROADS OR FEED LANES.

30 (iii) ANIMAL WASTE HANDLING AND TRANSPORTING.

31 (iv) ARENAS, CORRALS AND PENS.

32 2. "Applicable implementation plan" means that term as defined in 42
33 United States Code section 7601(q).

34 3. "Best management practices" means techniques that are verified by
35 scientific research and that on a case by case basis are practical,
36 economically feasible and effective in reducing PM-10 particulate emissions
37 from a regulated agricultural activity.

38 4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix
39 planning area as set forth in 40 Code of Federal Regulations section 81.303.

40 5. "Regulated agricultural activities" means commercial farming
41 practices that may produce PM-10 particulate emissions within the regulated
42 area, INCLUDING ACTIVITIES OF A DAIRY, A BEEF CATTLE FEED LOT, A POULTRY
43 FACILITY AND A SWINE FACILITY.

1 6. "Regulated area" means ANY OF THE FOLLOWING:
2 (a) The Maricopa PM-10 PARTICULATE nonattainment area. ~~and~~
3 (b) Any portion of area A that is located in a county with a
4 population of two million or more persons.
5 (c) ANY OTHER PM-10 PARTICULATE NONATTAINMENT AREA ESTABLISHED IN THIS
6 STATE ON OR AFTER JUNE 1, 2009.

7 Sec. 2. Rule making; compliance

8 A. On or before June 30, 2010, the agricultural best management
9 practices committee established by section 49-457, Arizona Revised Statutes,
10 as amended by this act, shall adopt by rule an agricultural general permit
11 that specifies best management practices for regulated agricultural
12 activities to reduce PM-10 particulate emissions from dairy operations, beef
13 cattle feed lot operations, poultry facility operations and swine facility
14 operations.

15 B. A person who engages in regulated agricultural activity from a
16 dairy, a beef cattle feed lot, a poultry facility or a swine facility shall
17 comply with the general permit within six months after the effective date of
18 the general permit.

19 Sec. 3. New PM-10 particulate nonattainment areas; best
20 management practices; retroactivity

21 A. Notwithstanding any other statute, a rule or ordinance that is
22 adopted after June 1, 2009 and that regulates PM-10 particulate emissions
23 from commercial farming or animal production in an area that has not been
24 designated as a nonattainment area for PM-10 emissions by June 1, 2009 may be
25 adopted only pursuant to an agricultural best management practices program
26 that is consistent with the program established pursuant to section 49-457,
27 Arizona Revised Statutes.

28 B. This section applies retroactively to June 1, 2009.

APPROVED BY THE GOVERNOR JULY 13, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 24, 20 09,

by the following vote: 36 Ayes,

19 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate June 22, 20 09,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
1st day of July, 2009.

at 8:53 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 13th day of

July, 2009.

at 5:46 o'clock P M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 13th day of July, 2009.

at 7:35 o'clock P M.

[Signature]
Secretary of State

S.B. 1225