

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-ninth Legislature  
Second Regular Session  
2010

CHAPTER 315

# **HOUSE BILL 2133**

AN ACT

AMENDING SECTIONS 49-401.01, 49-405 AND 49-427, ARIZONA REVISED STATUTES;  
RELATING TO AIR QUALITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-401.01, Arizona Revised Statutes, is amended to  
3 read:

4 49-401.01. Definitions

5 In this chapter, unless the context otherwise requires:

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

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

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

19 4. "Arizona Grand Canyon visibility transport commission class I  
20 areas" means the following four mandatory federal class I areas in this state  
21 that were the subject of recommendations made by the Grand Canyon visibility  
22 transport commission pursuant to the clean air act:

- 23 (a) Grand Canyon national park.
- 24 (b) Petrified Forest national park.
- 25 (c) Sycamore Canyon Wilderness.
- 26 (d) Mount Baldy Wilderness.

27 5. "Arizona mandatory federal class I areas" means the following eight  
28 national parks and wilderness areas that are designated as mandatory federal  
29 class I areas in this state pursuant to the clean air act and does not  
30 include the Arizona Grand Canyon visibility transport commission class I  
31 areas:

- 32 (a) Pine Mountain Wilderness.
- 33 (b) Mazatzal Wilderness.
- 34 (c) Sierra Ancha Wilderness.
- 35 (d) Superstition Wilderness.
- 36 (e) Saguaro Wilderness.
- 37 (f) Galiuro Wilderness.
- 38 (g) Chiricahua Wilderness.
- 39 (h) Chiricahua National Monument Wilderness.

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

43 7. "Begin actual construction" means initiation of physical on-site  
44 construction activities on an emissions unit that are of a permanent nature.—  
45 AS FOLLOWS:

1 (a) For purposes of title I, parts C and D and section 112 of the  
2 clean air act AND FOR PURPOSES OF APPLICANTS THAT REQUIRE PERMITS CONTAINING  
3 LIMITS DESIGNED TO AVOID THE APPLICATION OF TITLE 1, PARTS C AND D AND  
4 SECTION 112 OF THE CLEAN AIR ACT, these activities include installation of  
5 building supports and foundations, laying of underground pipework and  
6 construction of permanent storage structures BUT DO NOT INCLUDE ANY OF THE  
7 FOLLOWING, SUBJECT TO SECTION 49-247, SUBSECTION D:

8 (i) CLEARING AND GRADING, INCLUDING DEMOLITION AND REMOVAL OF EXISTING  
9 STRUCTURES AND EQUIPMENT, STRIPPING AND STOCKPILING OF TOPSOIL.

10 (ii) INSTALLATION OF ACCESS ROADS, DRIVEWAYS AND PARKING LOTS.

11 (iii) INSTALLATION OF ANCILLARY STRUCTURES, INCLUDING FENCES, OFFICE  
12 BUILDINGS AND TEMPORARY STORAGE STRUCTURES, THAT ARE NOT A NECESSARY  
13 COMPONENT OF AN EMISSIONS UNIT OR ASSOCIATED AIR POLLUTION CONTROL EQUIPMENT  
14 FOR WHICH THE PERMIT IS REQUIRED.

15 (iv) ORDERING AND ON-SITE STORAGE OF MATERIALS AND EQUIPMENT.

16 (b) For purposes other than ~~title I, parts C and D and section 112 of~~  
17 ~~the clean air act~~ FOR THOSE APPLICANTS PRESCRIBED IN SUBDIVISION (a) OF THIS  
18 PARAGRAPH, these activities do not include ~~installation of building supports~~  
19 ~~and foundations, laying of underground pipework and construction of permanent~~  
20 ~~storage structures~~ THE FOLLOWING, SUBJECT TO SECTION 49-247, SUBSECTION D:

21 (i) CLEARING AND GRADING, INCLUDING DEMOLITION AND REMOVAL OF EXISTING  
22 STRUCTURES AND EQUIPMENT, STRIPPING AND STOCKPILING OF TOPSOIL AND EARTHWORK  
23 CUT AND FILL FOR FOUNDATIONS.

24 (ii) INSTALLATION OF ACCESS ROADS, PARKING LOTS, DRIVEWAYS AND STORAGE  
25 AREAS.

26 (iii) ORDERING AND ON-SITE STORAGE OF MATERIALS AND EQUIPMENT.

27 (iv) INSTALLATION OF UNDERGROUND PIPEWORK, INCLUDING WATER, SEWER,  
28 ELECTRIC AND TELECOMMUNICATIONS UTILITIES.

29 (v) INSTALLATION OF ANCILLARY STRUCTURES, INCLUDING FENCES,  
30 WAREHOUSES, STOREROOMS AND OFFICE BUILDINGS, IF NONE OF THESE STRUCTURES  
31 IMPACT THE DESIGN OF ANY EMISSIONS UNIT OR ASSOCIATED AIR POLLUTION CONTROL  
32 EQUIPMENT.

33 (vi) INSTALLATION OF BUILDING AND EQUIPMENT SUPPORTS, INCLUDING  
34 CONCRETE FORMS, FOOTERS, PILINGS, FOUNDATIONS, PADS AND PLATFORMS, IF NONE OF  
35 THESE STRUCTURES IMPACT THE DESIGN OF AND EMISSIONS UNIT OR ASSOCIATED AIR  
36 POLLUTION CONTROL EQUIPMENT.

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

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

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

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

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

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

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

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

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

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

29           14. "Grand Canyon visibility transport commission" means the visibility  
30 transport commission established pursuant to section 169B of the clean air  
31 act for the region affecting the visibility of the Grand Canyon national  
32 park.

33           15. "Grand Canyon visibility transport commission class I areas" means  
34 the following sixteen mandatory federal class I areas in the region of Grand  
35 Canyon national park that were the subject of recommendations by the Grand  
36 Canyon visibility transport commission pursuant to the clean air act:

37           (a) Grand Canyon national park in Arizona.

38           (b) Sycamore Canyon Wilderness in Arizona.

39           (c) Petrified Forest national park in Arizona.

40           (d) Mount Baldy Wilderness in Arizona.

41           (e) San Pedro Parks Wilderness in New Mexico.

42           (f) Mesa Verde national park in Colorado.

43           (g) Weminuche Wilderness in Colorado.

44           (h) Black Canyon of the Gunnison Wilderness in Colorado.

45           (i) West Elk Wilderness in Colorado.

- 1 (j) Maroon Bells-Snowmass Wilderness in Colorado.
- 2 (k) Flat Tops Wilderness in Colorado.
- 3 (l) Arches national park in Utah.
- 4 (m) Canyonlands national park in Utah.
- 5 (n) Capitol Reef national park in Utah.
- 6 (o) Bryce Canyon national park in Utah.
- 7 (p) Zion national park in Utah.

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

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

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

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

32 20. "Mandatory federal class I areas" means those national parks,  
33 monuments and wilderness areas that are included in 40 Code of Federal  
34 Regulations sections 81.400 through 81.436 pursuant to the clean air act.

35 21. "Maximum achievable control technology" means an emission standard  
36 that requires the maximum degree of reduction in emissions of the hazardous  
37 air pollutants subject to this chapter, including a prohibition on such  
38 emissions where achievable, and that the director, after considering the cost  
39 of achieving such emission reduction and any non-air quality health and  
40 environmental impacts and energy requirements, determines to be achievable by  
41 an affected source to which such standard applies, through application of  
42 measures, processes, methods, systems or techniques including measures ~~which~~  
43 THAT:

- 44 (a) Reduce the volume of, or eliminate emissions of, such pollutants  
45 through process changes, substitution of materials or other modifications.

1 (b) Enclose systems or processes to eliminate emissions.

2 (c) Collect, capture or treat such pollutants when released from a  
3 process, stack, storage or fugitive emissions point.

4 (d) Are design, equipment, work practice, or operational standards,  
5 including requirements for operator training or certification.

6 (e) Are a combination of the above.

7 22. "Minor source" means any stationary or portable source that is not  
8 a major source.

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

12 24. "Modification" or "modify" means a physical change in or change in  
13 the method of operation of a source ~~which~~ THAT increases the actual emissions  
14 of any regulated air pollutant emitted by such source by more than any  
15 relevant de minimis amount or ~~which~~ THAT results in the emission of any  
16 regulated air pollutant not previously emitted by more than such de minimis  
17 amount.

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

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

24 27. "Nonattainment area plan" means an air pollution control plan  
25 developed in accordance with 42 United States Code sections 7501 through  
26 7515.

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

30 29. "Planning agency" means an organization designated by the governor  
31 pursuant to 42 United States Code section 7504.

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

34 31. "Potential to emit" means:

35 (a) For purposes of section 112 of the clean air act, the maximum  
36 capacity of a stationary source to emit a pollutant, excluding secondary  
37 emissions, taking into account controls that are enforceable under any  
38 federal law or regulation or that are inherent in the design of the source.

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

44 32. "Primary standard attainment date" means the date defined within a  
45 nonattainment area plan in accordance with 42 United States Code sections

1 7401 through 7515 or applicable regulations adopted by the United States  
2 environmental protection agency by January 1, 1999 and after which date  
3 primary national ambient air quality standards may not be violated.

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

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

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

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

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

21 Sec. 2. Section 49-405, Arizona Revised Statutes, is amended to read:

22 49-405. Attainment area designations

23 A. The governor may designate the status and classification of areas  
24 of this state with respect to attainment of national ambient air quality  
25 standards.

26 B. The director shall adopt rules that both:

27 1. Describe the geographic extent of attainment, nonattainment or  
28 unclassifiable areas of this state for all pollutants for which a national  
29 ambient air quality standard exists.

30 2. Establish procedures and criteria for changing the designations of  
31 areas that include all of the following:

32 (a) Technical bases for proposed changes, including ambient air  
33 quality data, types and distributions of sources of air pollution, population  
34 density and projected population growth, transportation system  
35 characteristics, traffic congestion, projected industrial and commercial  
36 development, meteorology, pollution transport and political boundaries.

37 (b) Provisions for review of and public comment on proposed changes to  
38 area designations.

39 (c) All area designations adopted by the administrator as of May 30,  
40 1992.

41 C. ON PROMULGATION BY THE ADMINISTRATOR OF NEW OR REVISED NATIONAL  
42 AMBIENT AIR QUALITY STANDARDS FOR POLLUTANTS, THE DEPARTMENT SHALL DEVELOP  
43 PROPOSED RECOMMENDATIONS REGARDING DESIGNATIONS FOR GEOGRAPHIC AREAS OF THIS  
44 STATE AS BEING IN ATTAINMENT OR NONATTAINMENT OR UNCLASSIFIABLE WITH RESPECT  
45 TO THAT STANDARD. THE PROPOSED RECOMMENDATIONS SHALL BE PROVIDED TO THE

1 GOVERNOR TO ASSIST THE GOVERNOR IN SUBMITTING RECOMMENDATIONS TO THE  
2 ADMINISTRATOR PURSUANT TO 42 UNITED STATES CODE SECTION 7407(d)(1)(A). THE  
3 DEPARTMENT SHALL DEVELOP THE PROPOSED RECOMMENDATIONS AS FOLLOWS:

4 1. NO EARLIER THAN FIVE MONTHS BEFORE THE DATE BY WHICH THE GOVERNOR  
5 MUST MAKE THE RECOMMENDATIONS AND NO LATER THAN FOUR MONTHS BEFORE THAT DATE,  
6 THE DEPARTMENT SHALL COMPLETE A DRAFT OF THE PROPOSED RECOMMENDATIONS AND A  
7 TECHNICAL SUPPORT DOCUMENT THAT EXPLAINS THE SCIENTIFIC AND OTHER BASES FOR  
8 THE DRAFT PROPOSAL.

9 2. NO EARLIER THAN FIVE MONTHS BEFORE THE DATE BY WHICH THE GOVERNOR  
10 MUST MAKE THE RECOMMENDATIONS AND NO LATER THAN FOUR MONTHS BEFORE THAT DATE,  
11 THE DEPARTMENT SHALL POST THE DRAFT PROPOSED RECOMMENDATIONS AND TECHNICAL  
12 SUPPORT DOCUMENT ON THE DEPARTMENT'S WEBSITE. THE DEPARTMENT SHALL PROVIDE  
13 ACTUAL NOTICE OF THE POSTING TO COUNTIES AND MUNICIPALITIES THAT WOULD BE  
14 INCLUDED IN A NONATTAINMENT AREA UNDER THE PROPOSED RECOMMENDATIONS AND TO  
15 ANY PERSON WHO HAD PREVIOUSLY REQUESTED ACTUAL NOTICE OF THE DRAFT DOCUMENTS.  
16 ACTUAL NOTICE OF THE POSTING MAY BE PROVIDED BY ELECTRONIC OR OTHER MEANS.

17 3. THE WEBSITE POSTING AND ACTUAL NOTICES PRESCRIBED IN PARAGRAPH 2 OF  
18 THIS SUBSECTION SHALL INCLUDE NOTICE THAT UNTIL THE CLOSE OF THE COMMENT  
19 PERIOD, ANY PERSON MAY SUBMIT WRITTEN COMMENTS TO THE DEPARTMENT REGARDING  
20 THE DRAFT PROPOSED RECOMMENDATIONS AND TECHNICAL SUPPORT DOCUMENT. THE  
21 NOTICE SHALL ALSO INCLUDE THE DATE, TIME AND LOCATION OF A PUBLIC HEARING FOR  
22 THE DEPARTMENT TO RECEIVE VERBAL COMMENTS AND ANSWER QUESTIONS CONCERNING THE  
23 DRAFT PROPOSAL. THE WRITTEN COMMENT PERIOD SHALL CLOSE AND THE HEARING SHALL  
24 BE HELD NO LATER THAN FORTY-SIX DAYS BEFORE THE DATE BY WHICH THE GOVERNOR  
25 MUST MAKE THE RECOMMENDATIONS.

26 4. AFTER THE CLOSE OF THE COMMENT PERIOD AND AFTER THE PUBLIC HEARING  
27 AND NOT LATER THAN ONE MONTH BEFORE THE DATE BY WHICH THE GOVERNOR MUST MAKE  
28 THE RECOMMENDATIONS, THE DEPARTMENT SHALL FINALIZE THE PROPOSED  
29 RECOMMENDATIONS AND TECHNICAL SUPPORT DOCUMENT AND SUBMIT THEM TO THE  
30 GOVERNOR. THE DEPARTMENT'S FINAL PROPOSED RECOMMENDATIONS AND TECHNICAL  
31 SUPPORT DOCUMENT SHALL:

32 (a) CONSIDER THE COMMENTS RECEIVED BY THE DEPARTMENT PURSUANT TO  
33 PARAGRAPH 3 OF THIS SUBSECTION. FOR ANY AREA THAT IS PROPOSED TO BE  
34 DESIGNATED A NONATTAINMENT AREA IN THE FINAL PROPOSED RECOMMENDATIONS, THE  
35 DEPARTMENT SHALL WITH THE SUBMITTAL TO THE GOVERNOR INCLUDE A RESPONSIVENESS  
36 SUMMARY THAT EXPLAINS WITH REASONABLE PARTICULARITY THE DEPARTMENT'S  
37 CONSIDERATION OF AND RESPONSES TO COMMENTS RECEIVED PURSUANT TO PARAGRAPH 3  
38 OF THIS SUBSECTION.

39 (b) BE POSTED ON THE DEPARTMENT'S WEBSITE WITHIN FIVE DAYS AFTER THE  
40 DEPARTMENT'S SUBMITTAL TO THE GOVERNOR. THE POSTING SHALL INCLUDE ANY  
41 RESPONSIVENESS SUMMARY, AND THE DEPARTMENT SHALL PROVIDE ACTUAL NOTICE OF THE  
42 POSTING TO COUNTIES AND MUNICIPALITIES THAT WOULD BE INCLUDED IN A  
43 NONATTAINMENT AREA UNDER THE FINAL PROPOSED RECOMMENDATIONS AND TO ANY PERSON  
44 WHO HAD PREVIOUSLY REQUESTED ACTUAL NOTICE OF THE DOCUMENTS. ACTUAL NOTICE  
45 OF THE POSTING MAY BE PROVIDED BY ELECTRONIC OR OTHER MEANS.

1 D. THE DEPARTMENT SHALL POST ON ITS WEBSITE A COPY OF THE GOVERNOR'S  
2 RECOMMENDATIONS WITHIN FIVE DAYS AFTER THE RECOMMENDATIONS ARE SUBMITTED TO  
3 THE ADMINISTRATOR.

4 E. IF THE ADMINISTRATOR REQUIRES THE GOVERNOR'S RECOMMENDATIONS TO BE  
5 SUBMITTED SIX MONTHS AFTER PROMULGATION OF THE NEW OR REVISED NATIONAL  
6 AMBIENT AIR QUALITY STANDARDS OR EARLIER, THE TIME FRAMES PRESCRIBED IN  
7 SUBSECTIONS C AND D SHALL BE REDUCED BY ONE-HALF.

8 Sec. 3. Section 49-427, Arizona Revised Statutes, is amended to read:  
9 49-427. Grant or denial of applications; revisions

10 A. The director shall deny a permit or revision if the applicant does  
11 not show that every such source is so designed, controlled, or equipped with  
12 such air pollution control equipment that it may be expected to operate  
13 without emitting or without causing to be emitted air contaminants in  
14 violation of the provisions of this article and the rules adopted by the  
15 director.

16 B. ~~Prior to~~ BEFORE acting on an application for a permit, the director  
17 may require the applicant to provide and maintain such facilities as are  
18 necessary for sampling and testing purposes in order to secure information  
19 that will disclose the nature, extent, quantity or degree of air contaminants  
20 discharged into the atmosphere from the source described in the application.  
21 In the event of such a requirement, the director shall notify the applicant  
22 in writing of the type and characteristics of such facilities.

23 C. In acting ~~upon~~ ON an application for a permit renewal, if the  
24 director finds that such a source has been constructed not in accordance with  
25 any prior permit or revision issued pursuant to section 49-426.01, the  
26 director shall require the person to obtain a permit revision or shall deny  
27 the application for such permit. The director shall not accept any further  
28 application for a source so constructed until the director finds that such  
29 source has been reconstructed in accordance with the prior permit or a  
30 revision, or until a revision to the permit has been obtained.

31 D. AN APPLICANT'S PERFORMANCE OF ANY ACTIVITIES THAT ARE EXCLUDED FROM  
32 THE DEFINITION OF "BEGIN ACTUAL CONSTRUCTION" UNDER SECTION 49-401.01,  
33 PARAGRAPH 7, SUBDIVISION (a) OR (b) SHALL BE AT THE APPLICANT'S RISK AND  
34 SHALL NOT REDUCE THE APPLICANT'S OBLIGATIONS UNDER THIS CHAPTER OR RULES  
35 ADOPTED PURSUANT TO THIS CHAPTER. THE DIRECTOR SHALL EVALUATE AN APPLICATION  
36 FOR A PERMIT OR PERMIT REVISION AND MAKE A DECISION ON THE SAME BASIS AS IF  
37 THE ACTIVITIES ALLOWED UNDER SECTION 49-401.01, PARAGRAPH 7, SUBDIVISION (a)  
38 OR (b) HAD NOT OCCURRED.

39 ~~D-~~ E. After a decision on a permit or revision, the director shall  
40 notify the applicant and any person who filed a comment to the permit  
41 pursuant to section 49-426 or the revision pursuant to section 49-426.01 in  
42 writing of the decision, and if the permit is denied, the reasons for such  
43 denial. Service of this notification may be made in person or by first class  
44 mail. The director shall not accept a further application unless the

1 applicant has corrected the reasons for the objections specified by the  
2 director as reasons for such denial.

3       Sec. 4. Conditional enactment; revisions to state  
4               implementation plan; notice

5       A. Sections 49-401.01 and 49-427, Arizona Revised Statutes, as amended  
6 by this act, are not effective unless on or before October 1, 2013 the United  
7 States environmental protection agency approves revisions to this state's air  
8 quality implementation plan that incorporate the changes made by this act.

9       B. The director of the department of environmental quality shall  
10 promptly provide written notice of the date of that approval or the failure  
11 to receive that approval to the director of the Arizona legislative council.

~~APPROVED BY THE GOVERNOR MAY 11, 2010.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 12, 2010.~~

Passed the House March 24, 2010

Passed the Senate April 26, 2010

by the following vote: 53 Ayes,

by the following vote: 28 Ayes,

3 Nays, 4 Not Voting

0 Nays, 2 Not Voting

[Signature]  
Speaker of the House

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

           day of           , 20  

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

at            o'clock            M.

            
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this            day of           , 20  

at            o'clock            M.

            
Secretary of State

H.B. 2133

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

\_\_\_\_\_ April 28, 2010,

by the following vote: 48 Ayes,

11 Nays, 1 Not Voting

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2010,

at 11:50 o'clock A. M.

\_\_\_\_\_  
Secretary to the Governor

Approved this 11<sup>th</sup> day of

May, 2010,

at 11:38 o'clock A. M.

\_\_\_\_\_  
Governor of Arizona

H.B. 2133

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 12<sup>th</sup> day of May, 2010,

at 9:35 o'clock a M.

\_\_\_\_\_  
Secretary of State