

Submitted online via EPA's Central Data Exchange, State Plan Electronic Collection System (SPeCS)

DATE: May 15, 2026

Mike Martucci, Acting Regional Administrator
U.S. Environmental Protection Agency, Region 9

RE: West Pinal PM₁₀ Nonattainment Area Best Management Practices Rules SIP Revision;
Request for Parallel Processing

Dear Mr. Martucci:

The Arizona Department of Environmental Quality (ADEQ) hereby submits to the U.S. Environmental Protection Agency (EPA) the proposed SIP revision, West Pinal PM₁₀ Nonattainment Area Agricultural Best Management Practices Rules, pursuant to Arizona Revised Statutes Sections 49-104, 49-106, 49-402, 49-404, 49-406, 49-425, and 49-457 and Code of Federal Regulations (CFR) Title 40, Sections 51.102 through 51.104.


ADEQ anticipates publishing a public notice for the proposed SIP revision on or about June 1, 2026. Pursuant to 40 CFR 51, Appendix V, § 2.3, ADEQ is submitting this proposed SIP revision for parallel processing before the state public process is completed.

The revision consists of a SIP document, a Notice of Final Exempt Rulemaking (NFERM) adopting final amendments to the Arizona Agricultural Best Management Practices (AgBMP) rules at Arizona Administrative Code R18-2-610.03 and R18-2-611.03, and the Arizona statutes supporting ADEQ's legal authority to adopt this SIP, as well as the AgBMP Committee's authority to adopt the rule amendments being submitted. The proposed revision omits elements of the completeness criteria in Appendix V related to the SIP public process as allowed by § 2.3.1.

ADEQ is requesting that EPA propose approval of this SIP revision pursuant to Appendix V, § 2.3.1. This will give ADEQ an opportunity to consider EPA comments prior to submission of a final plan and will expedite final approval. ADEQ understands that under Appendix V, § 2.3.2 EPA will not publish a final approval or other final action until an adopted SIP satisfying all of the completeness criteria is submitted.

If you have any questions, please contact Steve Burr Air Quality Division, at burr.steven@azdeq.gov.

Sincerely,

Signed by:

4D858E29B49B4E2...
Daniel Czecholinski, Director
Air Quality Division

Enclosures (1)

Cc via email: Anita Lee, Acting Director, Air & Radiation Division, EPA R9
Karina O'Connor, Planning Manager, Air & Radiation Division, EPA R9
Rynda Kay, Geographic Strategies & Modeling Manager, Air & Radiation Division, EPA R9
Lisa Beckham, Control Measures Manager, Air & Radiation Division, EPA Region 9



Memorandum

Date: May 14, 2025
To: Daniel Czecholinski, Division Director, ADEQ Air Quality Division
From: Karen Peters, Director
Subject: Air Quality Division Delegation of Authority

Under A.R.S. §49-104 (D) (2), I authorize you, Daniel Czecholinski, Division Director, Air Quality Division, Arizona Department of Environmental Quality, to perform any act, including execution of any pertinent documents, which I, as Director of the Arizona Department of Environmental Quality, am authorized or required to do by law with respect to A.R.S Title 49, Chapters 1 and 3, and any other acts related to air quality, including personnel actions within your division.

This delegation is effective immediately and shall remain in effect until it is revoked or upon your separation from the Arizona Department of Environmental Quality. This delegation replaces any other delegations to the Air Quality Division Director that may be in effect. You may further delegate this authority in the best interest of the agency, however, those delegations must be in writing and you must forward a copy of any further delegations to me. I ratify all acts previously performed by you as Air Quality Division Director concerning the duties and functions in this delegation memorandum.



Karen Peters
Director

5/14/25

Date



West Pinal PM10 Nonattainment Area Agricultural Best Management Practices Rules SIP Revision

*Air Quality Division
May 15, 2026 Proposal*

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COMPLETENESS CRITERIA (40 CFR 51, APPENDIX V, § 2.0)

This SIP revision is being submitted to EPA prior to completion of the SIP public process and adoption of a final SIP for parallel processing pursuant to 40 CFR 51, Appendix V § 2.3. Specific criteria have been modified to reflect the requirements for parallel processing as allowed by § 2.3.1.

APPENDIX V § 2.1 - ADMINISTRATIVE MATERIALS

(a) A formal signed, stamped, and dated letter of submittal from the Governor or his designee, requesting that EPA propose approval of the plan or revision thereof (hereafter “the plan”) by parallel processing. If electing to submit a paper submission with a copy in electronic version, the submittal letter must verify that the electronic copy provided is an exact duplicate of the paper submission. [See § 2.3.1(a)]

See the cover letter seeking parallel processing and proposed approval of this state implementation plan (SIP) submission and the delegation of authority from Karen Peters, Director of the Arizona Department of Environmental Quality (ADEQ), to Daniel Czecholinski, Director of the ADEQ Air Quality Division, authorizing Mr. Czecholinski to perform any act the ADEQ Director is authorized to perform under the state air quality statutes, including the submission of SIPs to the Environmental Protection Agency (EPA).

(b) A schedule for final adoption or issuance of the plan. [see § 2.3.1(b)]

ADEQ plans to propose the plan for public comment by June 1, 2026 and to adopt the final plan by July 1, 2026.

(c) Evidence that the State has the necessary legal authority under State law to adopt and implement the plan.

ADEQ has primary responsibility for air pollution control and abatement in the State of Arizona, and as such, is required to adopt and "maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act." A.R.S. § 49-404(A). ADEQ also maintains authority to issue and administer rules, adopt county rules, and to submit such rules for approval into the SIP.

As explained below the Agricultural Best Management Practices (AgBMP) Committee has authority to adopt the rules being submitted in this SIP revision under A.R.S. § 49-457.

For reference, copies of Arizona Revised Statutes, §§ 49-104, 49-106, 49-402, 49-404, 49-406, 49-425, and 49-457, are included in Appendix C.

West Pinal PM10 Nonattainment Area Agricultural Best Management Practices Rules SIP Revision

(d) A copy of the proposed/draft regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (such as redline/strikethrough) to the existing approved plan, where applicable. The effective date of any regulation/document contained in the submission shall, whenever possible, be indicated in the regulation/document itself; otherwise the State should include a letter signed, stamped, and dated by the appropriate State official indicating the effective date. If the regulation/document provided by the State for approval and incorporation by reference into the plan is a copy of an existing publication, the State submission should, whenever possible, include a copy of the publication cover page and table of contents.

The Notice of Final Exempt Rulemaking (NFERM) submitted to the Arizona Secretary of State on April 27, 2026 for publication in the Arizona Administrative Register is attached as Appendix A. Under Arizona Laws 2011, ch. 214, § 4, the amendments have an effective date of April 27, 2026, the date of filing.

(e) Evidence that the State followed all of the procedural requirements of the State's laws and constitution in conducting and completing the adoption/issuance of the plan.

This evidence will be provided in the final version of the SIP, which will be submitted to EPA for final approval, after completion of the public notice and comment process for the SIP revision. [See §§ 2.3.1(d), 2.3.2]

(f) Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice.

Evidence that ADEQ gave notice and held a hearing on the SIP revision will be provided in Appendix D of the final version of the SIP, which will be submitted to EPA for final approval, after completion of the public notice and comment process for the SIP revision. [See §§ 2.3.1(d), 2.3.2]

(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

The certification that the public hearing was held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable, and consistent with the public hearing requirements in 40 CFR 51.102 will be provided in Appendix D to the final version of the SIP, which will be submitted to EPA for final approval, after completion of the public notice and comment process for the SIP revision. [See §§ 2.3.1(d), 2.3.2]

(h) Compilation of public comments and the State's response thereto.

The compilation of public comments will be provided in Appendix D to the final version of the SIP, which will be submitted to EPA for final approval, after completion of the public notice and comment process for the SIP revision. [See §§ 2.3.1(d), 2.3.2]

APPENDIX V § 2.2 - TECHNICAL SUPPORT

(a) Identification of all regulated pollutants affected by the plan.

This SIP revision applies to PM₁₀.

(b) Identification of the locations of affected sources including the EPA attainment/ nonattainment designation of the locations and the status of the attainment plan for the affected areas(s).

As discussed below, the amended regulations (A.A.C. R18-2-610.03 and R18-2-611.03) being submitted for approval into the SIP apply to agricultural sources of fugitive PM₁₀ emissions in the West Pinal County Serious PM₁₀ Nonattainment Area.

(c) Quantification of the changes in plan allowable emissions from the affected sources; estimates of changes in current actual emissions from affected sources or, where appropriate, quantification of changes in actual emissions from affected sources through calculations of the differences between certain baseline levels and allowable emissions anticipated as a result of the revision.

The rule changes will not result in any changes to allowable or actual emissions from existing sources. As explained in sections 2.4 and 3 below the changes are designed to improve the enforceability of existing control requirements.

(d) The State's demonstration that the national ambient air quality standards, prevention of significant deterioration increments, reasonable further progress demonstration, and visibility, as applicable, are protected if the plan is approved and implemented. For all requests to redesignate an area to attainment for a national primary ambient air quality standard, under section 107 of the Act, a revision must be submitted to provide for the maintenance of the national primary ambient air quality standards for at least 10 years as required by section 175A of the Act.

Not applicable.

(e) Modeling information required to support the proposed revision, including input data, output data, models used, justification of model selections, ambient monitoring data used, meteorological data used, justification for use of offsite data (where used), modes of models used, assumptions, and other information relevant to the determination of adequacy of the modeling analysis.

Not applicable.

(f) Evidence, where necessary, that emission limitations are based on continuous emission reduction technology.

Not applicable.

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(g) Evidence that the plan contains emission limitations, work practice standards and recordkeeping/reporting requirements, where necessary, to ensure emission levels.

This SIP revision does not alter existing emission limitations or work practice standards. As explained in sections 2.4 and 3, the rule amendments submitted as revisions to the SIP will strengthen the reporting and recordkeeping requirements of the existing rules.

(h) Compliance/enforcement strategies, including how compliance will be determined in practice.

ADEQ will use the submission of the AgBMP forms required by the rule amendments in connection with other data relating to agricultural operations to identify crop and animal operations in West Pinal that may not be aware of or in compliance with the AgBMP program. ADEQ compliance and enforcement staff will use the information provided on the forms to prepare for and conduct periodic inspections of operations in West Pinal subject to the AgBMP program.

(i) Special economic and technological justifications required by any applicable EPA policies, or an explanation of why such justifications are not necessary.

Not applicable.

1 INTRODUCTION

The purpose of this revision to Arizona's State Implementation Plan (SIP) is to obtain EPA approval into the Arizona SIP of amendments to the Agricultural Best Management Practices (AgBMP) rules for the West Pinal County Serious PM₁₀ Nonattainment Area (West Pinal). As explained in section 3 below, the purpose of the amendments is to address EPA concerns about the enforceability of the AgBMP program by requiring the annual submission of the Best Management Practices General Permit Record Form to ADEQ.

Section 2 provides background on the AgBMP program as well as the West Pinal PM₁₀ Nonattainment Area and previous related SIP revisions. Section 3 explains the rule amendments and identifies rules that should be added to and removed from the SIP, if this SIP revision is approved. Section 4 demonstrates that this SIP revision will not interfere with attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) or any other requirement of the Clean Air Act (CAA), as required by CAA §110(l).

2 BACKGROUND

2.1 The AgBMP Program

Under A.R.S. § 49-457, the Arizona legislature has delegated the task of adopting control measures for PM₁₀ emissions from agricultural activities in certain PM₁₀ nonattainment areas to the Agricultural Best Management Practices (AgBMP) Committee. The statute directs ADEQ to provide technical assistance, staff support, and meeting facilities to the Committee.

The approach of the program is for the AgBMP Committee to adopt a general permit by rule specifying lists of best management practices (BMP) for “regulated agricultural activities.” Persons subject to the permit are then required to select and apply BMPs to the regulated activities they engage in.

The Arizona legislature originally adopted the AgBMP program in 1998 to control PM₁₀ emissions from crop operations in the Phoenix PM₁₀ nonattainment area. EPA approved this version of the statute into the SIP in 2002. Since then, the legislature has expanded the program to apply to other areas and other types of operations. Specifically, in 2009, the legislature amended the statute to apply (1) to cattle, swine, and poultry facilities, as well as crop operations, and (2) to any PM₁₀ nonattainment area designated after June 1, 2009.

The original version of A.R.S. § 49-457 required the application of one BMP to each regulated agricultural activity. In 2011, the legislature amended the statute to require one BMP per regulated activity in any moderate PM₁₀ non-attainment area and two in any serious area.

2.2 The West Pinal PM₁₀ Nonattainment Area

West Pinal consists of 1,325 square miles of the western portion of Pinal County. West Pinal was designated as nonattainment for the PM₁₀ National Ambient Air Quality Standard (NAAQS) effective July 12, 2012 based on “widespread, frequent, and in some instances, severe violations of the PM₁₀ standard.” 77 FR 32024, 32025 (May 31, 2012). In contrast to the mountainous eastern region, West Pinal consists primarily of low desert valleys. Neighboring Indian reservations are not included in the nonattainment area. The nonattainment area includes the Maricopa, Casa Grande, Eloy, Coolidge, Florence, and San Tan Valley communities. As a result of its location along the major growth corridor between Phoenix and Tucson, the area has a diverse and growing economy that includes agriculture, construction, manufacturing, trade, and services.

Consistent with CAA § 188(a), EPA initially classified West Pinal as a “moderate” nonattainment area with an attainment deadline of December 31, 2018.

2.3 Previous AgBMP Rulemakings and SIP Revisions

As required by the 2009 amendments to the AgBMP statute, the AgBMP Committee adopted new AgBMP rules for crop and animal operations in West Pinal (Arizona Administrative Code (A.A.C.) R18-2-610.03 and R18-2-611.03, respectively) after the area was designated nonattainment. The Committee also adopted amendments to the existing definitions sections for these rules (A.A.C. R18-2-610 and R18-2-611). The new rules and rule amendments were submitted for EPA approval with the 2015 West Pinal Moderate

West Pinal PM₁₀ Nonattainment Area Agricultural Best Management Practices Rules SIP Revision

PM₁₀ Nonattainment Area SIP. EPA approved amended A.A.C. R18-2-610 and new A.A.C. R18-2-601.03 into the SIP but did not act on A.A.C. R18-2-611 or A.A.C. R18-2-611.03. 82 FR 20267 (May 1, 2017).

On June 24, 2020, EPA determined that the West Pinal PM₁₀ nonattainment area had not attained the PM₁₀ NAAQS by the December 31, 2018 deadline for a moderate area. This determination automatically resulted in reclassification of the area to serious.

On March 3, 2023, ADEQ submitted a SIP revision to EPA designed to satisfy requirements for a serious PM₁₀ non-attainment area with respect to agricultural sources of PM₁₀ emissions in West Pinal. The revision included amendments to A.R.S. § 49-457, the statute authorizing the AgBMP program, as well as amendments to the AgBMP rules at A.A.C. R18-2-610, R18-610.03, R18-2-611, and R18-2-611.03 adopted by the AgBMP Committee in order to satisfy the Clean Air Act requirement to impose best available control measures (BACM) in the nonattainment area.

2.4 Deficiencies Identified by EPA in the 2023 SIP Revision

On January 17, 2025, EPA proposed a limited approval and limited disapproval of the March 3, 2023 submittal. EPA proposed full approval of the statute, A.R.S. § 49-457, and the definition rules, A.A.C. R18-2-610 and R18-2-611. EPA proposed limited disapproval of the crop and animal operations rules at R18-2-610.03 and R18-2-611.03 based on the following concerns about the rules' enforceability:

The crop and animal operation rules require operators to complete a Best Management Practices Program General Permit Record Form annually. This form is not submitted to the Director [of ADEQ] but must instead be provided to the Director within two business days of notice to the operator. The form must contain the name of the operator, signature, date signed, and the mailing or physical address of the operation. For animal operations, the form must contain a specification of the BMPs selected for each category. For crop operations the requirement is less clear. Subsection C(3) of R18-2-610.03 states that the form shall include "The following information for each best management practice selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable)." However, there is no list of "following information" so it is not clear what, if anything, must be included pursuant to this requirement.

The rules also require operators to maintain records demonstrating compliance for three years. The records must include a copy of the BMP Program General Permit Record Form, but the rules do not otherwise specify any records that must be maintained or reported. Finally, the rules require operators to complete a survey every three years that includes the number of animals for each type of operation, the total miles of unpaved roads, the total acreage of access connections and equipment areas, the chosen BMPs, and, for some operators, whether water was applied on a high-risk day. The survey is sent out by ADEQ and responses are submitted to the Arizona Department of Agriculture (ADA). The survey results are aggregated by the ADA and reported to ADEQ. The rules prohibit the report from including any operator's name (that is, the results are anonymous).

Under Rules R18-2-610.03 and R18-2-611.03, absent a specific request from the Director (upon which an operator would have two business days to provide records), source-

specific compliance information is only obtained through the survey. This process is not enforceable because compliance information is only available if ADEQ sends out the survey and the ADA subsequently reports the information to ADEQ or if ADEQ exercises its discretion to request records. Further, because the report from ADA to ADEQ is aggregated so that individual operators remain anonymous, it is not clear whether the survey results would be sufficient to verify or incentivize compliance. Moreover, because these rules require operators to select from a menu of compliance options, it is not clear how compliance could be determined with-out knowing the chosen compliance options. While it may be possible to verify whether a particular BMP is being implemented, for example, cessation of night tilling, access restrictions, reduced vehicle speeds, or watering, if there is no record of which BMPs have been selected, a determination of non-compliance with the rules would essentially require an exhaustive demonstration that none of the BMPs are being implemented. In the absence of the Director exercising their discretion to request records, it becomes nearly impossible to enforce the requirements in these rules.

90 FR 5790, 5792 (Jan. 17, 2025).

3 RULES TO BE ADDED TO AND REMOVED FROM SIP

The rule amendments adopted by the AgBMP Committee on April 2, 2026 are designed to address the concerns raised by EPA in the 2025 notice of proposed limited approval and limited disapproval and thus allow full approval of the AgBMP rules as part of the nonattainment area SIP for West Pinal. Specifically, amendments to A.A.C. R18-2-610.03 and R18-2-611.03 provide for submission of the Best Management Practices Program General Permit Record Form either directly to ADEQ or, in the case of crop operations, through the Arizona Department of Agriculture as an attachment to the application for a regulated grower permit. The amendments also strengthen the recordkeeping requirements of the rules and require an annual certification of compliance by regulated crop and animal operations.

ADEQ is asking EPA to make the following specific revisions to the SIP, if EPA finds that this submission cures the deficiencies identified in the notice of proposed limited approval and limited disapproval:

- Approve the amended version of A.A.C. R18-2-611.03 included in the NFERM attached as Appendix A as a new element of the SIP.
- Replace A.A.C. R18-2-610.03 approved into the SIP on May 1, 2017 with the amended version of that rule included in the NFERM attached as Appendix A.
- Approve the amended versions of A.A.C R18-2-610 and A.A.C. R18-2-611 submitted in 2023.

**4 DEMONSTRATING NONINTERFERENCE WITH ATTAINMENT OF THE NATIONAL
AMBIENT AIR QUALITY STANDARDS OR REASONABLE FURTHER PROGRESS
UNDER CLEAN AIR ACT § 110(L)**

This proposed SIP revision does not remove any measures from the SIP, nor does it lessen the stringency of any SIP-approved measures. Accordingly, this SIP revision is not anticipated to interfere with the attainment of the NAAQS or any other requirement of the CAA.



Appendix A

Notice of Final Exempt Rulemaking

Title 18. Environmental Quality

Chapter 2. Department of Environmental Quality – Air Pollution Control

Article 6. Emissions from Existing and New Point Sources

R18-2-610.03 – Agricultural PM General Permit for Crop Operations; Pinal County
PM Nonattainment Areas

R18-2-611.03 – Agricultural PM General Permit for Animal Operations; Pinal
County PM Nonattainment Area

Air Quality Division

***SIP Revision: West Pinal PM₁₀ Nonattainment
Area Agricultural Best Management Practices
Rules***

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY – AIR POLLUTION CONTROL

PREAMBLE

1. Permission to proceed with this final rulemaking was granted under A.R.S. § 41-1039 by the governor on:

Permission from the Governor is not required for this rulemaking under Laws 2011, Ch. 214, § 4, which provides as follows:

Notwithstanding title 41, chapter 6, article 3, Arizona Revised Statutes, the best management practices committee for regulated agricultural activities established under section 49-457, Arizona Revised Statutes, may adopt revisions to the rules required by section 49-457, Arizona Revised Statutes, as exempt rules with an immediate effective date in compliance with section 41-1032, Arizona Revised Statutes. The rules shall have an immediate effective date. Exempt rules are exempt from the provisions in title 41, chapter 6, article 3, Arizona Revised Statutes, except that the committee shall file a notice of exempt rulemaking with the secretary of state who shall publish the rules in the Arizona administrative register and the Arizona administrative code.

ARS 41-1039 requiring Governor approval of rulemakings, was added to title 41, chapter 6, article 3 in 2022, see Laws 2022, ch. 265, sec. 8. It is therefore a "provision in" article 3 and subject to the exemption.

2. Article, Part, or Section Affected (as applicable) Rulemaking Action

R18-2-610.03	Amend
R18-2-611.03	Amend

3. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 49-457

Implementing statute: A.R.S. § 49-457

Statute or session law authorizing the exemption: Laws 2011, ch. 214, § 4

4. The effective date of the rule:

- a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):**

Immediately effective. Laws 2011, ch. 214, § 4 states that the rule shall be effective immediately upon filing

with the Secretary of State.

- b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable.

5. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the current record of the final rule:

None.

6. The agency's contact person who can answer questions about the rulemaking:

Name: Steven Burr

Title: Environmental Scientist/Specialist Sr.

Division: Arizona Department of Environmental Quality/Air Quality Division

Address: 1110 W. Washington St., Phoenix, AZ, 85007

Telephone: (602) 771-5251

Fax: Not applicable.

Email: burr.steven@azdeq.gov

Website: www.azdeq.gov

7. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Introduction

This Notice of Final Exempt Rulemaking promulgates amendments to the existing Agricultural Best Management Practices (AgBMP) general permit rules set forth in A.A.C. R18-2-610.03 and R18-2-611.03. The amendments were adopted by the AgBMP Committee pursuant to A.R.S. § 49-457 on April 2, 2026 in order to satisfy federal Clean Air Act requirements for the West Pinal County Serious PM₁₀ Nonattainment Area (West Pinal). The Arizona Department of Environmental Quality (ADEQ), which serves as staff for the Committee under A.R.S. § 49-457(F), is submitting the amendments for publication in the Arizona Administrative Register on the Committee's behalf.

Authority of the AgBMP Committee

The Agricultural Best Management Practices (AgBMP) Committee has authority to adopt and amend the AgBMP general permit rule under A.R.S. § 49-457(H). Rule revisions adopted by the Committee are exempt from the usual

rulemaking requirements under Laws 2011, ch. 214, § 4, which provides as follows:

Notwithstanding title 41, chapter 6, article 3, Arizona Revised Statutes, the best management practices committee for regulated agricultural activities established under section 49-457, Arizona Revised Statutes, may adopt revisions to the rules required by section 49-457, Arizona Revised Statutes, as exempt rules with an immediate effective date in compliance with section 41-1032, Arizona Revised Statutes. The rules shall have an immediate effective date. Exempt rules are exempt from the provisions in title 41, chapter 6, article 3, Arizona Revised Statutes, except that the committee shall file a notice of exempt rulemaking with the secretary of state who shall publish the rules in the Arizona administrative register and the Arizona administrative code.

Title 41, chapter 6, article 3, establishes the procedures for agency rulemakings, including the obligation to publish a notice of proposed rulemaking and to submit a rule to the Governor's Regulatory Review Council. A.R.S. § 41-1024(B). Thus, rules adopted by the AgBMP Committee are exempt from these requirements. On adoption or amendment of AgBMP rules by the Committee, ADEQ submits a final Notice of Exempt Final Rulemaking to the Secretary of State for publication. The AgBMP Committee has adopted rule amendments pursuant to this exemption on three prior occasions in 2012, 2015, and 2021. 18 AAR 137 (Jan. 20, 2012); 21 AAR 1156 (July 24, 2015); 27 AAR 2747 (Nov. 26, 2021).

Under Laws 2011, Ch. 214, § 4, ARS § 41-1038(A) (restrictions on new rulemaking) also does not apply to AgBMP rulemakings. In any case, the AgBMP rulemaking is necessary to implement § 49-457 and avoid the imposition of sanctions pursuant to the CAA and would therefore be exempt from § 41-1038 under subsections (A)(2) and (C)(3), respectively.

The AgBMP Program

The Arizona legislature has delegated the task of adopting control measures for PM₁₀ emissions from agricultural activities in certain PM₁₀ nonattainment areas to the AgBMP Committee. As provided in A.R.S. § 49-457(B) and (C), the Committee consists of:

- nine stakeholders engaged in specific agricultural operations appointed by the governor;
- a soil taxonomist from the University of Arizona college of agriculture appointed by the governor;
- an employee of a county air quality department appointed by the Governor; and
- representatives of ADEQ, the Arizona Department of Agriculture (ADA), the University of Arizona college of agriculture (U of A), and the state director of the United States natural resources conservation service designated by those organizations.

ADEQ, ADA, and U of A are required to give technical assistance to the Committee. ADEQ is directed to provide staff support and meeting facilities.

The approach of the program is for the AgBMP Committee to adopt a general permit by rule specifying lists of best management practices (BMP) for “regulated agricultural activities.” Persons subject to the permit are then required to select and apply BMPs to the regulated activities they engage in. The program, in other words, allows agricultural experts to establish control methods for the industry and then gives individual farmers the flexibility to select the appropriate controls for their operations.

The Arizona legislature originally adopted the AgBMP program in 1998 to control PM₁₀ emissions from crop operations in the Phoenix PM₁₀ nonattainment area. EPA approved this version of the statute into the SIP in 2002. Since then, the legislature has expanded the program to apply to other areas and other types of operations. Specifically, in 2009, the legislature amended the statute to apply (1) to cattle, swine, and poultry facilities, as well as crop operations, and (2) to any PM₁₀ nonattainment area designated after June 1, 2009.

The original version of A.R.S. § 49-457 required the application of one BMP to each regulated agricultural activity. In 2011, the legislature amended the statute to require one BMP per regulated activity in any moderate PM₁₀ nonattainment area and two in any serious area.

The West Pinal PM₁₀ Nonattainment Area

West Pinal consists of 1,325 square miles of the western portion of Pinal County. In contrast to the mountainous eastern region, West Pinal consists primarily of low desert valleys. Neighboring Indian reservations are not included in the nonattainment area. The nonattainment area includes the Maricopa, Casa Grande, Eloy, Coolidge, Florence, and San Tan Valley communities and has a population of approximately 260,000. As a result of its location along the major growth corridor between Phoenix and Tucson, the area has a diverse and growing economy that includes agriculture, construction, manufacturing, trade, and services.

West Pinal was designated as nonattainment for the PM₁₀ National Ambient Air Quality Standard (NAAQS) effective July 12, 2012 based on “widespread, frequent, and in some instances, severe violations of the PM₁₀ standard.” 77 FR 32024, 32025 (May 31, 2012). As required by CAA § 188(a), EPA initially classified West Pinal as a “moderate” nonattainment area with an attainment deadline of December 31, 2018. On June 24, 2020, EPA determined that the West Pinal PM₁₀ nonattainment area had not attained the PM₁₀ NAAQS by the December 31, 2018 deadline for a moderate area. This determination automatically resulted in reclassification of the area to serious.

The AgBMP SIP Revision

On March 3, 2023, ADEQ submitted a SIP revision to EPA designed to satisfy requirements for a serious PM₁₀

nonattainment area with respect to agricultural sources of PM₁₀ emissions in West Pinal. The revision included amendments to A.R.S. § 49-457, the statute authorizing the AgBMP program, as well as amendments to the AgBMP rules at A.A.C. R18-2-610, R18-610.03, R18-2-611, and R18-2-611.03 adopted by the AgBMP Committee in order to satisfy the Clean Air Act requirement to impose best available control measures (BACM) in the nonattainment area.

On January 17, 2025, EPA proposed a limited approval and limited disapproval of the March 3, 2023 submittal. EPA proposed full approval of the statute, A.R.S. § 49-457, and the definition rules, A.A.C. R18-2-610 and R18-2-611.

EPA proposed limited disapproval of the crop and animal operations rules at R18-2-610.03 and R18-2-611.03 based on the following concerns about the rules' enforceability:

The crop and animal operation rules require operators to complete a Best Management Practices Program General Permit Record Form annually. This form is not submitted to the Director [of ADEQ] but must instead be provided to the Director within two business days of notice to the operator. The form must contain the name of the operator, signature, date signed, and the mailing or physical address of the operation. For animal operations, the form must contain a specification of the BMPs selected for each category. For crop operations the requirement is less clear. Subsection C(3) of R18-2-610.03 states that the form shall include "The following information for each best management practice selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable)." However, there is no list of "following information" so it is not clear what, if anything, must be included pursuant to this requirement.

The rules also require operators to maintain records demonstrating compliance for three years. The records must include a copy of the BMP Program General Permit Record Form, but the rules do not otherwise specify any records that must be maintained or reported. Finally, the rules require operators to complete a survey every three years that includes the number of animals for each type of operation, the total miles of unpaved roads, the total acreage of access connections and equipment areas, the chosen BMPs, and, for some operators, whether water was applied on a high-risk day. The survey is sent out by ADEQ and responses are submitted to the Arizona Department of Agriculture (ADA). The survey results are aggregated by the ADA and reported to ADEQ. The rules prohibit the report from including any operator's name (that is, the results are anonymous).

Under Rules R18-2-610.03 and R18-2-611.03, absent a specific request from the Director (upon which an operator would have two business days to provide records), source-specific compliance information is only obtained through the survey. This process is not enforceable because compliance information is only available if ADEQ sends out the survey and the ADA subsequently reports the information to ADEQ or if

ADEQ exercises its discretion to request records. Further, because the report from ADA to ADEQ is aggregated so that individual operators remain anonymous, it is not clear whether the survey results would be sufficient to verify or incentivize compliance. Moreover, because these rules require operators to select from a menu of compliance options, it is not clear how compliance could be determined without knowing the chosen compliance options. While it may be possible to verify whether a particular BMP is being implemented, for example, cessation of night tilling, access restrictions, reduced vehicle speeds, or watering, if there is no record of which BMPs have been selected, a determination of noncompliance with the rules would essentially require an exhaustive demonstration that none of the BMPs are being implemented. In the absence of the Director exercising their discretion to request records, it becomes nearly impossible to enforce the requirements in these rules.

90 FR 5790, 5792 (Jan. 17, 2025).

The Rule Amendments

The rule amendments adopted by the AgBMP Committee on April 2, 2026 are designed to address the concerns raised by EPA in the notice of limited approval and limited disapproval and thus allow full approval of the AgBMP rules as part of the nonattainment area SIP for West Pinal. The amendments provide for submission of the Program General Permit Record Form either directly to ADEQ or, in the case of crop operations, through the Arizona Department of Agriculture as an attachment to the application for a regulated grower permit. The amendments also strengthen the recordkeeping requirements of the rules and require an annual certification of compliance by regulated crop and animal operations.

- 8. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable.

- 9. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

- 10. A summary of the economic, small business, and consumer impact:**

Not applicable.

11. A description of any changes between the proposed rulemaking, to include supplemental notices, and the final rulemaking:

Not applicable.

12. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments:

Not applicable.

13. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

A general permit is used as provided for in A.R.S. § 49-457(H)

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Not applicable.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

Not applicable.

14. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None.

15. Whether the rule was previously made, amended or repealed as an emergency rule. If so, cite the notice published in the *Register* as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

These amendments were not previously made, amended or repealed as an emergency rule.

16. The full text of the rules follows:

Rule text begins on the next page.

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY – AIR POLLUTION CONTROL

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW POINT SOURCES

Section

R18-2-610.03 Amend

R18-2-611.03 Amend

ARTICLE 6. EMISSIONS FROM EXISTING AND NEW POINT SOURCES

R18-2-610.03 Agricultural PM General Permit for Crop Operations; Pinal County PM Nonattainment Areas

- A. On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of best management practices as described in subsections (B)(1)(b), (B)(2)(b), (B)(3)(b), (B)(4)(b), and (B)(5)(b).
- B. On all days, a commercial farmer shall implement at least two best management practices from each category to reduce PM emissions, as described in subsections (1)(a), (2)(a), (3)(a), (4)(a), (5)(a), and (6). If a commercial farmer implements the Conservation tillage or Reduced tillage system best management practice for the tillage category, they do not have to implement a best management practice from the subsections (2)(a), (2)(b), (5)(a) and (5)(b).
 - 1. Tillage:
 - a. A commercial farmer shall implement at least two of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Multi-year crop,
 - iv. Cessation of night tilling,
 - v. Planting based on soil moisture,
 - vi. Precision farming,
 - vii. Tillage based on soil moisture,
 - viii. Timing of a tillage operation,
 - ix. Transgenic crops,
 - x. Transplanting,
 - xi. Reduced tillage system, or
 - xii. Conservation tillage.
 - b. Unless choosing limited tillage activity (subsection iv, below), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:

- i. Multi-year crop,
 - ii. Planting based on soil moisture,
 - iii. Tillage based on soil moisture,
 - iv. Limited tillage activity,
 - v. Reduced tillage system, or
 - vi. Conservation tillage.
2. Ground Operations and Harvest:
 - a. A commercial farmer shall implement at least two of the following:
 - i. Combining tractor operations,
 - ii. Equipment modification,
 - iii. Chemical irrigation,
 - iv. Green chop,
 - v. Integrated pest management,
 - vi. Multi-year crop,
 - vii. Precision farming,
 - viii. Reduced harvest activity,
 - ix. Transgenic crops, or
 - x. Shuttle System/Larger Carrier.
 - b. Unless choosing limited harvest activity in subsection (iv), on the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Green chop,
 - ii. Integrated pest management,
 - iii. Multi-year crop, or
 - iv. Limited harvest activity.
3. Noncropland:
 - a. A commercial farmer shall implement at least two of the following best management practices:
 - i. Access restriction,
 - ii. Aggregate cover,
 - iii. Wind barrier,
 - iv. Critical area planting,
 - v. Organic material cover,

- vi. Reduce vehicle speed,
 - vii. Synthetic particulate suppressant, or
 - viii. Watering.
- b. Unless choosing watering on a high-risk day in subsection (vi), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a noncropland area that experiences more than 20 VDT from two or more axle vehicles, commercial farmer shall ensure implementation of at least one of the following best management practices:
- i. Aggregate cover,
 - ii. Wind barrier,
 - iii. Critical area planting,
 - iv. Organic material cover,
 - v. Synthetic particulate suppressant, or
 - vi. Watering on a high-risk day.
- c. On each day that traffic accounts for 50 or more vehicle daily trips, or 20 or more vehicle daily trips with three or more axels, within an unpaved vehicle or equipment traffic area, the opacity of emissions shall be limited to no more than 20% measured according to 40 CFR 60, Appendix A, Reference Method 9.
4. Commercial farm roads:
- a. A commercial farmer shall implement at least two of the following best management practices:
- i. Access restriction,
 - ii. Reduce vehicle speed,
 - iii. Track-out control system,
 - iv. Aggregate cover,
 - v. Synthetic particulate suppressant,
 - vi. Watering, or,
 - vii. Organic material cover.
- b. Unless choosing watering on a high-risk day in subsection (vi), on the day before and during a day forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, on a road that experiences more than 20 VDT from two or more axle vehicles, a commercial farmer shall ensure implementation of at least one of the following best management practices:
- i. Aggregate cover,
 - ii. Synthetic particulate suppressant,
 - iii. Wind barrier,

- iv. Organic material cover,
 - v. Roads are stabilized as determined by the silt content test method,
 - vi. Watering on a high-risk day.
5. Cropland:
- a. A commercial farmer shall implement at least two of the following best management practices, one from subsections (i) through (vii), and one from subsections (viii) through (x†), to reduce PM emissions from cropland:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Sequential cropping,
 - vi. Residue management,
 - vii. Surface roughening,
 - viii. Multi-year crop,
 - ix. Permanent cover, or
 - x. Stabilization of soil prior to plant emergence.
 - b. On the day before and during the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, a commercial farmer shall ensure implementation of at least one of the following:
 - i. Wind barrier,
 - ii. Cover crop,
 - iii. Cross-wind ridges,
 - iv. Chips/mulches,
 - v. Surface roughening,
 - vi. Multi-year crop,
 - vii. Permanent cover,
 - viii. Stabilization of soil prior to plant emergence, or
 - ix. Residue management.
6. Significant Agricultural Earth Moving Activities:
- a. Apply water prior to conducting Significant Agricultural Earth Moving Activities and/or time Significant Agricultural Earth Moving Activities to coincide with precipitation. Soil must have a minimum soil moisture content of 50% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);

- b. Apply water during Significant Agricultural Earth Moving Activities. Soil must have a minimum soil moisture content of 30% of field capacity. Compliance shall be determined by NRCS Estimating Soil Moisture by Feel and Appearance Method, amended through April 1998 (and no future editions);
- c. Limit activities on a day identified by the ~~Maricopa~~ or Pinal County Dust Control Forecast to be high risk for dust generation; or
- d. Conduct Significant Agricultural Earth Moving Activities in a manner to reduce a minimum of one ground operation across a commercial farm by using equipment that is the most efficient means of moving the soil.

- C. ~~From and after December 31, 2015, By no later than March 31 of each calendar year,~~ a commercial farmer who engages in a regulated agricultural activity shall complete and submit a Best Management Practices Program General Permit Record Form ~~demonstrating compliance with this rule on the form and in the manner established by the Department in consultation with the Committee. The manner of submission may include a process allowing the commercial farmer to submit the Form to the Arizona Department of Agriculture, in which case the Arizona Department of Agriculture shall forward the completed Form to the Department. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial farmer. The Best Management Practice Program General Permit Record Form shall include only the following information:~~
1. ~~The name, signature and mailing address of the commercial farmer responsible for compliance at the commercial farms covered by the form, signature, and date signed;~~
 2. ~~The mailing street addresses or a description of the physical address locations of the commercial farms covered by the form; and~~
 3. ~~The following information for each best management practice selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and~~
 4. ~~Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.~~
 3. ~~The best management practices selected by the commercial farmer for the year beginning on the due date for the form for tillage, ground operations and harvest, noncropland, commercial farm roads, cropland and significant earth moving activities in order to comply with subsection (B);~~
 4. ~~Identification of the area or crop subject to each best management practice selected; and~~
 5. ~~Certification based on information reasonably available at the time of form submission that the best management practices selected for the year prior to the due date for the form were implemented in accordance with the prior year's Best Management Practice Program General Permit Record Form, including any changes to the form made pursuant to subsection (D), or identification of any times and locations where the selected best management practices were not implemented.~~
- D. ~~Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director, in conjunction with the Arizona Department of Agriculture, shall provide the commercial farmer with a Best Management Practices Program Three-year Survey. The commercial farmer shall complete the Survey with data from the preceding calendar year and submit the Survey to the~~

~~Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA without reference to a commercial farmer's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The Three-year Survey shall include the following information:~~

- ~~1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;~~
- ~~2. The signature of the commercial farmer and the date the form was signed;~~
- ~~3. The acreage of each crop type planted/growing during the calendar year that the survey is conducted;~~
- ~~4. The total miles of commercial farm roads at the commercial farm;~~
- ~~5. The total acreage of the noncropland at the commercial farm;~~
- ~~6. The best management practices selected for tillage, ground operations and harvest, cropland, noncropland, commercial farm roads, and significant earth moving activities (if applicable); and~~
- ~~7. Any additional best management practices selected for high risk days as predicted by the Pinal County Dust Control Forecast.~~

~~ED.~~ Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form and shall be kept by the commercial farmer ~~and made available for review by the Director within two business days of notice to the commercial farmer.~~

~~FE.~~ A person may develop different practices to control PM emissions not contained in subsections (B)(1) through (B)(6) and may submit such practices that are proven effective through on-farm demonstration trials to the Committee.

~~GF.~~ A commercial farmer shall maintain a record demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form and other records reasonably necessary and appropriate to confirm implementation of each best management practice. Complete and accurate records kept on forms developed by the Department in consultation with the Committee for a particular best management practice shall be deemed to comply with the requirements of this subsection with regard to that best management practice. If implementation of a best management practice can be confirmed through visual inspection, a record for that best management practice is not required. Records maintained under this subsection and subsection (D) shall be made available immediately on request during an inspection or within two business day of receipt of a written request from the Department.

~~HG.~~ The Director shall not assess a fee to a commercial farmer for coverage under the agricultural PM general permit.

~~HH.~~ A commercial farmer shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.

~~I.~~ The Director shall document noncompliance with this Section before issuing a compliance order.

~~KJ.~~ A commercial farmer who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(J), (K), and (L).

~~K.~~ If the administrator redesignates the Pinal County PM Nonattainment Area to attainment, the Committee may initiate a rulemaking to adjust the frequency of the reporting requirements under subsection (C) as appropriate.

R18-2-611.03. Agricultural PM General Permit for Animal Operations; Pinal County PM Nonattainment Area

- A.** A commercial animal operator within the Pinal County PM Nonattainment Area shall implement at least one best management practice from each of the categories identified in subsection (D)(5) and (E)(5) and two best management practices from each of the other categories to reduce PM emissions.
- B.** In addition to subsection (A), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast, commercial dairy operations within the Pinal County PM Nonattainment Area shall apply and maintain one of the four following BMPs on unpaved roads that experience more than 20 VDT from two or more axle vehicles:
1. Apply and maintain pavement in high traffic areas,
 2. Apply and maintain aggregate cover,
 3. Apply and maintain synthetic particulate suppressant, or
 4. Apply and maintain water as a dust suppressant.
- C.** In addition to subsection (A), commercial beef feedlots within the Pinal County PM Nonattainment Area, shall add water to pen surface, as defined in R18-2-611(3)(a), on the day that is forecast to be high risk for dust generation by the Pinal County Dust Control Forecast.
- D.** A commercial dairy operation shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens:
 - a. Use free stall housing,
 - b. Provide shade in corral,
 - c. Provide cooling in corral,
 - d. Cement cattle walkways to milk barn,
 - e. Groom manure surface,
 - f. Water misting systems,
 - g. Use drag equipment to maintain pens,
 - h. Pile manure between cleanings,
 - i. Feed green chop,
 - j. Keep calves in barns or hutches,
 - k. Do not run cattle,
 - l. Apply a fibrous layer, or
 - m. Wind barrier.
 2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to dairy cattle,

- b. Store and maintain feed stock,
 - c. Covers for silage,
 - d. Store silage in bunkers,
 - e. Cover manure hauling trucks, or
 - f. Do not load manure trucks with dry manure when wind exceeds 15 mph.
3. Unpaved Access Connections:
- a. Install signage to limit vehicle speed to 15 mph,
 - b. Install speed control devices,
 - c. Restrict access to through traffic,
 - d. Install and maintain a track-out control device,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant, or
 - h. Apply and maintain water as a dust suppressant.
4. Unpaved Roads or Feed Lanes:
- a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,
 - g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant,
 - i. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks, or
 - j. Apply and maintain pavement or cement feed lanes.
5. Unpaved Vehicle or Equipment Traffic Area:
- a. Apply and maintain aggregate cover,
 - b. Apply and maintain synthetic particulate suppressant,
 - c. Apply and maintain water as a dust suppressant, or
 - d. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks.

E. A commercial beef cattle feedlot shall implement the following best management practices, as described in subsection (A), from each of the following categories:

1. Arenas, Corrals, and Pens:
 - a. Concrete aprons,
 - b. Provide shade in corral,
 - c. Add water to pen surface,
 - d. Manure removal,
 - e. Pile manure between cleanings,
 - f. Feed higher moisture feed to beef cattle,
 - g. Control cattle during movements,
 - h. Use drag equipment to maintain pens,
 - i. Apply a fibrous layer, or
 - j. Wind barrier.
2. Animal Waste (and Feed) Handling and Transporting:
 - a. Feed higher moisture feed to beef cattle;
 - b. Add molasses or tallow to feed,
 - c. Store and maintain feed stock,
 - d. Bulk materials,
 - e. Use drag equipment to maintain pens,
 - f. Cover manure hauling trucks, or
 - g. Do not load manure when wind exceeds 15 mph.
3. Unpaved Access Connections:
 - a. Install and maintain a track-out control device,
 - b. Apply and maintain pavement in high traffic areas,
 - c. Apply and maintain aggregate cover,
 - d. Apply and maintain synthetic particulate suppressant, or
 - e. Apply and maintain water as a dust suppressant.
4. Unpaved Roads or Feed Lanes:
 - a. Install engine speed governors on feed truck to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict access to through traffic,
 - e. Apply and maintain pavement in high traffic areas,
 - f. Apply and maintain aggregate cover,

- g. Apply and maintain synthetic particulate suppressant,
 - h. Apply and maintain water as a dust suppressant, or
 - i. Apply and maintain oil on roads or feed lanes.
5. Unpaved Vehicle or Equipment Traffic Area:
- a. Apply and maintain aggregate cover,
 - b. Apply and maintain synthetic particulate suppressant,
 - c. Apply and maintain water as a dust suppressant, or
 - d. Use appropriate vehicles such as electric carts or small utility vehicles instead of trucks.
- F. A commercial poultry facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:
1. Arenas, Corrals, and Pens (Housing):
- a. Clean fans, louvers, and soffit inlets in a commercial poultry facility,
 - b. Use no bedding,
 - c. Control vegetation on building exteriors,
 - d. Add moisture through ventilation systems, or
 - e. House in fully enclosed ventilated buildings.
2. Animal Waste (and Feed) Handling and Transporting:
- a. Remove spilled feed,
 - b. Store feed,
 - c. Add oil and/or moisture to the feed,
 - d. Use enclosed feed distribution system,
 - e. Use flexible discharge spout,
 - f. Minimize drop distance,
 - g. Enclose transfer points,
 - h. Clean floors and walls in a commercial poultry facility,
 - i. Clean aisles between cage rows,
 - j. Stack separated manure solids, or
 - k. Maintain moisture in manure solids.
3. Unpaved Access Connections:
- a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system, or

d. Install signage to limit vehicle speed to 15 mph.

4. Unpaved Roads or Feed Lanes:

- a. Install engine speed governors on feed trucks to 15 mph,
- b. Install signage to limit vehicle speed to 15 mph,
- c. Install speed control devices,
- d. Restrict traffic access,
- e. Apply and maintain aggregate cover,
- f. Apply and maintain synthetic particulate suppressant,
- g. Apply and maintain water, or
- h. Apply and maintain oil on roads or feed lanes.

G. A commercial swine facility shall implement the following best management practices, as described in subsection (A), from each of the following categories:

1. Arenas, Corrals, and Pens (Housing):

- a. House in fully enclosed ventilated buildings,
- b. Use no bedding,
- c. Use a slatted floor system,
- d. Use sloped concrete flooring,
- e. Clean fans, louvers, and soffit inlets in a commercial swine facility,
- f. Control vegetation on building exteriors, or
- g. Add moisture through ventilation systems.

2. Animal Waste (and Feed) Handling and Transporting:

- a. Remove spilled feed,
- b. Store feed,
- c. Add oil and/or moisture to feed,
- d. Use enclosed feed distribution system,
- e. Use flexible discharge spout,
- f. Minimize drop distance,
- g. Enclose transfer points,
- h. Clean pens, floors, and walls in a commercial swine facility,
- i. Clean aisles between pens and stalls,
- j. Store separated manure solids in a wind-blocked area,
- k. Stack separated manure solids,

- l. Maintain moisture in manure solids, or
 - m. Maintain liquid lagoon level.
3. Unpaved Access Connections:
- a. Install speed control devices,
 - b. Restrict traffic access,
 - c. Install and maintain a track-out control system,
 - d. Install signage to limit vehicle speed to 15 mph.
4. Unpaved Roads or Feed Lanes:
- a. Install engine speed governors on feed trucks to 15 mph,
 - b. Install signage to limit vehicle speed to 15 mph,
 - c. Install speed control devices,
 - d. Restrict traffic access,
 - e. Apply and maintain aggregate cover,
 - f. Apply and maintain synthetic particulate suppressant,
 - g. Apply and maintain water,
 - h. Apply and maintain oil on roads or feed lanes, or
 - i. Wind barrier.

H. ~~From and after December 31, 2015, By no later than March 31 of each calendar year, a commercial animal operator who engages in a regulated agricultural activity shall complete and submit a Best Management Practices Program General Permit Record Form on the form and in the manner established by the Department in consultation with the Committee. Thereafter, a new Best Management Practices Program General Permit Record Form shall be completed every year by March 31. The Form shall be provided to the Director within two business days of notice to the commercial animal operator.~~ The Best Management Practices Program General Permit Record Form shall include only the following information:

- 1. The name, signature and mailing address of the commercial animal operator responsible for compliance at the commercial animal operations covered by the form, ~~signature, and date signed,~~
- 2. The ~~mailing street addresses~~ or a description of the physical address locations of the commercial animal operations covered by the form, and
- 3. The best management practices selected by the commercial animal operator for the year beginning on the due date for the form for Arenas, Corrals, and Pens, Animal Waste Handling and Transporting, Unpaved Access Connections, and Unpaved Roads or Feed Lanes in order to comply with this Section,
- 4. Identification of the area subject to each best management practice selected, and

5. Certification based on information reasonably available at the time of form submission that the best management practices selected for the year prior to the due date for the form were implemented in accordance with the prior year's Best Management Practice Program General Permit Record Form, including any changes to the form made pursuant to subsection (I), or identification of any times and locations where the selected best management practices were not implemented.

- I. ~~Beginning in calendar year 2017, and no more than once every subsequent three calendar years, the Director shall provide the commercial animal operator with a Best Management Practices Program Three-year Survey. The commercial animal operator shall complete the Survey with data from the preceding calendar year and submit the Survey to the Arizona Department of Agriculture (ADA) by January 31, 2018, and every three years thereafter. The Survey information submitted to the ADA shall be compiled by the ADA in a format that does not refer to a commercial animal operator's name, shall aggregate the data from the Surveys received, and be submitted to the Department. The Three-year Survey shall include the following information:~~
- ~~1. The name, business address, and phone number of the commercial farmer responsible for the preparation and implementation of the best management practices;~~
 - ~~2. The signature of the commercial farmer and the date the form was signed;~~
 - ~~3. The number of animals in a commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;~~
 - ~~4. The total miles of unpaved roads at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;~~
 - ~~5. The total acreage of the unpaved access connections and equipment areas at the commercial dairy operation, beef cattle feed lot, poultry facility or swine facility;~~
 - ~~6. The best management practices selected for each category; and~~
 - ~~7. For commercial dairy operations and beef cattle feedlots, an acknowledgment that water was applied on the day of a high risk day as predicted by the Pinal County Dust Control Forecast. Records of any changes to the Best Management Practices shall be noted on the Best Management Practices Program General Permit Record Form \.~~
- J. ~~Beginning January 1, 2016, a~~ A commercial animal operator shall maintain records demonstrating compliance with this Section for three years. Records shall include a copy of the complete Best Management Practice Program General Permit Record Form and other records reasonably necessary and appropriate to confirm implementation of each best management practice and any changes to the best management practices. Complete and accurate records kept on forms developed by the Department in consultation with the Committee for a particular best management practice shall be deemed to comply with the requirements of this subsection with regard to that best management practice. If implementation of a best management practice can be confirmed through visual inspection, a record for that best management practice is not required. Records shall be kept by the commercial animal operator and made available ~~for review by the Director~~ immediately on request during an inspection or within two business days of ~~notice to the commercial animal operator~~ receipt of a written request from the Department.
- K. A person may develop different practices not contained in subsections (D), (E), (F), or (G) that reduce PM and may submit such practices that are proven effective through on-operation demonstration trials to the Committee.

- L. The Director shall not assess a fee to a commercial animal operator for coverage under the agricultural PM general permit.
- M. A commercial animal operator shall ensure that the implementation of all selected best management practices does not violate any other local, state, or federal law.
- N. The Director shall document noncompliance with this Section before issuing a compliance order.
- O. A commercial animal operator who is not in compliance with this Section is subject to the provisions in A.R.S. § 49-457(J), (K), and (L).
- P. If the administrator redesignates the Pinal County PM Nonattainment Area to attainment, the Committee may initiate a rulemaking to adjust the frequency of the reporting requirements under subsection (H) as appropriate.



Appendix C

Authorizing Statutes

- A.R.S. § 49-104
- A.R.S. § 49-106
- A.R.S. § 49-402
- A.R.S. § 49-404
- A.R.S. § 49-406
- A.R.S. § 49-425
- A.R.S. § 49-457

Air Quality Division

49-104. Powers and duties of the department and director

A. The department shall:

1. Formulate policies, plans and programs to implement this title to protect the environment.
2. Stimulate and encourage all local, state, regional and federal governmental agencies and all private persons and enterprises that have similar and related objectives and purposes, cooperate with those agencies, persons and enterprises and correlate department plans, programs and operations with those of the agencies, persons and enterprises.
3. Conduct research on its own initiative or at the request of the governor, the legislature or state or local agencies pertaining to any department objectives.
4. Provide information and advice on request of any local, state or federal agencies and private persons and business enterprises on matters within the scope of the department.
5. Consult with and make recommendations to the governor and the legislature on all matters concerning department objectives.
6. Promote and coordinate the management of air resources to ensure their protection, enhancement and balanced utilization consistent with the environmental policy of this state.
7. Promote and coordinate the protection and enhancement of the quality of water resources consistent with the environmental policy of this state.
8. Encourage industrial, commercial, residential and community development that maximizes environmental benefits and minimizes the effects of less desirable environmental conditions.
9. Ensure the preservation and enhancement of natural beauty and man-made scenic qualities.
10. Provide for the prevention and abatement of all water and air pollution including that related to particulates, gases, dust, vapors, noise, radiation, odor, nutrients and heated liquids in accordance with article 3 of this chapter and chapters 2 and 3 of this title.
11. Promote and recommend methods for the recovery, recycling and reuse or, if recycling is not possible, the disposal of solid wastes consistent with sound health, scenic and environmental quality policies. The department shall report annually on its revenues and expenditures relating to the solid and hazardous waste programs overseen or administered by the department.
12. Prevent pollution through regulating the storage, handling and transportation of solids, liquids and gases that may cause or contribute to pollution.
13. Promote the restoration and reclamation of degraded or despoiled areas and natural resources.
14. Participate in the state civil defense program and develop the necessary organization and facilities to meet wartime or other disasters.
15. Cooperate with the Arizona-Mexico commission in the governor's office and with researchers at universities in this state to collect data and conduct projects in the United States and Mexico on issues that are within the scope of the department's duties and that relate to quality of life, trade and economic development in this state in a manner that will help the Arizona-Mexico commission to assess and enhance the economic competitiveness of this state and of the Arizona-Mexico region.
16. Unless specifically authorized by the legislature, ensure that state laws, rules, standards, permits, variances and orders are adopted and construed to be consistent with and not more stringent than the corresponding federal law that addresses the same subject matter. This paragraph does not adversely affect standards adopted by an Indian tribe under federal law.

17. Provide administrative and staff support for the oil and gas conservation commission.

B. The department, through the director, shall:

1. Contract for the services of outside advisers, consultants and aides reasonably necessary or desirable to enable the department to adequately perform its duties.

2. Contract and incur obligations reasonably necessary or desirable within the general scope of department activities and operations to enable the department to adequately perform its duties.

3. Use any medium of communication, publication and exhibition when disseminating information, advertising and publicity in any field of its purposes, objectives or duties.

4. Adopt procedural rules that are necessary to implement the authority granted under this title but that are not inconsistent with other provisions of this title.

5. Contract with other agencies, including laboratories, in furthering any department program.

6. Use monies, facilities or services to provide matching contributions under federal or other programs that further the objectives and programs of the department.

7. Accept gifts, grants, matching monies or direct payments from public or private agencies or private persons and enterprises for department services and publications and to conduct programs that are consistent with the general purposes and objectives of this chapter. Monies received pursuant to this paragraph shall be deposited in the department fund corresponding to the service, publication or program provided.

8. Provide for the examination of any premises if the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed on the premises. The director shall give the owner or operator the opportunity for its representative to accompany the director on an examination of those premises. Within forty-five days after the date of the examination, the department shall provide to the owner or operator a copy of any report produced as a result of any examination of the premises.

9. Supervise sanitary engineering facilities and projects in this state, authority for which is vested in the department, and own or lease land on which sanitary engineering facilities are located, and operate the facilities, if the director determines that owning, leasing or operating is necessary for the public health, safety or welfare.

10. Adopt and enforce rules relating to approving design documents for constructing, improving and operating sanitary engineering and other facilities for disposing of solid, liquid or gaseous deleterious matter.

11. Define and prescribe reasonably necessary rules regarding the water supply, sewage disposal and garbage collection and disposal for subdivisions. The rules shall:

(a) Provide for minimum sanitary facilities to be installed in the subdivision and may require that water systems plan for future needs and be of adequate size and capacity to deliver specified minimum quantities of drinking water and to treat all sewage.

(b) Provide that the design documents showing or describing the water supply, sewage disposal and garbage collection facilities be submitted with a fee to the department for review and that no lots in any subdivision be offered for sale before compliance with the standards and rules has been demonstrated by approval of the design documents by the department.

12. Prescribe reasonably necessary measures to prevent pollution of water used in public or semipublic swimming pools and bathing places and to prevent deleterious conditions at those places. The rules shall prescribe minimum standards for the design of and for sanitary conditions at any public or semipublic swimming pool or bathing place and provide for abatement as public nuisances of premises and facilities that do not comply with the minimum standards. The rules shall be developed in cooperation with the director of the department of health services and shall be consistent with the rules adopted by the director of the department of health services pursuant to section 36-136, subsection I, paragraph 10.

13. Prescribe reasonable rules regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) Require that design documents for all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, on-site wastewater treatment facilities and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. Prescribe reasonably necessary rules regarding excreta storage, handling, treatment, transportation and disposal. The rules may:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

(b) Provide that vehicles transporting human excreta from privies, septic tanks, cesspools and other treatment processes be licensed by the department subject to compliance with the rules. The department may require payment of a fee as a condition of licensure. The department shall establish by rule a fee as a condition of licensure, including a maximum fee. The fees shall be deposited, pursuant to sections 35-146 and 35-147, in the solid waste fee fund established by section 49-881.

15. Perform the responsibilities of implementing and maintaining a data automation management system to support the reporting requirements of title III of the superfund amendments and reauthorization act of 1986 (P.L. 99-499) and article 2 of this chapter.

16. Approve remediation levels pursuant to article 4 of this chapter.

17. Establish or revise fees by rule pursuant to the authority granted under title 44, chapter 9, articles 8 and 9 and chapters 4 and 5 of this title for the department to adequately perform its duties. All fees shall be fairly assessed and impose the least burden and cost to the parties subject to the fees. In establishing or revising fees, the department shall base the fees on the direct and indirect costs of the department's relevant duties, including employee salaries and benefits, professional and outside services, equipment, in-state travel and other necessary operational expenses directly related to issuing licenses as defined in title 41, chapter 6 and enforcing the requirements of the applicable regulatory program.

18. Appoint a person with a background in oil and gas conservation to act on behalf of the oil and gas conservation commission and administer and enforce the applicable provisions of title 27, chapter 4 relating to the oil and gas conservation commission.

C. The department may:

1. Charge fees to cover the costs of all permits and inspections it performs to ensure compliance with rules adopted under section 49-203 except that state agencies are exempt from paying the fees.

2. Monies collected pursuant to this subsection shall be deposited, pursuant to sections 35-146 and 35-147, in the water quality fee fund established by section 49-210.

3. Contract with private consultants for the purposes of assisting the department in reviewing applications for licenses, permits or other authorizations to determine whether an applicant meets the criteria for issuance of the license, permit or other authorization. If the department contracts with a consultant under this paragraph, an applicant may request that the department expedite the application review by requesting that the department use the services of the consultant and by agreeing to pay the department the costs of the consultant's services. Notwithstanding any other law, monies paid by applicants for expedited reviews pursuant to this paragraph are appropriated to the department for use in paying consultants for services.

D. The director may:

1. If the director has reasonable cause to believe that a violation of any environmental law or rule exists or is being committed, inspect any person or property in transit through this state and any vehicle in which the person or property is being transported and detain or disinfect the person, property or vehicle as reasonably necessary to protect the environment if a violation exists.

2. Authorize in writing any qualified officer or employee in the department to perform any act that the director is authorized or required to do by law.

49-106. [Statewide application of rules](#)

The rules adopted by the department apply and shall be observed throughout this state, or as provided by their terms, and the appropriate local officer, council or board shall enforce them. This section does not limit the authority of local governing bodies to adopt ordinances and rules within their respective jurisdictions if those ordinances and rules do not conflict with state law and are equal to or more restrictive than the rules of the department, but this section does not grant local governing bodies any authority not otherwise provided by separate state law.

49-402. State and county control

A. The department shall have original jurisdiction over such sources, permits and violations that pertain to:

1. Major sources in any county that has not received approval from the administrator for new source review under the clean air act and prevention of significant deterioration under the clean air act.
2. Smelting of metal ore.
3. Petroleum refineries.
4. Coal fired electrical generating stations.
5. Portland cement plants.
6. Air pollution by portable sources.
7. Air pollution by mobile sources for the purpose of regulating those sources as prescribed by article 5 of this chapter and consistent with the clean air act.
8. Sources that are subject to title V of the clean air act and that are located in a county for which the administrator has disapproved that county's title V permit program if the department has a title V program that has been approved by the administrator. On approval of that county's title V permit program by the administrator, the county shall resume jurisdiction over those sources.

B. Except as specified in subsection A of this section, the review, issuance, administration and enforcement of permits issued pursuant to this chapter shall be by the county or multi-county air quality control region pursuant to the provisions of article 3 of this chapter. After the director has provided prior written notice to the control officer describing the reason for asserting jurisdiction and has provided an opportunity to confer, the county or multi-county air quality control region shall relinquish jurisdiction, control and enforcement over such permits as the director designates and at such times as the director asserts jurisdiction at the state level. The order of the director which asserts state jurisdiction shall specify the matters, geographical area, or sources over which the department shall exercise jurisdiction and control. Such state authority shall then be the sole and exclusive jurisdiction and control to the extent asserted, and the provisions of this chapter shall govern, except as provided in this chapter, until jurisdiction is surrendered by the department to such county or region.

C. Portable sources under jurisdiction of the department under subsection A, paragraph 6 of this section may be required to file notice with the director and the control officer who has jurisdiction over the geographic area that includes the new location before beginning operations at that new location.

D. Notwithstanding any other law, a permit issued to a state regulated source shall include the emission standard or standard of performance adopted pursuant to section 49-479, if such standards are more stringent than those adopted by the director and if such standards are specifically identified as applicable to the permitted source or a component of the permitted source. Such standards shall be applied to sources identified in subsection A, paragraph 2, 3, 4 or 5 of this section only if the standard is formally proposed for adoption as part of the state implementation plan.

E. The regional planning agency for each county which contains a vehicle emissions control area shall develop plan revisions containing transportation related air quality control measures designed to attain and maintain primary and secondary ambient air quality standards as prescribed by and within the time frames specified in the clean air act. In developing the plan revisions, the regional planning agency shall consider all of the following:

1. Mandatory employee parking fees.
2. Park and ride programs.
3. Removal of on-street parking.
4. Ride share programs.

5. Mass transit alternatives.
6. Expansion of public transportation systems.
7. Optimizing freeway ramp metering.
8. Coordinating traffic signal systems.
9. Reduction of traffic congestion at major intersections.
10. Site specific transportation control measures.
11. Reversible lanes.
12. Fixed lanes for buses and carpools.
13. Encouragement of pedestrian travel.
14. Encouragement of bicycle travel.
15. Development of bicycle travel facilities.
16. Employer incentives regarding ride share programs.
17. Modification of work schedules.
18. Strategies for controlling the generation of air pollution by nonresidents of nonattainment or maintenance areas.
19. Use of alternative fuels.
20. Use of emission control devices on public diesel powered vehicles.
21. Paving of roads.
22. Restricting off-road vehicle travel.
23. Construction site air pollution control.
24. Other air quality control measures.

F. Each regional planning agency shall consult with the department of transportation to coordinate the plans developed pursuant to subsection E of this section with transportation plans developed by the department of transportation pursuant to any other law.

49-404. [State implementation plan](#)

- A. The director shall maintain a state implementation plan that provides for implementation, maintenance and enforcement of national ambient air quality standards and protection of visibility as required by the clean air act.
- B. The director may adopt rules that describe procedures for adoption of revisions to the state implementation plan.
- C. The state implementation plan and all revisions adopted before September 30, 1992 remain in effect according to their terms, except to the extent otherwise provided by the clean air act, inconsistent with any provision of the clean air act, or revised by the administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement or plan in effect, before the enactment of the clean air act in any area which is a nonattainment or maintenance area for any air pollutant may be modified after enactment in any manner unless the modification insures equivalent or greater emission reductions of the air pollutant. The director shall evaluate and adopt revisions to the plan in conformity with federal regulations and guidelines promulgated by the administrator for those purposes until the rules required by subsection B are effective.

49-406. [Nonattainment area plan](#)

A. For any ozone, carbon monoxide or particulate nonattainment or maintenance area the governor shall certify the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for that area under 23 United States Code section 134 as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

B. For any ozone, carbon monoxide or particulate nonattainment or maintenance area for which no metropolitan planning organization exists, the department shall be certified as the agency responsible for development of a nonattainment or maintenance area plan for that area.

C. For any ozone, carbon monoxide or particulate nonattainment or maintenance area, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall, by November 15, 1992, and from time to time as necessary, jointly review and update planning procedures or develop new procedures.

D. In preparing the procedures described in subsection C of this section, the department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall determine which elements of each revised implementation plan will be developed, adopted, and implemented, through means including enforcement, by the state and which by local governments or regional agencies, or any combination of local governments, regional agencies or the state.

E. The department, the planning agency certified pursuant to subsection A of this section on behalf of elected officials of affected local government, the county air pollution control department or district, and the department of transportation shall enter into a memorandum of agreement for the purpose of coordinating the implementation of the procedures described in subsection C and D of this section.

F. At a minimum, the memorandum of agreement shall contain:

1. The relevant responsibilities and authorities of each of the coordinating agencies.
2. As appropriate, procedures, schedules and responsibilities for development of nonattainment or maintenance area plans or plan revisions and for determining reasonable further progress.
3. Assurances for adequate plan implementation.
4. Procedures and responsibilities for tracking plan implementation.
5. Responsibilities for preparing demographic projections including land use, housing, and employment.
6. Coordination with transportation programs.
7. Procedures and responsibilities for adoption of control measures and emissions limitations.
8. Responsibilities for collecting air quality, transportation and emissions data.
9. Responsibility for conducting air quality modeling.
10. Responsibility for administering and enforcing stationary source controls.
11. Provisions for the timely and periodic sharing of all data and information among the signatories relating to:
 - (a) Demographics.
 - (b) Transportation.
 - (c) Emissions inventories.

(d) Assumptions used in developing the model.

(e) Results of modeling done in support of the plan.

(f) Monitoring data.

G. Each agency that commits to implement any emission limitation or other control measure, means or technique contained in the implementation plan shall describe that commitment in a resolution adopted by the appropriate governing body of the agency. The resolution shall specify the following:

1. Its authority for implementing the limitation or measure as provided in statute, ordinance or rule.
2. A program for the enforcement of the limitation or measure.
3. The level of personnel and funding allocated to the implementation of the measure.

H. The state, in accordance with the rules adopted pursuant to section 49-404, and the governing body of the metropolitan planning organization shall adopt each nonattainment or maintenance area plan developed by a certified metropolitan planning organization. The adopted nonattainment or maintenance area plan shall be transmitted to the department for inclusion in the state implementation plan provided for under section 49-404.

I. After adoption of a nonattainment or maintenance area plan, if on the basis of the reasonable further progress determination described in subsection F of this section or other information, the control officer determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, the control officer shall issue a written finding to the person, and shall provide an opportunity to confer. If the control officer subsequently determines that the failure has not been corrected, the county attorney, at the request of the control officer, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

J. After adoption of a nonattainment or maintenance area plan, if, on the basis of the reasonable further progress determination described in subsection F of this section or other information, the director determines that any person has failed to implement an emission limitation or other control measure, means or technique as described in the resolution adopted pursuant to subsection G of this section, and that the control officer has failed to act pursuant to subsection I of this section, the director shall issue a written finding to the person and shall provide an opportunity to confer. If the director subsequently determines that the failure has not been corrected, the attorney general, at the request of the director, shall file an action in superior court for a preliminary injunction, a permanent injunction, or any other relief provided by law.

K. Notwithstanding subsections A and B of this section, in any metropolitan area with a metropolitan statistical area population of less than two hundred fifty thousand persons, the governor shall designate an agency that meets the criteria of section 174 of the clean air act and that is recommended by the city that causes the metropolitan area to exist and the affected county. That agency shall prepare and adopt the nonattainment or maintenance area plan. If the governor does not designate an agency, the department shall be certified as the agency responsible for the development of a nonattainment or maintenance area plan for that area.

49-425. [Rules; hearing](#)

A. The director shall adopt such rules as the director determines are necessary and feasible to reduce the release into the atmosphere of air contaminants originating within the territorial limits of the state or any portion thereof and shall adopt, modify and amend reasonable standards for the quality of and emissions into the ambient air of the state for the prevention, control and abatement of air pollution. Additional standards shall be established for particulate matter emissions, sulfur dioxide emissions and other air contaminant emissions determined to be necessary and feasible for the prevention, control and abatement of air pollution. In fixing such ambient air quality standards, emission standards or standards of performance, the director shall give consideration but shall not be limited to the relevant factors prescribed by the clean air act.

B. No rule may be enacted or amended except after the director first holds a public hearing after thirty days' notice of such hearing. The proposed rule, or any proposed amendment of a rule, shall be made available to the public at the time of notice of such hearing.

C. The department shall enforce the rules adopted by the director.

D. All rules enacted pursuant to this section shall be made available to the public at a reasonable charge on request.

[49-457. Agricultural best management practices committee; members; powers; permits; enforcement; preemption; definitions](#)

- A. A best management practices committee for regulated agricultural activities is established.
- B. The committee shall consist of:
1. The director of environmental quality or the director's designee.
 2. The director of the Arizona department of agriculture or the director's designee.
 3. The dean of the college of agriculture of the university of Arizona or the dean's designee.
 4. The state director of the United States natural resources conservation service or the director's designee.
 5. One person actively engaged in the production of citrus.
 6. One person actively engaged in the production of vegetables.
 7. One person actively engaged in the production of cotton.
 8. One person actively engaged in the production of alfalfa.
 9. One person actively engaged in the production of grain.
 10. One soil taxonomist from the university of Arizona college of agriculture.
 11. One person actively engaged in the operation of a beef cattle feed lot.
 12. One person actively engaged in the operation of a dairy.
 13. One person actively engaged in the operation of a poultry facility.
 14. One person actively engaged in the operation of a swine facility.
 15. One person who is employed by a county air quality department or agency.
- C. The governor shall appoint the members designated pursuant to subsection B, paragraphs 5 through 15 of this section for a term of six years. Members may be reappointed. Members are not entitled to compensation for their services but are entitled to receive reimbursement of expenses pursuant to title 38, chapter 4, article 2.
- D. The committee shall elect a chairperson from the appointed members to serve a two-year term.
- E. The committee shall meet at the call of the chairperson or at the request of a majority of the appointed members.
- F. The department of environmental quality, the Arizona department of agriculture and the college of agriculture of the university of Arizona shall cooperate with and provide technical assistance and any necessary information to the committee. The department of environmental quality shall provide the necessary staff support and meeting facilities for the committee.
- G. A person who commences a regulated agricultural activity that is subject to an agricultural general permit adopted pursuant to this section shall immediately comply with the general permit.
- H. The committee shall adopt and, as necessary and appropriate, amend by rule an agricultural general permit specifying best management practices, including recordkeeping and reporting requirements, for regulated agricultural activities to reduce fugitive PM-10 emissions. The committee shall adopt by rule a list of best management practices, at least one of which shall be used in areas designated as moderate nonattainment for PM-10 and at least two of which shall be used in areas designated as serious nonattainment for PM-10, to demonstrate compliance with applicable

provisions of the general permit. Best management practices may vary within the regulated area, according to regional or geographical conditions or cropping patterns.

I. Fugitive PM-10 emissions from regulated agricultural activities that are subject to an agricultural general permit pursuant to this section are not subject to a permit issued pursuant to section 49-426 except as follows:

1. If the fugitive PM-10 emissions are from regulated agricultural activities at a stationary source that is otherwise required to obtain a permit pursuant to section 49-426, the permit issued pursuant to section 49-426 shall be subject to conditions as necessary to ensure compliance with federal, state and county regulations approved as a part of the state implementation plan, including regulations adopted under section 110(a)(2)(c) of the clean air act.
2. A person for whom an agricultural general permit has been revoked under subsection L of this section must obtain a permit pursuant to section 49-426 that includes enforceable conditions that impose best management practices on fugitive PM-10 emissions from regulated agricultural activities.

J. If a person who is engaged in a regulated activity is not in compliance with the general permit and that person has not previously been subject to a compliance order issued pursuant to this section, the director may serve on the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than sixty days, to submit a plan to the supervisors of the natural resource conservation district in which the person engages in the regulated activity that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

K. If a person who is engaged in a regulated activity is not in compliance with the general permit, and that person has previously submitted a plan pursuant to subsection J of this section, the director may serve on the person by certified mail an order requiring compliance with the general permit and notifying the person of the opportunity for a hearing pursuant to title 41, chapter 6, article 10. The order shall state with reasonable particularity the nature of the noncompliance and shall specify that the person has a period that the director determines is reasonable, but is not less than sixty days, to submit a plan to the department that specifies the best management practices from among those adopted in rule pursuant to subsection H of this section that the person will use to comply with the general permit.

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

M. The committee shall develop and commence an education program. The education program shall be conducted by the director or the director's designee or designees.

N. The regulation of fugitive PM-10 emissions produced by regulated agricultural activities is a matter of statewide concern. Accordingly, except for rules incorporated into the applicable implementation plan, this section preempts further regulation of fugitive PM-10 emissions from regulated agricultural activities by a county, city, town or other political subdivision of this state.

O. For the purposes of this section, unless the context otherwise requires:

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

- (a) Reduce fugitive PM-10 emissions from tillage practices and from harvesting on a commercial farm.
- (b) Reduce fugitive PM-10 emissions from those areas of a commercial farm that are not normally in crop production.
- (c) Reduce fugitive PM-10 emissions from those areas of a commercial farm that are normally in crop production including prior to plant emergence and when the land is not in crop production.

(d) Reduce fugitive PM-10 emissions from those areas of a commercial farm undergoing significant agricultural earthmoving activities.

(e) Reduce fugitive PM-10 emissions from the activities of a dairy, a beef cattle feed lot, a poultry facility or a swine facility, including practices relating to the following:

(i) Unpaved access connections.

(ii) Unpaved roads and feed lanes.

(iii) Animal waste and feed handling and transporting.

(iv) Arenas, corrals and pens.

(f) Only in those regulated areas that are established after June 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection, reduce fugitive PM-10 emissions from the activities of an irrigation district governed by title 48, chapter 19 and affecting those lands and facilities that are under the jurisdiction and control of the district, including practices relating to the following:

(i) Unpaved operation and maintenance roads.

(ii) Canals.

(iii) Unpaved utility access roads.

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

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

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

5. "Regulated agricultural activities" means:

(a) Commercial farming practices that may produce fugitive PM-10 emissions within the regulated area, including activities of a dairy, a beef cattle feed lot, a poultry facility and a swine facility.

(b) Only in those regulated areas that are established after June 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection, activities of an irrigation district that is governed by title 48, chapter 19.

6. "Regulated area" means any of the following:

(a) The Maricopa PM-10 nonattainment area.

(b) Any portion of area A that is located in a county with a population of two million or more persons.

(c) Any other PM-10 nonattainment area established in this state on or after June 1, 2009.