

House Engrossed

agricultural management practices; general permit

State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
First Regular Session  
2021

**CHAPTER 134**  
**HOUSE BILL 2677**

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

9 B. The committee shall consist of:

10 1. The director of environmental quality or the director's  
11 designee.

12 2. The director of the Arizona department of agriculture or the  
13 director's designee.

14 3. The dean of the college of agriculture of the university of  
15 Arizona or the dean's designee.

16 4. The state director of the United States natural resources  
17 conservation service or the director's designee.

18 5. One person actively engaged in the production of citrus.

19 6. One person actively engaged in the production of vegetables.

20 7. One person actively engaged in the production of cotton.

21 8. One person actively engaged in the production of alfalfa.

22 9. One person actively engaged in the production of grain.

23 10. One soil taxonomist from the university of Arizona college of  
24 agriculture.

25 11. One person actively engaged in the operation of a beef cattle  
26 feed lot.

27 12. One person actively engaged in the operation of a dairy.

28 13. One person actively engaged in the operation of a poultry  
29 facility.

30 14. One person actively engaged in the operation of a swine  
31 facility.

32 15. One person who is employed by a county air quality department or  
33 agency.

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

39 D. The committee shall elect a ~~chairman~~ CHAIRPERSON from the  
40 appointed members to serve a ~~two-year~~ TWO-YEAR term.

41 E. The committee shall meet at the call of the ~~chairman~~ CHAIRPERSON  
42 or at the request of a majority of the appointed members.

43 F. The department of environmental quality, the Arizona department  
44 of agriculture and the college of agriculture of the university of Arizona

1 shall cooperate with and provide technical assistance and any necessary  
2 information to the committee. The department of environmental quality  
3 shall provide the necessary staff support and meeting facilities for the  
4 committee.

5 G. A person who commences a regulated agricultural activity THAT IS  
6 SUBJECT TO AN AGRICULTURAL GENERAL PERMIT ADOPTED PURSUANT TO THIS SECTION  
7 shall immediately comply with the ~~agricultural~~ general permit ~~prescribed~~  
8 ~~by this section~~.

9 H. The committee shall adopt, ~~AND, AS NECESSARY AND APPROPRIATE,~~  
10 ~~AMEND~~ by rule, ~~an agricultural general permit specifying best management~~  
11 ~~practices, including record keeping RECORDKEEPING and reporting~~  
12 ~~requirements, for regulated agricultural activities to reduce FUGITIVE~~  
13 ~~PM-10 particulate emissions. A person who is subject to an agricultural~~  
14 ~~general permit pursuant to this section is not subject to a permit issued~~  
15 ~~pursuant to section 49-426 except as provided in subsection K of this~~  
16 ~~section.~~ The committee shall adopt by rule a list of best management  
17 practices, at least one of which shall be used in areas designated as  
18 moderate nonattainment for PM-10 ~~particulate matter~~ and at least two of  
19 which shall be used in areas designated as serious nonattainment for PM-10  
20 ~~particulate matter~~, to demonstrate compliance with applicable provisions  
21 of the general permit. Best management practices may vary within the  
22 regulated area, according to regional or geographical conditions or  
23 cropping patterns.

24 I. FUGITIVE PM-10 EMISSIONS FROM REGULATED AGRICULTURAL ACTIVITIES  
25 THAT ARE SUBJECT TO AN AGRICULTURAL GENERAL PERMIT PURSUANT TO THIS  
26 SECTION ARE NOT SUBJECT TO A PERMIT ISSUED PURSUANT TO SECTION 49-426  
27 EXCEPT AS FOLLOWS:

28 1. IF THE FUGITIVE PM-10 EMISSIONS ARE FROM REGULATED AGRICULTURAL  
29 ACTIVITIES AT A STATIONARY SOURCE THAT IS OTHERWISE REQUIRED TO OBTAIN A  
30 PERMIT PURSUANT TO SECTION 49-426, THE PERMIT ISSUED PURSUANT TO SECTION  
31 49-426 SHALL BE SUBJECT TO CONDITIONS AS NECESSARY TO ENSURE COMPLIANCE  
32 WITH FEDERAL, STATE AND COUNTY REGULATIONS APPROVED AS A PART OF THE STATE  
33 IMPLEMENTATION PLAN, INCLUDING REGULATIONS ADOPTED UNDER SECTION  
34 110(A)(2)(C) OF THE CLEAN AIR ACT.

35 2. A PERSON FOR WHOM AN AGRICULTURAL GENERAL PERMIT HAS BEEN REVOKED  
36 UNDER SUBSECTION L OF THIS SECTION MUST OBTAIN A PERMIT PURSUANT TO  
37 SECTION 49-426 THAT INCLUDES ENFORCEABLE CONDITIONS THAT IMPOSE BEST  
38 MANAGEMENT PRACTICES ON FUGITIVE PM-10 EMISSIONS FROM REGULATED  
39 AGRICULTURAL ACTIVITIES.

40 ~~I.~~ J. If ~~the director determines that~~ a person who is engaged in a  
41 regulated activity is not in compliance with the general permit, ~~and that~~  
42 person has not previously been subject to a compliance order issued  
43 pursuant to this section, the director may serve on the person by  
44 certified mail an order requiring compliance with the general permit and

1 notifying the person of the opportunity for a hearing pursuant to  
2 title 41, chapter 6, article 10. The order shall state with reasonable  
3 particularity the nature of the noncompliance and shall specify that the  
4 person has a period that the director determines is reasonable, but is not  
5 less than sixty days, to submit a plan to the supervisors of the natural  
6 resource conservation district in which the person engages in the  
7 regulated activity that specifies the best management practices from among  
8 those adopted in rule pursuant to subsection H of this section that the  
9 person will use to comply with the general permit.

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

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

30 ~~L. The committee may periodically reexamine, evaluate and modify~~  
31 ~~best management practices. Any approved modifications shall be submitted~~  
32 ~~to the United States environmental protection agency as a revision to the~~  
33 ~~applicable implementation plan.~~

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

37 ~~N. A best management practice adopted pursuant to this section does~~  
38 ~~not affect any applicable requirements in an applicable implementation~~  
39 ~~plan or any other applicable requirements of the clean air act, including~~  
40 ~~section 110(1) of the act (42 United States Code section 7410(1)).~~

41 ~~O.~~ N. The regulation of FUGITIVE PM-10 ~~particulate~~ emissions  
42 produced by regulated agricultural activities is a matter of statewide  
43 concern. Accordingly, EXCEPT FOR RULES INCORPORATED INTO THE APPLICABLE  
44 IMPLEMENTATION PLAN, this section preempts further regulation of FUGITIVE

1 PM-10 EMISSIONS FROM regulated agricultural activities by a county, city,  
2 town or other political subdivision of this state.

3 ~~P.~~ 0. For the purposes of this section, unless the context  
4 otherwise requires:

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

7 (a) Reduce FUGITIVE PM-10 ~~particulate~~ emissions from tillage  
8 practices and from harvesting on a commercial farm.

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

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

14 (d) Reduce FUGITIVE PM-10 ~~particulate~~ emissions from those areas of  
15 a commercial farm undergoing significant agricultural earthmoving  
16 activities.

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

20 (i) Unpaved access connections.

21 (ii) Unpaved roads ~~or~~ AND feed lanes.

22 (iii) Animal waste AND FEED handling and transporting.

23 (iv) Arenas, corrals and pens.

24 (f) Only in those regulated areas that are established after June  
25 1, 2009, as prescribed in paragraph 6, subdivision (c) of this subsection,  
26 reduce FUGITIVE PM-10 ~~particulate~~ emissions from the activities of an  
27 irrigation district governed by title 48, chapter 19 and affecting those  
28 lands and facilities that are under the jurisdiction and control of the  
29 district, including practices relating to the following:

30 (i) Unpaved operation and maintenance roads.

31 (ii) Canals.

32 (iii) Unpaved utility access roads.

33 2. "Applicable implementation plan" means that term as defined in  
34 42 United States Code section 7601(q).

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

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

1           5. "Regulated agricultural activities" means:

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

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

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

10           (a) The Maricopa PM-10 ~~particulate~~ nonattainment area.

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

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

APPROVED BY THE GOVERNOR MARCH 26, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 26, 2021.