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APPENDIX B



Holly Henley, State Librarian & Director of Library Services

I, Martha J. McConnell hereby certify:

That I am a librarian at the Arizona State Library, Archives & Public Records;

That, pursuant to Arizona Revised Statutes Section 41-151.05(A)(4) and (10), the Director of the State Library shall certify copies from books, documents or other archival or public records which have been deposited in the State Library, and shall appoint and assign personnel to perform the duties of the State Library;

That there is on file at the Arizona State Library, Archives & Public Records the following document:

Arizona Revised Statutes
Title 49. The Environment
Chapter 3. Air Quality
Article 2. State Air Pollution Control
Section 49-457. Agricultural best management practices committee;
members; powers; permits; enforcement; preemption; definitions

That this document was acquired by the Arizona State Library, Archives & Public Records pursuant to the requirements of Arizona Revised Statutes Section 41-151.01(B)(1) and provided upon request pursuant to the requirements of Arizona Revised Statutes Section 41-151.01(B)(2);

And that the reproduction(s) to which this certification is attached is (are) a true and correct copy of the document(s) on file.

Signed, this 30th day of November, 2022

Martha J. McConnell
Printed name

Martha J. McConnell
Signature

NOTARIAL ACKNOWLEDGEMENT

State of Arizona

County of Maricopa

This instrument was acknowledged before me this 30 day of November, 2022.

Bethany L. Richardson
Notary Public

State of Arizona Research Library
Polly Rosenbaum Archives and History Building
1901 W. Madison St.
Phoenix, AZ 85009



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1. Two members who are appointed by the governor to represent the general public and who are not owners or representatives of owners of small business stationary sources.

2. Two members who are appointed by the speaker of the house of representatives and who are owners or who represent owners of small business stationary sources.

3. Two members who are appointed by the president of the senate and who are owners or who represent owners of small business stationary sources.

4. One member who is appointed by the director of the department of environmental quality to represent the department.

C. The panel shall:

1. Advise the director on the effectiveness of the small business stationary source technical and environmental compliance assistance program operated pursuant to this section and any such program operated by a county, including the identification of difficulties encountered and the degree and severity of enforcement.

2. Make periodic reports to the director and administrator concerning the compliance of the small business stationary source technical and environmental compliance assistance program operated pursuant to this section and any such program operated by a county with the requirements of the paperwork reduction act (P.L. 96-511; 20 United States Code section 1221),¹ the regulatory flexibility act (P.L. 96-354; 5 United States Code section 601)² and the equal access to justice act (P.L. 96-481; 5 United States Code section 504).³

3. Review information developed by the department and any county for small business stationary sources to assure that the information is understandable by the general public and advise the director of its findings.

4. Have staff from the small business stationary source technical and environmental compliance assistance program to develop and disseminate reports and advisory opinions.

Added by Laws 1992, Ch. 299, § 33. Amended by Laws 2014, Ch. 229, § 46; Laws 2017, Ch. 29, § 1.

¹ 20 U.S.C.A. § 1221.

² 5 U.S.C.A. § 601.

³ 5 U.S.C.A. § 504.

§ 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 2.¹

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 § 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 § 49-426, the permit issued pursuant to § 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.

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2. A person for whom an agricultural general permit has been revoked under subsection L of this section must obtain a permit pursuant to § 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 10.² 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 § 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 19³ 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.

Added by Laws 1998, Ch. 217, § 16. Amended by Laws 2007, Ch. 292, § 14; Laws 2009, Ch. 180, § 1; Laws 2010, Ch. 82, § 1; Laws 2010, Ch. 207, § 1; Laws 2011, Ch. 214, § 2; Laws 2015, Ch. 243, § 1, eff. Jan. 1, 2016; Laws 2021, Ch. 134, § 1.

¹ Section 38-621 et seq.

² Section 41-1092 et seq.

³ Section 48-2901 et seq.

Cross References

Agricultural operations, nuisance liability, damages, state preemption, see § 3-112.