Senate Engrossed

**FILED**

**KEN BENNETT**
**SECRETARY OF STATE**

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CHAPTER 180

# SENATE BILL 1225

AN ACT

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

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

49-457. Agricultural best management practices committee; members; powers; permits; 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 ~~10~~ 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 chairman from the appointed members to serve a two year term.

E. The committee shall meet at the call of the chairman 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. ~~Notwithstanding subsections I, J and K of this section, a person engaged in a regulated agricultural activity on August 21, 1998 shall comply~~

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

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

I. If the director determines that 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 ~~upon~~ 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 six months, 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.

J. If the director determines that 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 I of this section, the director may serve ~~upon~~ 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 six months, 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.

K. If a person fails to comply with the plan submitted pursuant to subsection J 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.

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

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

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

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

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

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

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

(c) Reduce PM-10 particulate 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 PM-10 PARTICULATE 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 OR FEED LANES.

(iii) ANIMAL WASTE HANDLING AND TRANSPORTING.

(iv) ARENAS, CORRALS AND PENS.

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 PM-10 particulate emissions from a regulated agricultural activity.

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

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

6. "Regulated area" means ANY OF THE FOLLOWING:

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

(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 PARTICULATE NONATTAINMENT AREA ESTABLISHED IN THIS STATE ON OR AFTER JUNE 1, 2009.

Sec. 2. Rule making; compliance

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

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

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

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

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

APPROVED BY THE GOVERNOR JULY 13, 2009.

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